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Senate

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

The PRESIDING OFFICER. Today's prayer will be offered by guest Chaplain, Rev. Roy C. Smith of Shrewsbury North Temple, in Shrewsbury, PA.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Our most precious Heavenly Father, we come to You this day with hearts full of thanksgiving for Your almighty grace and sweet mercy. We daily walk in Your loving kindness and see Your majesty displayed before us. Thank You for this great country we live in. All of us proudly declare our gratitude for being able to live in a land of freedom.

We lift this prayer to You for a special blessing upon our Senate this day. May they find comfort and joy in You. It is a privilege to be in service to our country and to our God. I am honored to stand in a room where history has been made, to give courage and fortitude for the days ahead. You promised if we would have the faith as the grain of a mustard seed we could accomplish all things. May Your might now abundantly flow to our Senators and all the staff that make each day a success.

May we never grow weary in well doing. Let us choose to see those around us and ourselves with hearts of love. In You, there is joy for the journey. In You, there is peace for the mind. In You, there is wisdom for decisions. In You, there is love to reach a hurting world. In You, there is faith for the days ahead. You truly are our all in all. We ask these things according to Your perfect and holy will. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant journal clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 1, 2004.

To the Senate:

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

TED STEVENS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE FOR APRIL FOOLS' DAY

Mr. FRIST. Mr. President, this morning there will be a period of morning business for up to 60 minutes.

I want to have the attention, just very briefly, of the assistant Democratic leader.

We are going to have a period for morning business for 60 minutes. Under the previous unanimous consent agreement, we will finish the welfare reauthorization bill and allow that bill to go to conference in order to reach an accord with the House. That bill will be followed by the final passage of the FSC/ETI legislation. Upon completion of the FSC/ETI bill, we will proceed to the nominations and agreement to the 22 judicial nominations that are available on the calendar. Votes will occur on the confirmation of those judges.

I thank all Members, especially the assistant Democrat leader, and other Members on their side of the aisle, for their cooperation in meeting these consent agreements.

Mr. REID. Mr. President, is this the unanimous consent agreement you are going to offer?

Mr. FRIST. Mr. President, this is my opening statement for April 1, and I will withdraw any request for those consent agreements.

It is an April 1 wish. It is what we should be doing. But we will proceed in the normal order.

Mr. REID. If the Senator will yield for a brief comment, every Thursday morning Senator ENSIGN and I hold a breakfast for Nevada constituents. Today we had a very large crowd. Probably there were 60 people there, plus our staffs. I opened it by calling on a doctor who just returned from the USS *Boxer*, from sea, introduced our Cherry Blossom Princess, and then I asked this gentleman to come up. I said: JOHN, you remember this thing we talked about—and gave him this certificate.

The man's name was a mixture between a Hungarian and a Hawaiian name—real long. And JOHN stumbled through that reading, but what a hero he was. You can tell JOHN was so flustered. When he stopped for a second I said, ''April Fools'.''

I have to say, it was probably the greatest April Fools' joke I have ever been involved in.

Senator DASCHLE just came on the floor. He, Senator FRIST, just offered what we would accomplish today. It was just an April Fools' joke, even though he meant it sincerely.

Mr. FRIST. I did mean it sincerely, and it included all, I say to the Democratic leader. It included welfare, FSC/

ETI, the 22 judicial nominations. We would really be rolling if that were the case. Unfortunately, it is April 1.

SCHEDULE

Mr. FRIST. With that, Mr. President, this morning there will be a period of morning business for up to 60 minutes, and that morning business will be followed by an additional 60 minutes of debate with regard to the cloture motion with respect to the welfare reauthorization bill. At the conclusion of that 60 minutes of debate time, we will proceed to a rollcall vote on invoking cloture on the committee substitute to H.R. 4. That is the welfare legislation.

As I stated in closing last night, if we invoke cloture on this bill, I hope we will be able to finish it this week. Over the last few days I had hoped we could reach an agreement to finish the bill in reasonable fashion, but because we were unable to reach a formal consent agreement, we will go forward with the procedural vote in hopes of bringing this bill to a conclusion. If we do invoke cloture, Senators will still be able to bring forward their amendments, and I believe we could finish the bill this week.

If cloture is not invoked, it will be clear that this legislation will be gridlocked by these unrelated matters and therefore will be difficult to finish.

We also continue to seek ways to finish and complete the JOBS bill, the FSC/ETI bill from last week. That bill has been held up as Members insist on offering amendments that have little to do with the underlying legislation.

Additional procedural votes will occur in relation to that bill as we try to find a way to get the FSC bill done.

ORDER OF PROCEDURE

Mr. President, in order to facilitate the use of our time this morning, I ask unanimous consent that during the period for morning business the Republican-controlled time be divided in the following manner: Senator CORNYN, 5 minutes; Senator ENSIGN, 5 minutes; Senator THOMAS, 5 minutes; Senator SMITH, 10 minutes; Senator COCHRAN, 5 minutes.

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

Mr. FRIST. Mr. President, I have a few comments to make in terms of an opening statement. I will be happy to turn to the Democratic leader.

The ACTING PRESIDENT pro tempore. The minority leader.

Mr. DASCHLE. Mr. President, I also have a statement I will make, but as I understand it, the first hour will be divided equally between the Republicans and Democrats. Is it my understanding the second one will also be divided equally in time?

Mr. FRIST. Debate for reauthorization.

Mr. DASCHLE. That is debate on the cloture vote itself?

Mr. FRIST. On cloture.

Mr. DASCHLE. I say I will make further comments after the distinguished majority leader has made his.

The ACTING PRESIDENT pro tempore. The majority leader.

JOBS

Mr. FRIST. Mr. President, I will be making my comments on leader time. We will have the hour of morning business as laid out in the unanimous consent for our side so people can plan their morning. My remarks will only be about 10 minutes or so.

Mr. President, I want to take a moment to comment on the Democrats' decision last week to filibuster the JOBS Act, the FSC/ETI and the Jumpstart JOBS bill. It is a bill that goes right at the heart of manufacturing job creation in this country. It is critical to our manufacturing jobs base. As has been pointed out again and again, it was developed in a strong, bipartisan fashion under the leadership of the chairman and ranking member of the Finance Committee. It is critically important. It has broad support, yet every Senate Democrat except Senator MILLER from Georgia voted to sustain the Democrat-led filibuster.

Since that time we tried to work out some sort of agreement so we could consider this bill and have debate on germane amendments, but every time we attempt to do so we are met with an increasing list of irrelevant, mainly political message amendments that the other side insists be a part of this bill. Last week a filibuster was open on the floor. This week, in a less obvious way, it continued by foot dragging.

What does a filibuster mean? What are the practical implications of this filibuster? It means leaving in place a Euro tax the European Union began imposing on March 1 last month against the U.S. manufacturers. The Europeans have been authorized by the WTO to impose $4 billion in sanctions that began March 1—30 days ago. The tariff started at 5 percent of the $4 billion authorized and will increase 1 percent on the first of every month thereafter.

Thus, in supporting this filibuster, whether it is the active filibuster last week or the more passive filibuster of this week, the Democrats are supporting the sanctions. Again, today being April 1st, it will kick up another 1 percent, another $40 million increase, in those sanctions because of the delay.

If the other side of the aisle is not in favor of this JOBS bill, then what do they support? Let me look at some of the legislation that has been introduced and statements made in the Senate. As of late, a lot has been made about outsourcing—a lot of conversation, a lot of proposed amendments—regarding the whole issue of offshoring. Time and again, the Senate Democrats have introduced amendments, bills, and statements expressing grave concern over this issue.

The conversation has, unfortunately, been quite one-sided. When we look at the numbers—and increasingly people are looking at the numbers—we learn foreigners outsource far more work to the United States than American companies actually send abroad.

Indeed, the value of insourcing, what is coming into the United States—including legal work, computer programming, banking, telecommunications, engineering, management consulting, other private services—was $133 billion in 2003. Outsourcing of such private services was valued at $77 billion and $133 billion for insourcing.

When measuring outsourcing to insourcing, the United States posted a $54 billion surplus last year in trade and private services with the rest of the world. Again, look at both sides of the equation.

Far from being bad for the economy as a whole, this balance of offshoring and insourcing creates a net additional value for the United States economy, lowering prices to consumers who are making purchases and, in effect, increasing their standard of living. Each dollar of cost that is outsourced creates $1.46 of value globally. Of that $1.46, the United States captures $1.13 and the receiving country captures the 33 cents.

These numbers suggest, by the way I have described it, that efforts to restrict outsourcing will backfire by provoking a retaliation which is detrimental to our economy and our trading partners.

Federal Reserve Chairman Alan Greenspan captured the gist in these words on this issue: These alleged cures would make matters worse, rather than better. They would do little to create jobs. And if foreigners were to retaliate, we would surely lose jobs.

Where would the jobs be lost? Everywhere. The Census Bureau says in the year 2000, 6.4 million Americans were employed in jobs that were insourced by foreign companies operating in the United States. Mr. President, 223,000 of the jobs were in Massachusetts; 246,000 were in Michigan. Washington State had 104,000. Pennsylvania had 281,000. My home State of Tennessee had almost 149,000 insourced jobs, but that is less than half of the 307,000 jobs in Florida and well behind the 259,000 in Ohio.

When we talk about outsourcing, we need to remember there is another side of the equation, a side representing 6.4 million jobs. We cannot lose sight of that.

While we all agree the loss of any job to outsourcing is regrettable, we need to focus on the training, retraining, and education. If we look at the solutions offered by our colleagues on the other side of the aisle, we find them to be surprising and startling.

Senator KERRY has introduced S. 1873, requiring operators at call centers to disclose their physical location. Senator KERRY described this bill as being necessary to ''address the growing problem of United States corporations moving hundreds of thousands of service sector jobs abroad.''

I have to admit Senator KERRY's premise strikes me as a bit unusual. It

seems there should be some sort of assumption that if Americans discovered a foreigner was on the other end of that telephone, they would either hang up the telephone or otherwise lodge some sort of protest upon hearing that foreigner was in another country. The only way this bill would save jobs is if we assume Americans are so violently xenophobic we do not and would not tolerate even this modest level of international agreement.

Senator KERRY's legislation is indicative of the choice we face as a country. We can choose the path of freedom, where every individual and every company can do as he or she sees fit and trust that people are going to work hard on their own behalf, and in doing so promote the common good or we can choose a path of more Government, more Government mandates with less freedom, with less prosperity, and fewer jobs, one in which every time you call a company to see if they have an item in stock, the Federal Government will force you and the company to identify the exact longitude and latitude of the operator who is on the other end of that telephone call.

The reality is we compete today in a global economy. We cannot close our borders to the world. Some think we can retreat into economic isolationism, but we simply cannot. Times are different. We shouldn't. That, in many ways, given our world economy, would be a declaration of defeat.

We are the most innovative society in the world today. Our workers lead all others in the world in productivity. If we are allowed to compete on a fair playing field, United States manufacturers can and indeed will lead the world.

We had a chance last week to help U.S. manufacturers by repealing the Euro tax on our U.S. manufacturers. Unfortunately, we were met by obstruction on the other side. While I was disappointed at this outcome, recent history indicates that should not have been much of a surprise. If there has been one thing consistent over the last several months, it has been the Democrats' steadfast refusal toward legislation that would help reduce the cost of manufacturing in the United States. Every time we attempt to move legislation forward that addresses the concerns of manufacturing, we have been met by obstruction. With class action, with energy, with medical liability, to Workforce Investment Act, we have been blocked. It is either by filibuster or by objections going to conference.

Next month we are going to be addressing issues that I hope will bring some fairness and justice to certain challenges that we have today.

I have pointed out that we would like to address the issue of asbestos litigation reform. I look forward to hopefully being able to address that in a bipartisan way.

The loss of a few hundred thousand jobs per year to offshoring is a small part of the constant pace of job creation and destruction that goes on in the U.S. labor market. We need to address dislocation. We can do that with aggressive education and training.

But it is precisely because each job loss is painful that we need to focus on ways to stimulate employment generally rather than focusing on legislation to address a tiny percent of the population.

In closing, we need to keep our focus on proposals that look to the future to help companies create and keep new jobs. We cannot be focused on the past but really the present. We need to be looking ahead all the time.

As Federal Reserve Board Chairman Alan Greenspan stated earlier this month:

> Time and again through our history, we have discovered that attempting merely to preserve the comfortable features of the present, rather than reaching for new levels of prosperity, is a sure path to stagnation.

We only need to look across the Atlantic to see the results of those policies of stagnation. Instead, Republicans will keep working for policies of growth and for innovation to help America compete and win in the 21st century.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

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

SENATE SCHEDULE

Mr. DASCHLE. Mr. President, I appreciate very much the desire of the majority leader and our friends on the other side of the aisle in addressing many of these issues. He mentioned the JOBS bill, welfare reform reauthorization, and the importance of reaching some agreement on energy. I have indicated on several occasions that we are more than prepared to work through each one of these bills. We simply want to be heard on amendments about which we care a great deal.

I will not ask consent to do it this morning, but I would entertain a unanimous consent agreement to go to the energy bill today and work through the amendments. I think there would be a good debate. Ultimately, there could be a conclusive debate about the energy bill.

We will see what happens in our work with the House, which we have had to do now on several occasions. The same is true with the FSC/ETI bill. We would be prepared to go to the floor with a number of amendments.

People on the other side of the aisle, for whatever reason, have refused to allow us an opportunity to have an up-or-down vote on protecting worker's overtime, on minimum wage, and on unemployment compensation.

There are other outsourcing amendments that we think ought to be debated. What better place to debate them than on a bill that relates to international commerce.

It isn't our unwillingness to have a good debate; it is our unwillingness to be locked out of the process. Whether it is in conference or whether it is on the floor, we have been prevented closure on each of these bills. I am hopeful that over the course of the next 2 days we can reach some accommodation.

I have indicated that I thought we could finish the welfare bill by the end of next week. We will work to see that happens. But unfortunately, we are not at a point where any kind of procedural agreement has been reached to allow that to happen, either. I will continue to talk with the distinguished majority leader about ways in which to accommodate our concerns and his very understandable concerns about completing the work.

TRANSPORTATION

Mr. DASCHLE. Mr. President, the House was scheduled to take up its version of the transportation bill yesterday.

At the eleventh hour—or rather at 7 a.m. this morning—the Rules Committee met and appears to have finally found a way to bring the bill to the House floor and allow for debate, although they will not allow a clear vote on a key amendment that would raise the level of investment in the bill.

Let me just say, this is astounding.

We have already gone 184 days with one temporary extension after another. These unnecessary delays have cost our Nation roughly 100,000 jobs.

State and local governments could not begin the contracting process, and employers couldn't plan ahead. As a result, there are 100,000 fewer Americans working today than there should be.

Unless we agree on a transportation bill before the end of April, when the current extension expires, tens of thousands more jobs will be lost.

Let us put this delay in perspective.

First, let us all remember who controls not only the House and Senate but the executive branch of our government—one party controls all three.

The President has claimed he was going to change the way government works. Well, he has everything he needs—control of the U.S. House of Representatives and the U.S. Senate.

And how has he done on changing the way government works? In the instance of our Nation's transportation infrastructure, he has steered us toward a real-life work stoppage.

It was 184 days ago that the law that governs our Nation's transportation infrastructure and all of the programs that deal with transportation expired.

We have been operating on temporary extensions to the law for 184 days.

Is the delay because Democrats have blocked a bill or used parliamentary tactics? No.

In fact, it wasn't until November that a bill was even reported by a Senate committee and not until February when we passed the bill in the Senate.

That was a good bill and Chairman INHOFE and Ranking Member JEFFORDS and others—including Senators FRIST, BOND and REID—deserve high praise for finally getting the bill finished.

That bill garnered 76 bipartisan votes.

The delay that occurred in the House was certainly not due to Democrats.

A bill that was introduced and appeared to have a majority of support was scrapped by the Republican leadership at the behest of President Bush and slashed by $100 billion.

And the new reduced bill wasn't passed by the House committee until last week.

One-hundred and eighty-four days behind schedule as we continue to inch toward actually shutting down the Department of Transportation.

I have hopes that we will get a bill approved by the House this week so we can begin to pre-conference the two bills and get a bill to the President before the most recent short-term extension expires at the end of April.

But as recently as this morning, it is still unclear if the House will complete their work before they leave town for 2 weeks.

One-hundred and eighty-four days without passing a transportation bill. Simply amazing on a bill that is critical to our Nation.

Why the delay? One reason. The opposition of President Bush himself.

A veto has threatened the Senate bill—a bill that, as I said, was approved with Republicans and Democrats alike.

The President opposed the original House bill, and now, to the dismay of almost the entire transportation community—including many groups such as the Chamber of Commerce who have long supported the President—the administration is even threatening a veto by President Bush of the scaled back $275 billion bill that the House is set to consider.

It appears the President would rather not have a transportation bill that would create 1.7 million jobs—this in light of the 3 million private sector jobs already lost under this administration's watch.

Let us be clear. It has been 184 days since those who control the House and Senate and the Presidency have not been able to move a transportation bill onto the President's desk—and it has not been as a result of Democrats in any way.

There are some serious politics being played here with peoples lives, and I, for one, don't want to be a part of it.

This inaction has made it nearly impossible for us to even think about approving another short-term extension—because that may be the only thing that places pressure on Congress to approve the longer-term bill.

It has been 184 days and there is still a month to go before the Republicans let the law lapse and shut down the Department.

There is still time before the extension runs out to move a good bill. But, I will not be a part of another extension that encourages further inaction and shortchanges our transportation infrastructure and denies Americans the jobs that they so desperately need and deserve.

One-hundred and eighty-four days so far. We will keep counting.

But let us all know what is going on here. The delays are due to the President's opposition to approving a thoughtful transportation bill.

This, despite the majority in Congress who want to address this fundamental issue.

Why is the majority so strong for a transportation bill and the administration so out of step?

There are many reasons, but to make it simple, the Bush administration is focused like a laser beam on tax cuts for the most affluent—the privileged few—and they do not have time or want to bother with investments in our Nation's infrastructure.

The transportation investment proposal that the Bush administration put forward was dead on arrival in the Congress because it wouldn't even keep up with inflation.

At a time when 9 million Americans are out of work and job creation is virtually nonexistent, any more delays are unconscionable. And if it were not for the President, we could avoid that.

In many States, such as my home State of South Dakota, the construction season is short—sometimes only 6 months.

If contracts are not entered into in April, it will be nearly impossible to plan and get the work completed before the construction season comes to an end early next fall.

Another year could be lost.

It is time for Congress and the administration to get together and approve a bill that brings new investments to our decaying transportation infrastructure and new jobs to the American economy.

The Senate's transportation bill would create 1.7 million jobs this coming year. It would bring welcome relief from the longest jobs slump our Nation has endured since the Depression. So in addition to repairing America's transportation infrastructure, this legislation will reinvigorate the economy.

In States such as Texas, California, and Florida, the Senate bill increases transportation investment by roughly 40 percent—four times the increase proposed by the House, the House level the President opposes.

We are not just talking about numbers on a budget spreadsheet; the additional investment in the Senate bill translates into hundreds of thousands of jobs for Americans.

In Florida, for example, the Senate bill would create 44,000 jobs, while the House bill would create 13,000. In Texas, the Senate bill would create 80,000 jobs; the House bill 13,000. In Missouri, 22,000 versus 6,000; Illinois, 45,000, versus 10,000; California, 90,000 versus 25,000; Tennessee, 20,000 versus 6,000; and in my State of South Dakota, 6,500 versus 1,500.

In all, the House bill falls 500,000 jobs short of the Senate bill. We have all heard from the administration, and all we have heard they oppose both the Senate and House versions of the bill. For the Bush administration, it appears it is their way or—if you might pardon the pun—the highway, or, in this case, no highway funding.

We cannot afford to let our transportation investments fall victim to this kind of rigid partisanship. Every day we fail to make investments in our transportation infrastructure, every hour Americans lose in traffic, every delay in the shipment of goods, carries a cost to the American economy and slows job growth.

There is a broad coalition of groups and industries—including the Chamber of Commerce, the Association of General Contractors, the American Public Transportation Association, and the International Union of Operating Engineers—who are united in their support of the Senate level of $318 billion.

They recently delivered a letter that was unequivocal. They wrote:

> As business and labor organizations, we cannot support any legislation below the Senate investment level for a six-year bill.

Time is running short, but, as I said, we can still deliver real relief to the American economy. If the House passes a bill this week, and staff and Members would start working immediately, there is absolutely no reason we should not be able to complete this bill in April. We can avoid letting the President and the Republican House leadership singlehandedly shut down the Department of Transportation.

It has been 184 days since the Republican Congress and President Bush began failing our Nation's transportation system and all who rely upon it. I know we can do better than this, put aside partisan politics, and begin to focus on the important work that is before us all. I hope that can be done in the next day.

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

Mr. DASCHLE. I am happy to yield.

Mr. REID. Is the distinguished Democratic leader aware that the work done in the Senate bill—$318 billion for transit and highways—was done on a bipartisan basis? I have been chairman of that full committee on two occasions. I understand it. I understand the committee very well. But there was cooperation such as I have never seen. With Senator INHOFE, Senator BOND, Senator JEFFORDS, and me being ranking member on the subcommittee now, there was no partisanship.

Is the Senator—I am sure—also aware this bill does not increase taxes at all, it is paid for with existing dollars, plus trust fund moneys? So anyone who thinks this is breaking the bank simply is mistaken. This is no new taxes, totally funded, no deficit spending. Is the Senator aware of that?

Mr. DASCHLE. Mr. President, I answer the distinguished assistant Democratic leader by saying that is exactly the case. We had an extraordinarily effective demonstration of bipartisanship in taking up the highway bill. I worked closely with Senator FRIST. I say to the Senator, you worked closely with Senator INHOFE. We got the job done on time and, as you say, on budget.

This does not represent 1 dollar of additional deficit spending. It is a commitment to jobs. It is a commitment to infrastructure. It is a commitment to our fiscal soundness that I think is one of the best moments we have experienced in this Congress to date. It demonstrated again Democrats and Republicans can truly work together.

I only hope we could do the same in the House, and we will certainly do the same as we try to resolve whatever differences there will be with the House, including the amount committed to infrastructure in the coming days.

I thank the Senator for his excellent question.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leader time is served.

MORNING BUSINESS

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

The Senator from Nevada.

DEBATE IN THE SENATE

Mr. REID. Mr. President, I will yield very quickly. I want to say this. I understand the procedures here in the Senate. I certainly understand the majority has the right of first recognition. If the majority decides they do not want us to participate in debate, it is difficult for us to be part of the debate.

But I want the RECORD to be spread with the fact today we have heard—and I hope it is wrong—when we complete action today on the underlying bill, that is, the welfare bill, the majority is going to go to the floor and prevent us from being part of the debate; they are going to talk about what Democrats are doing is wrong and what they are doing is right, and not allow us to have recognition. Now I say, as the Chair is aware, that we heard once before, not long ago, the majority was going to do this, and you will recall at that time I got the floor and kept the floor for a long time. That did not set a good tone, that the majority was, in effect, trying to force us out of the debate. The Senate is a debating body, and we should be part of that.

I say for the second time this morning, we know the majority can keep us from being recognized. It would set a very bad tone. I do not think it would be appropriate or fair, and we would do whatever we could to protect our right, and everyone should understand that.

Mr. President, I yield, on the time we have remaining, 20 minutes to the Senator from New York.

The PRESIDING OFFICER (Mr. TALENT). The Senator from New York is recognized for 20 minutes.

Mrs. CLINTON. Mr. President, I thank my leader from Nevada.

APRIL FOOLS' ON US

Mrs. CLINTON. Mr. President, many years ago when I was a schoolgirl, on this day someone might come up to me in the hallway and say: Hillary, your skirt is ripped. I would turn around in panic, and they would say: April Fools'. Or maybe somebody would stop me after class and say: Hillary, I heard Janie is really mad at you, and I don't know what you did to her, but you'd better talk to her. I would feel terrible. Before I could do anything about it, someone would say: April Fools'.

Well, today is April 1, and there is a long tradition of people playing jokes on each other, pulling stunts, and then causing someone to be upset or worried or anxious or maybe even happy that they have been told something is going to happen, only to have the rug pulled out from under them when someone says, either jokingly or sometimes a little cruelly: April Fools'.

Thankfully, that day only came once a year, so you only had to endure your friends or maybe your not-so-friendly classmates' jokes and stunts for 24 hours. But I sometimes feel that it is April Fools' Day every single day here on Capitol Hill, on the other end of Pennsylvania Avenue in the White House, because on issue after issue of profound importance to the American people, our Government is basically saying: April Fools'.

Do you remember when they introduced their budget in 2001 and said: ''If you drastically cut taxes on the wealthiest of Americans, why, my goodness, revenues will increase in the budget. You don't have to worry about all the expenses that we have keeping this great country going because this will work''? Well, 3 years later, we are facing a $500 billion deficit. Guess what. April Fools' on us.

Do you remember when they said: ''Our policies are going to generate jobs''? Well, we saw during the 1990s 22 million new jobs created in America. What a difference that made in so many people's lives. What have been the results of this administration's economic policies? The loss of nearly 3 million jobs.

So for all those Americans who believed this administration's policies would work to create jobs and economic opportunity, guess what. April Fools' on you.

When it comes to the Medicare prescription drug benefit, the administration knew there was an estimate by the man responsible for calculating how much Medicare will cost that was much higher than what had been discussed in the debate over the bill. Here in this Chamber we were told the bill would cost $400 billion. That is a lot of money. It was a lot of money for what, frankly, our seniors are going to get, which is going to be a lot of confusion because so much of the money is going to drug companies and insurance companies. But, lo and behold, we wake up and find out that it was not a $400 billion bill; it was a $534 billion bill. And the actuary, the civil servant at Medicare—he is not political; he works year in and year out for whoever is in office—was ordered not to tell the truth to the American Congress or the people about the cost of the Medicare prescription drug benefit or he would be fired.

So we passed the bill. I didn't vote for it but a majority did. We passed it. The President signed it. Guess what. April Fools': It is not going to cost $400 billion, it is going to cost $534 billion.

Then, of course, we have No Child Left Behind, which many of us so hoped would make a difference in the education of our children. But we conditioned our support for this education reform on the promise by the President that it would be fully funded, that the money our teachers and principals and superintendents and school boards, but particularly our children, would need would be there.

Well, no longer is that promise even credible. The President signed the bill and then presented a budget which didn't provide the money required to fully implement No Child Left Behind. Once again, April Fools' on us.

Americans have been fooled time and time again by this administration, fooled by promises and fooled by predictions. Indeed, for 3½ years, this administration has said one thing and done something else. The list is far longer than what I have even mentioned. This was an administration that said: We are going to do something about global climate change and carbon dioxide in the atmosphere that is warming our climate. We just received a report from the Pentagon talking about what that means to our national security. So the President gave speeches when he was running for office saying we are going to deal with that. Lo and behold, he gets into office, and forget it. April Fools': climate change, no such thing is going forward under this President.

We have just seen some recent examples with respect to rising gas prices. That is a big concern. It is a concern in my State and around the country. We are seeing OPEC cutting production which will cause even higher prices for gasoline. When the President was running for office, he said: Why doesn't anyone do anything to get these gas prices down? When I am elected, I will

make sure OPEC doesn't raise gas prices on us.

Well, OPEC did it. They cut production. All the President said was how disappointed he was. That doesn't sound like much of a strong case being made on behalf of the American people. Again, what should we expect? It is the same story from this administration. Say one thing, do something differently; fool the people, not just one day a year but every single day.

It is as if words don't matter anymore with the administration—and, regrettably, with the Republican leadership in Congress. There are a lot of serious issues facing the people I represent. We are losing jobs. A lot of people are losing their health care benefits. The cost of education to send a child to college is going up. We have a lot of challenges we should be working together to meet.

On this side of the aisle we have tried to raise the minimum wage. Why have we done that? Because it has not been raised for about 8 years. There are a lot of decent, hard-working people who are falling further and further behind because their costs are going up, but their incomes sure are not.

We also want to do something about overtime because what this administration has done is to say: We want to change the rules which would take away overtime compensation from about 8 million Americans. Can you imagine what a horrible experience that would be for somebody working a shift as a police officer or a firefighter or a nurse to be told: Well, your Government, your President doesn't want you to be paid for the hours you have to work extra. April Fools' on you. You are going to work but not get paid for it.

We don't like that. Is that obstructionist, that we Democrats think it is not fair that people should have to work and not be paid for it? I don't think so. I think that is in the tradition of American fair play. But we can't get a vote on it here because the Republicans know that if they had to have a vote on it, it would actually pass. That would really embarrass the President and his administration. So they don't want us to vote on it.

Unemployment benefits, it is the same thing. A lot of people are not only out of work, but they can't find work because there are so few jobs being created in this economy. The administration doesn't want to help these people. They don't want to give them that extra unemployment benefit that can tide them over until maybe we can start seeing some jobs created that will put people back to work. So our friends on the other side of the aisle don't want to vote on that because the administration would be embarrassed, because they know if Republicans had to vote on it, they would actually vote for it. So they don't want that to happen.

Time and time again, we have seen the President and the majority say one thing and do something else. It is April Fools' Day today, but that is no way to run a government. It is no way to run a great country.

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

Mrs. CLINTON. Certainly.

Mr. DURBIN. I would like to ask the Senator from New York, through the Chair, is there not also an important issue that affects families and businesses across the United States with the increase in gasoline prices? If I recall correctly, Governor Bush, when he was a candidate for President, said, in Manchester, NH, he thought in that circumstance, the President should use the power of his office to force the OPEC nations to try to expand their exports of oil so gasoline prices did not go up in America. Isn't it true at this point that this administration not only has failed to do what the President promised as a candidate he would do, but, in fact, OPEC has announced it is going to reduce their exports to the United States and force greater increases in gasoline prices which will hurt the American economy and American families?

Mrs. CLINTON. The Senator from Illinois is absolutely right. Not only did the President, when he was running for office, say that he would jawbone and fight back hard against OPEC if they tried to limit supply or raise prices, he even said he would use his connections in the oil industry to make sure that got done. We all know about his connections and the Vice President's connections. There has never been an administration in our history that is so closely connected to big oil and big gas and big coal and everything else.

So what happens? OPEC meets. Whatever they tried to do behind the scenes sure didn't work because they voted to cut production 4 percent. When that was announced, what did the President do? He said he was disappointed.

There has also never been a President or anyone in any administration who is closer or whose family is closer to many of the big oil-producing countries such as Saudi Arabia. They have connections and relationships and friendships going back decades. One would think that if any President could force OPEC not to take this damaging action against the American consumer, it would be this President.

But I see no signs of that. I see no real effort in that. Once again, it is say one thing, do something else. April Fools' on the American people.

Mr. DURBIN. If the Senator will further yield. I also believe, in Illinois, as I travel around and speak to families and businesses, there is one consuming issue, and that is the cost of health care, the cost of health insurance. Small businesses see these dramatic increases in health insurance premiums, and with these increases they are faced with the terrible prospect of either reducing or eliminating coverage for their employees; that has, unfortunately, led to more and more uninsured Americans.

Is it not true that, given the chance on the floor, with the prescription drug bill, where the Bush administration could have stepped forward and spoken for these families and businesses and said to pharmaceutical companies that you have to, as Canada has done, restrain drug price increases, is it not true that on this issue relating directly to the competitiveness of American products, the welfare of American families, and the future of businesses and jobs, that this administration has once again caved in to the special interest groups—the drug companies and HMOs in this case—at the expense of the American economy?

Mrs. CLINTON. Once again, the Senator from Illinois is absolutely correct. As he well remembers, the debate on the floor concerning prescription drugs benefited many opportunities to try to rein in the cost of prescription drugs, to try to give permission to Medicare to negotiate, as any big institutional buyer would have the right to do, and also to import the drugs that are American-made, American-approved, back from Canada so we could get the lower prices.

Again, this administration and the Republican majority steadfastly stood against the American public, against our seniors, and stood for the pharmaceutical industry. As a result, the cost is going to be much greater, and much of that increased cost is not going to help our seniors and lower drug costs so we can perhaps have even more prescription drugs available for our people. Instead, it will go right into the pockets of the pharmaceutical companies and insurance companies.

Mr. DURBIN. Is it not also the case that this administration took taxpayer dollars to buy advertising on television for their prescription drug program and, frankly, misrepresented what the program meant in terms of savings for seniors? It is bad enough that the bill itself didn't keep the cost of prescription drugs under control. The administration took taxpayer dollars and used them to basically put a message out that at least wasn't complete, and perhaps was distorted, misleading many seniors into believing that this prescription drug bill is going to be of some benefit?

Mrs. CLINTON. Well, the Senator from Illinois has raised another important issue because the administration is using taxpayer dollars to convey a misleading impression of the Medicare prescription drug benefit, and to do so as a way of boosting the President's reelection opportunity. So taxpayer dollars, instead of his campaign dollars, are being used to try to persuade the American people against the evidence that this massive bill, with so many benefits for the pharmaceutical industry and insurance companies, is good for them. It is regrettable. As the Senator knows, many of us tried to prevent that from happening and say let's do this right, in a bipartisan, unified manner, where we really provide a prescription drug benefit for our seniors.

As the Senator also is aware, in the last several weeks, the President's campaign has been accusing one of our colleagues, the Democratic nominee for President, of flip-flopping, saying one thing one day and saying something else at a later date. It is the pot calling the kettle black at the very least because it is this administration which, on every important issue to the American people, has either changed position or has persisted in providing a misleading and inaccurate argument on behalf of a position they have taken.

The long and distinguished career in public and military service of the Senator from Massachusetts, Senator KERRY, is one that needs no defense from me or anyone else. It stands on its own merits. It is regrettable that an administration, increasingly known for its two-sided approach and its talking out of both sides of its mouth at the same time, saying one thing and doing something else, would be accusing anyone of engaging in that kind of behavior.

Mr. President, it is April Fools' Day once a year. Thankfully, that is only once a year in most of our lives. Here in Washington, it is every single day, 365 days a year. The administration has engaged in April Fools' tricks on the people of this country repeatedly. But I think people are waking up and starting to say:

Wait a minute, where is that big surplus you promised if we did everything you said?

How come my taxes are going up as a middle income American while taxes on the richest are going down?

How come this is the first President in our Nation's history that has led us to war and cut taxes at the same time?

How come the White House didn't tell us the truth about the cost of the Medicare prescription drug?

How come the administration didn't fund No Child Left Behind the way it had been promised?

How come we are having a transportation bill that the President threatened to veto when it is the only jobs bill on the horizon that can put people to work and repair the infrastructure and modernize our transportation system in a way that will make us richer and stronger in the future?

Well, the April Fools' Day jokes are coming to an end. Fool me once, shame on you; fool me twice, shame on me. The American people are starting to ask the hard questions. They are not just questions coming from Democrats, but from independents and Republicans, and coming from longtime Government employees who don't have any partisan affiliation, like Richard Clarke, asking hard questions that deserve honest answers.

At the end of the day, what really matters is that the American people have trust in their Government and believe their President when he talks to them about matters of life and death. That is what we are talking about—life and death. So let's hope that when this day ends, maybe we can have some good news from this administration in the form of admissions and some corrections that will put us back on the path of unity, that will create the tone the President promised that would be a positive tone in Washington, where we could deal with the real problems facing Americans.

I am not optimistic, but I am hopeful that we could see that happen because these are matters of profound importance. It is imperative that we as a Nation have faith in our leaders in these dangerous and difficult times.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada has approximately 8 minutes left. Who seeks recognition?

The Senator from Mississippi is recognized.

JUMPSTART OUR BUSINESS STRENGTH BILL

Mr. COCHRAN. Mr. President, one of the serious problems facing the Senate is the passage of the Jumpstart Our Business Strength, or JOBS, bill. The Senate needs to pass this bill now.

Since the World Trade Organization has ruled against the United States over our foreign sales corporation and extraterritorial income tax rules, we have had ample time to address this issue. The Senate Finance Committee reported legislation which would bring the United States into compliance with our trade obligations on October 1, 2003.

Today, the European Union's 5-percent tariff will increase to 6 percent, and every month it will increase another percent. This will make American agricultural and manufactured products increasingly less competitive in international markets.

Exports of U.S. agricultural products will approach $60 billion this year. If we allow the EU to continue with these tariffs, we will continue to lose market share and export opportunities. When our farm exports are pressured, the truckers, rail lines, and shippers feel the ill effects.

The EU retaliation list includes about 400 agricultural, food, and forest product tariff lines of imports from the United States.

These are very serious threats to our American agricultural economy, and this is why. The values of our annual exports to the EU are live animals, $23.7 million; meat and meat products, $44.4 million; vegetables, $35.6 million; oil seeds, $64.6 million; rawhides and skins, $41.3 million; wood products, $140 million; sugar and confectionery products, $21.2 million. The annual total of all these and other agricultural products amounts to more than $691 million a year.

Let me also remind everyone that much of the food industry operates on very small profit margins. So the initial tariff increase of 5 percent, plus the additional 1 percent per month, can have a serious effect.

Also, the EU currency has been very strong against the U.S. dollar. This means it has been comparatively easier for our trading partners in Europe to buy our products, but the import tariff erodes that advantage and makes it easier for competitors—other countries—to take away our markets in the European area.

It is my hope that the Senate will complete action on the JOBS bill without any further delay so we can send that bill to the President, which he is prepared to sign immediately, so we can avert the lost sales, regain lost jobs in the agricultural sector, and restore hope in America's farms and factories.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, we appreciate Senator COCHRAN speaking when he did. We have 8 minutes remaining. I ask unanimous consent that the time be reserved. We had someone who was going to speak but has not shown up.

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

Who seeks recognition? The Senator from Texas is recognized for 5 minutes under the previous order.

DEMOCRATIC LEADERSHIP'S OBSTRUCTION

Mr. CORNYN. Mr. President, today is day 7 of the Democratic leadership's unprecedented obstruction of President Bush's nominees for various executive positions and judicial nominations. In fact, I have in my hand the Executive Calendar which reflects 46 of the President's nominees who stand ready to be confirmed by the Senate so they can get to work on behalf of the American people. But unfortunately, as appears to be a growing trend and one where our Democratic colleagues continue to dig in their heels, the answer to every entreaty we might offer, every suggestion we have in terms of creating jobs, in terms of putting people on the bench to decide cases that go unheard because judges are not being confirmed to these posts, we continue to get a consistent response on behalf of our Democratic colleagues of ''no.''

The answer they give to jobs and manufacturing, medical liability reform, a national energy policy, workforce investment, judges, small business, class action reform, and faith-based and charities legislation is ''no.''

Particularly on the judicial nominees, I point out, once again, that this obstructionism is unprecedented in the history of the Senate. Where we have a bipartisan majority in the Senate who stand ready to confirm highly qualified nominees, such as Justice Priscilla Owen of the Texas Supreme Court of my home State, people such as Janice Rogers Brown who serves on the California Supreme Court, or people such as Miguel Estrada who, after waiting

for so long to have his confirmation heard on the Senate floor, finally had to give up and go about his daily life because of this unprecedented obstruction.

The worst part of this is that it has not only been about blocking President Bush's highly qualified judicial nominees and other people who he has proposed for various boards and commissions serving the American people, this, unfortunately, has also involved a character assassination as well. Judicial nominees have been called names by Senators on the other side of the aisle that are really unbecoming of the dignity of this body, names such as ''kooks,'' ''Neanderthals,'' ''turkeys,'' and other names that are just entirely inappropriate to the civil discourse and debate that people have come to expect and deserve a right to hear from Members of the Senate.

We can disagree about policy matters. We can have a different proposal for the American people about which direction this country should go on a number of these issues. But surely—surely—the Senate should continue to conduct its discussions in a civil way and one that allows majorities to govern, not that allows obstinate minorities led by the Democratic leadership to block vote after vote on matters that are important to the people of the United States.

The problem we now hear is they are objecting to proceeding on any nominees because President Bush has used the authority given to him under the Constitution to make recess appointments. They act as if this has never been heard of, that it is unprecedented in U.S. history. The fact is, there have been more than 300 recess appointments made during the course of this Nation's history, including by President Clinton, before President George W. Bush, and others. Indeed, this is a constitutional response to unconstitutional filibusters.

Unfortunately, we know the nature of this process is such that if the Democrat obstructionists get away with blocking President Bush's nominees, not from voting against them but by preventing a vote on them at all, this is a tactic once determined to be successful that will likely be employed by others when the shoe is on the other foot.

When the next Democrat is President of the United States and Republicans are in the minority in the Senate, how is it we are going to explain to our Republican colleagues that, no, you should not use this tactic which, up until now, has been out of bounds but which has now been employed successfully against the Democratic minority against this President?

We ask for an up-or-down vote today on President Bush's judicial nominees, and we would ask that rather than answering ''stop'' to all of the Republican agenda on behalf of the American people, we could at least get an up-or-down vote.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Texas has expired. Who seeks recognition?

The Senator from Nevada is recognized for 5 minutes under the previous order.

MEDICAL LIABILITY REFORM

Mr. ENSIGN. Mr. President, the theme we are talking about this morning is obstructionism. We have heard about judges. Later on we are going to hear about the Democrats obstructing legislation that would create jobs in the United States. It is called the FSC/ETI bill. It really is a jobs bill. This is legislation that will actually bring hundreds of thousands, if not millions, of jobs back home to the United States. Democrats have been blocking, as far as jobs are concerned, asbestos reform, bankruptcy reform, class action litigation reform—all of those items make American companies less competitive and make it tougher to have new job growth in the United States.

Outsourcing is a big issue. As we hear more and more about this issue, we have to understand some of the reasons surrounding it. Right now the other side of the aisle is blocking a lot of the legislation that would allow companies to bring new jobs to this country to make our country more competitive.

What I want to talk about this morning very briefly is the answer to what has caused a severe access to care crisis in many States, and that is the issue of the medical liability reform. My home State, the State of Nevada, is one of those 19 States that are truly in crisis. In fact, only five States across the United States are showing no signs of a crisis. Unfortunately, the rest of the states are all headed in Nevada's direction, and it is only going to continue to get worse unless we fix the problem right here in Washington, DC. This is a national problem and it requires an immediate national solution.

One of the main reasons we need a national solution is because the Federal Government now pays 60 percent—60, 6–0 percent—of all the medical bills in the United States with regard to Medicare, Medicaid, and the Veterans Administration. There is a huge amount of money the Federal Government pays in taxpayer dollars that goes toward paying medical bills in this country.

For this and many other reasons this is a national problem that requires a national solution. We are losing doctors and other medical professionals at an alarming rate all over America. They are not going into the specialty and high-risk fields, especially in the numbers that we need in this country. There used to be a huge demand for many of these residencies. Now, some of our schools cannot even fill their residency programs. Unbelievably, often times they are not even getting any applications for these residencies.

A few weeks ago I heard about the problems in Utah. There are tremendous medical facilities there. They are having problems getting doctors to go into some of the fields we want our best and our brightest to go into—those fields that require the most technically brilliant people—because of the fear that when they get out of medical school they will not be able to afford to practice because the medical liability premiums are too high.

Why are the medical liability premiums too high? Well, it is pretty simple. It is because we have an overly-litigious society where unscrupulous trial lawyers basically say bring your Rolodex and we will find out who we can sue. More and more, this practice has spread into the medical profession where hard-working and honest professionals are being subjected to frivolous lawsuits.

I am a veterinarian, and I know medicine is not an exact science. Mistakes are made. If there is medical malpractice, the patient deserves to get compensated, no questions asked, and our civil justice system has the ability to do that. But because the courts are so filled up with frivolous lawsuits these days, and some of the jury awards are so incredibly high, it motivates people to basically say let's go hit the lawsuit lottery because the system is broken. It is a situation where because of the backlog, the people who are really injured die before they ever get compensation. It can take 6, 7, 8, 9, 10 years in the courts before their case actually has a final resolution, and that is unacceptable for those patients who are injured. That is one of the major reasons we need to have medical liability reform. Unfortunately, the other side continues to obstruct our efforts in this area.

If opponents want to debate differences, if they want to amend the bill, fine, but they will not even let us go to a vote on a bill. In fact, they keep obstructing us even moving to debate a bill. They are filibustering, just as they are doing on judges and many other things. It is a shame because it is a crisis. It is a crisis with OB/GYNs—arguably the most dire of circumstances with regard to access to care—but it is also a crisis with trauma doctors, neurosurgeons, and even with general surgeons.

Some of the best people who practice medicine in my State are either leaving practice or now, unfortunately, not going into those high-risk specialties. We need to enact reform to protect every American's access to quality care, and to keep the best and the brightest practicing and entering into the medical profession. In order to so, this obstructionism by our opponents must stop, and it must stop right now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada has yielded the floor. Who seeks recognition?

The Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. I ask that when we move to the welfare bill, TANF, that on our side for 30 minutes 7 minutes be given to our manager, Senator BAUCUS; 7 minutes to Senator KENNEDY, the ranking member of the full committee; 5 minutes to Senator REED from Rhode Island; and 5 minutes to Senator BOXER from California.

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

The Senator from Wyoming.

ENERGY POLICY

Mr. THOMAS. Mr. President, I rise to speak about where we are, where we are going, and some of the difficulties we are finding in getting there. I was listening earlier as the Senator from New York and the Senator from Illinois were discussing some of the issues they consider to be problems with this administration.

They talked about the cost of energy. One of the reasons we are having some problems with the cost of energy is we have not been able to get an Energy bill passed that gives us any direction because it has been obstructed by the other side of the aisle, and it continues to be. So that is not a surprise.

They talked a lot about the health care problems. One of the reasons we have health care problems is the obstruction on the other side that will not allow us to move forward with malpractice insurance.

The same thing, of course, is true with Medicare. They were critical of doing something with Medicare. I remind my colleagues this is the first time in 30 years we have done something to help change Medicare, and it is going to be implemented over a period of time because there will need to be some changes in it. For the first time, people will be given an opportunity to get pharmaceuticals at less cost, and we will begin to have an opportunity to change Medicare from the way it was originally structured. It is very difficult to do that with the obstruction on the other side.

It is frustrating to be in the Senate where we are supposed to be making decisions, supposed to be moving forward. We do not all agree, that is certainly true, but we do have a system that allows us to go forward. That is what votes are for, but we cannot take votes. We continue to sit here and only talk about things.

I am particularly interested in the energy issue, of course. I think it is certainly one that we have talked about for a very long time. It now becomes more important because of the cost increases, because of the difficulties we are having with energy. It begins to be more apparent that we need to have an energy policy that has some plans for where we go over the next 5 or 10 years. We need to do that as soon as we can.

One of the things the Bush administration, Vice President CHENEY and the President, did was to seek to have an energy policy. All we have heard are complaints and criticisms and still there is obstruction to having an energy policy, when it is so clear that that is precisely what we need to have.

We have higher gas prices at the pumps, partly because OPEC has backed off somewhat, but also because we have made it necessary for refiners to put into place about 18 different combinations of fuel. There have been unexpected disruptions from Venezuela and elsewhere. We are having higher home heating bills because of the stress on natural gas where the consumption is going up much faster than the production, and it is predicted to do that in the future for some time.

So we are still talking about these issues. People are more aware of them because of the blackout, because of the cost, and because of the difficulties. So we need to make some changes, but we need a policy. We are not talking about all that we can do instantly. We are saying we need a general policy, and that is what this policy is. It has to do with alternative sources. It has to do with efficiency. It has to do with conservation. It has to do with more research so that, for instance, there can be more clean coal burned.

Today, the Wall Street Journal said finally people are saying we are having trouble with natural gas because of the demand, but coal is the fuel that we have with the most fossil reserves in this country, and we can do it in a clean way. Particularly, western coal is low in Btu and low in C02.

We need to be moving in that direction. We need a balanced bill, and there are things we can do to accomplish that. We are going to have to change the fuels over a period of time.

Some, particularly on the other side of the aisle, say: Oh, well, we have to start using alternatives up to 40 percent in the next 5 years.

Right now, of all of our energy production, 3 percent is produced by alternatives such as wind. We can do much more in the future, and we hope that we do, but we cannot turn that corner right away. It is a very difficult thing to do.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired.

Mr. THOMAS. Mr. President, I certainly urge that we stop obstructing and move forward with an energy policy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming yields the floor.

The Senator from Oregon is recognized for 10 minutes.

Mr. REID. Mr. President, I ask the Senator if he will yield for a unanimous consent.

Mr. SMITH. Yes, I yield to the Senator from Nevada.

Mr. REID. Mr. President, our remaining time will be yielded to the Senator from Wisconsin, Mr. FEINGOLD.

THE DREAD OF ELECTION YEAR POLITICS

Mr. SMITH. Mr. President, as the new year arrived, I looked to coming back to Congress with, frankly, a sense of dread because I knew we were entering a political year, a year where the stakes are high, and the President stands for reelection. I knew there would be an awful lot of my work and the work of all of us tied up in partisan gamesmanship.

I will confess to my colleagues, I do not much enjoy it. I look at my friend from Nevada, Senator REID, and I see a great human being. When I look at Senator FEINGOLD, I see another great human being. I love the message of compassion of the Democratic Party. I know where their hearts are. This is not about good people or bad people. This is about competing ideas.

But because I had that view—my father was a Republican, and my mother, a Udall from Arizona—I understand good people can differ on these issues. Because of that sort of bipartisan approach to life I have always had, in my former life as a businessman, as candidates for public office would come to our company and ask to meet with us and our employees, I welcomed Democrats and Republicans alike equally.

Unfortunately, what I often came away with was the feeling those on the Democratic side loved my employees but they hated employers. That is because they would demand we create jobs and then they would say the way you do that is you raise the minimum wage, increase your regulations, and raise your taxes. I came to understand by doing the books, by doing accounting, one of my most significant costs was Government overhead.

All of them are well meaning. But all of them make it more difficult for capital to come together so labor can be given work to do.

As my colleagues have come to the floor and complained about various aspects of this current obstructionist period—you know, we talk about medical liability, the Senator from Wyoming talked about energy, others have talked about judges—I have to talk today about the whole issue of FSC/ETI and how critical it is we find a way through this morass of partisanship to getting this bill done. What we do by failing the American people is to impose on manufacturers a European tax and a penalty to American potential for creating jobs. I don't think that is what Senators intend, but that is what is happening if we don't get FSC/ETI through this process.

As I mentioned earlier, I love the compassion I hear from my Democratic friends. Yet when I look at some of the policies that are advanced, what I see are policies designed to make the United States more like Western Europe, more like socialist democratic welfare states.

I recently had an experience on a trip with Senator SHELBY and Senator CANTWELL when we had traveled to

Berlin to meet with Gerhard Schroeder. The German Chancellor was explaining to us his policies to reduce taxes, to reduce regulation, to reform medicine and Social Security. I said in humor, Mr. Chancellor, your policies would make Ronald Reagan smile.

His response was: It isn't because I want to do this, but I must do this because Germany no longer grows. We no longer have opportunity for our people. Our economy is dead in the water and yours is growing at a spectacular rate.

He even commented to the effect: You worry about losing jobs? We wonder why Mercedes and BMW are building plants in South Carolina.

It is because you can get a return on investment here.

I think we have to get beyond this lamentable side of the Democratic message, we love employees but we hate their employers, because the truth is both have to win and there is room for both. These policies that are punitive are well-intended. They want a vote on the minimum wage. I am ready to vote on that. They want to vote again on the overtime provision. We have voted on all these things before. These are not reasons to hold up progress on FSC/ETI. But that is what is happening.

We have to vote two, three, four times on policies already decided by this bicameral Capitol Hill. It is so very frustrating. I don't want America to become a democratic socialist welfare state. I don't care how well meaning all that was when they constructed the French and German economies, but I know, as Vice President CHENEY pointed out last week, while our economy was growing at nearly 8 percent in the last half of last year, their economies were growing at 1.4 percent.

So as we look to where these policies that are being proposed lead, let's understand we don't want to become like that. We want to be Americans. We want the American economy to produce jobs and to ensure freedom. All the well-intentioned taxes, regulations, and burdens of costs that are put upon employers ultimately translate into harm to employees. I think we have to start pointing that out.

In the FSC/ETI bill we passed through the Finance Committee, there was included in that a very important provision I was proud to sponsor. It was the repatriation provision. One of the good things the Europeans do and many of the other countries with whom we compete do, when their companies invest over here they let them take the money back to their home country without a tax. They let it be taxed once here. They don't retax it.

As to American companies who compete overseas, we allow them to be taxed over there and then we tax them again when they come back. So this repatriation provision, which for 1 year would have treated our companies like our competitors treat their companies, would have dropped the tax from 35 percent to 5.25 for 1 year. That would have created over 650,000 jobs. All the economists said that. It would have brought $300 billion into the economy, and it would have increased Federal tax receipts by nearly $12 billion a year. It is a win-win. Yet we are stuck trying to re-vote on votes we have already voted, holding up this critical legislation, which I promise you is a vote against jobs. To obstruct this bill is a vote against American jobs. It is a vote for a European tax increase on American workers.

Repatriation is a component of ending the FSC regimen that promoted exports by helping to bring into balance with our competitors American taxation on our companies which export abroad.

I listened with some humor last week when my colleague Senator KERRY, the Democratic nominee for President, introduced his tax plan. It contained my repatriation provision. But when we put it through the Finance Committee, Senator KERRY voted against it. But now it is included. I don't know. I am glad he changed his mind, but I don't know why the flip-flop. It is a great idea. It is important to do. I am glad he is now with us. I wish he were here today to vote on it. We could use his vote to get this off the Senate floor, to a conference, and into the American economy. It truly does produce jobs.

While I think it is easy to hate employers, it is easy to bash corporations, at the end of the day that is how American free enterprise does its work.

I know not all corporations are perfect. There is always a rotten apple or two to spoil the barrel. But most employees don't hate their employers, and most employers care about their employees. Most American companies are anxious to see America succeed. These are patriotic people. We have to understand there needs to be a win-win here. Right now the obstruction on FSC/ETI is a lose-lose for the American people.

If we want to see jobs created, we need to pass this bill. We need not to accede to a European tax through the WTO on the issue of FSC/ETI. We need to fix it now. We needed to fix it yesterday. We need to get it to the House so we can get it to the President and then get it to the union shop, the corporate board room, so labor can be reemployed, because American capital comes home.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Wisconsin is recognized.

CORPS OF ENGINEERS MODERNIZATION AND IMPROVEMENT ACT OF 2004

Mr. FEINGOLD. Mr. President, I rise today to discuss the Corps of Engineers Modernization and Improvement Act of 2004, S. 2188, which I introduced right before the March recess. I am pleased that the senior Senator from Arizona, Senator MCCAIN, and senior Senator from South Dakota, Senator DASCHLE, joined me in cosponsoring this legislation.

This legislation is particularly timely because it comes at a time when Congress is debating the Nation's budget, and when we cannot ignore the record-breaking deficits that the Nation faces. Time and time again we have heard that fiscal responsibility and environmental protection are mutually exclusive. Through this legislation, however, we can save taxpayers billions of dollars and protect the environment. As evidence of this fact, this bill is supported by Taxpayers for Commonsense, the National Taxpayers Union, the National Wildlife Federation, American Rivers, the Corps Reform Network, and Earthjustice.

Reforming the Army Corps of Engineers will be a difficult task for Congress. It involves restoring credibility and accountability to a Federal agency rocked by scandals and constrained by endlessly growing authorizations and a gloomy Federal fiscal picture, and yet an agency that Wisconsin, and many other states across the country, have come to rely upon. From the Great Lakes to the mighty Mississippi, the Corps provides aid to navigation, environmental remediation, water control and a variety of other services in my State alone.

My office has strong working relationships with the Detroit, Rock Island, and St. Paul district offices that service Wisconsin, and I want the fiscal and management cloud over the Corps to dissipate so the Corps can continue to contribute to our environment and our economy.

This legislation evolved from my experience in seeking to offer an amendment to the Water Resources Development Act of 2000 to create independent review of Army Corps of Engineers' projects. In response to my initiative, the bill's managers, which included the former Senator from New Hampshire, Senator Bob Smith, and the senior Senator from Montana, Senator BAUCUS, adopted an amendment as part of their managers' package to require a National Academy of Sciences study on the issue of peer review of Corps projects.

S. 2188 includes many provisions that were included in two bills, one of which I authored and the other I cosponsored, in the 107th Congress. It codifies the idea of independent review of the Corps, and it provides a mechanism to speed up completion of construction for good Corps projects with large public benefits by deauthorizing low priority and economically wasteful projects.

The bill puts forth bold, comprehensive reform measures. It modernizes the Corps project planning guidelines, which have not been updated since 1983. It requires the corps to use sound science in estimating the costs and evaluating the needs for water resources projects. Under this bill, a project's benefits must be 1.5 times greater than the costs to the taxpayer, which alone would save the taxpayers over $4 billion. And, to receive Federal project funding, local communities

must take on a greater share in the costs of the project.

The bill requires independent review of Corps projects. The National Academy of Sciences, the General Accounting Office, and even the Inspector General of the Army agree that independent review is essential to assure that each Corps project is economically justified.

The bill also requires strong environmental protection measures. S. 2188 requires the Corps to mitigate the environmental impacts of its projects in a variety of ways, including by avoiding damaging wetlands in the first place and either holding other lands or constructing weltands elsewhere when it cannot avoid destroying them. The Corps requires private developers to meet this standard when they construct projects as a condition of receiving a federal permit, and the federal government should live up to the same standard.

Too often, the Corps does not complete required mitigation and actually enhances environmental risks. I feel strongly that the Corps must complete its mitigation and the public should be able to track the progress of mitigation projects. In addition, the concurrent mitigation requirements of this bill would actually reduce the total mitigation costs by ensuring the purchase of mitigation lands as soon as possible.

This bill streamlines the existing automatic deauthorization process for the $58 billion project backlog, and it will keep the Corps focused on its primary missions of flood control, navigation, and environmental protection. Under the bill a project authorized for construction but never started is deauthorized if it is denied appropriations funds towards construction for 5 straight years. In addition, a project that has begun construction but been denied appropriations funds toward construction for 3 straight years is deauthorized. The bill also preserves congressional prerogatives over setting the Corps' construction priorities by allowing Congress a chance to reauthorize any of these projects before they are automatically deauthorized. This process will be transparent to all interests, because the bill requires the Corps to make an annual list of projects in the construction backlog available to Congress and the public at large.

This measure will bring about a comprehensive revision of the project review and authorization procedures at the Army Corps of Engineers. My goals for the Corps are to increase transparency and accountability, to ensure fiscal responsibility, and to allow greater stakeholder involvement in their projects. I remain committed to these goals, and to seeing Corps reform enacted as part of this Congress' water resources bill.

I feel that this bill is an important step down the road to a reformed Corps of Engineers. This bill establishes a framework to catch mistakes by Corps planners, deter any potential bad behavior by Corps officials to justify questionable projects, end old unjustified projects, and provide planners desperately needed support against the never-ending pressure of project boosters. Those boosters, include congressional interests, which is why I believe that this body needs to champion reform—to end the perception that Corps projects are all pork and no substance. All too often Members of Congress have seen Corps projects as a way to bring home the bacon, rather than ensuring that the taxpayers get the most bang for their Federal buck.

I wish it were the case that the changes we are proposing today were not needed, but unfortunately, I see that there is need for this bill. I want to make sure that future Corps projects no longer fail to produce predicted benefits, stop costing the taxpayers more than the Corps estimated, do not have unanticipated environmental impacts, and are built in an environmentally compatible way. This bill will help the Corps do a better job, which is what the taxpayers and the environment deserve.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PERSONAL RESPONSIBILITY AND INDIVIDUAL DEVELOPMENT FOR EVERYONE ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 4, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4) to reauthorize and improve the program of block grants to the States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

Pending:

Boxer/Kennedy amendment No. 2945, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes equally divided between the chairman and ranking member of the Finance Committee.

The Senator from Rhode Island is recognized for 5 minutes.

Mr. REED. Mr. President, I rise in support of the amendment offered by Senators BOXER and KENNEDY to raise the minimum wage.

The last time we increased the minimum wage was in 1997, and workers have already lost all of those gains of that increase. To have the purchasing power the minimum wage had in 1968, the minimum wage would have to be more than $8 an hour, not the $5.15 today.

In 1968, we could afford it. In 1968, we could provide the wages that would enable Americans to save for homes, to purchase homes, to save for college education, and to educate young people. Today, working Americans do not have that opportunity because the minimum wage is not sufficient to support a family and support the aspirations that all Americans have to better themselves and their children.

Indeed, what is very startling is if we had increased the minimum wage at the same rate CEO compensation had increased, the minimum wage today would be $22 an hour. In fact, it raises the fundamental question we will address over many months and years ahead, which is whether the rest of the world is going to become like the United States with a strong middle class with opportunities to move forward or will we become more like the rest of the world with a huge divergence between the very wealthy and those who are working for very little.

I believe we have to have a society that continues to produce a strong middle class, that continues to make work something that allows an individual to provide for their families and to aspire to all of the dreams of American home ownership, education for their children, and a comfortable and secure retirement.

Indeed, the fact that the minimum wage has relatively decreased has contributed to a doubling of poverty. A minimum wage earner for a family of three who works 40 hours a week 52 weeks a year earns $10,700. That is $4,500 below the poverty line. Today, if you are working 40 hours a week for minimum wage, you are in poverty.

The proposed increase would bring the minimum wage to $7 an hour, and even this modest increase would only raise the annual salary of families to about $14,000.

It is not sufficient to replace what people had in 1968. It is not sufficient to ensure all families are above poverty. But increasing the minimum wage will at least give more opportunity, more hope, and more sustenance to the families in America.

Today, one in five children lives below the poverty line in our Nation. This is the richest Nation in the world. That poverty has an effect on them; indeed, in the long run, it has an effect on everyone. There is an adage: You can pay now or you can pay later. We are not paying now and we will pay later. We pay later in terms of children who do not have the educational skills or the health to become the most constructive workers in our society they could become. In fact, some of them, unfortunately, wander into crime and other areas which cost us immensely. We have to be able to ensure people can afford to live in this country.

One of the other aspects of the minimum wage is a family earning a minimum wage in this country cannot effectively afford a two-bedroom apartment in any of the major metropolitan areas and in many rural areas. That is unfortunate. Without proper housing,

how can one ensure family stability and the opportunity to move up in society?

We all understand and we all praise the hard-working Americans who, day in and day out, go to their jobs and labor for their families and communities. But too many of them are working at wages that do not reward this great effort. We can do something and should do something about that by increasing the minimum wage.

We should recognize and understand by increasing the minimum wage, we are not likely to have any negative impact on our economy. In fact, we will probably stimulate our economic activity. In the 7 years after the last minimum wage increase was enacted, there were nearly 11 million new jobs added at the pace of 218,000 jobs per month. There was no break in employment because the minimum wage went up. There were more Americans with more disposable income, buying more goods and services in our economy.

Most people, through my experience, who are working in jobs that pay the minimum wage or slightly above the minimum wage, tend to spend a good deal of their income on taking care of children, on taking care of their rent, on taking care of things that put money into our economy today.

We have to do this. Indeed, it would benefit our economy, not just those recipients of increased wages.

There are about 7 million workers and a third of working women who will benefit. I hope we can move forward and ensure this minimum wage is increased.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, we are facing a filibuster on an amendment I offered with Senator KENNEDY, with great support across the board. I thank Senator REED for his support of this very simple amendment.

We are facing a filibuster on whether we can vote on raising the minimum wage. I cannot think of a more cruel filibuster in my life. Why on Earth would anyone, Republican or Democrat, try to block a vote on this very important matter? I hear all about compassionate conservatism. Fine. Show it to me. Where is it?

People at the minimum wage have been stuck there for 7 years. That is how long it has been since we raised it. Give us a chance to have an up-or-down vote on raising the minimum wage. I ask my colleagues to try and live on $10,800 a year. Think about your rent or your mortgage payment. If it is $800 a month, that is it. You use up all of your money.

Some Members say we are trying to raise it way out of proportion. We are not. It is a rather modest increase, from $5.15 to $7 an hour.

I will show a few charts that tell the story better. People who work at the minimum wage are working well below the poverty line. This red line on this chart is the poverty line for a family of three. A family of three is way below the poverty line. They are headed straight down, as shown on this chart. I do not understand why we want to keep people below the poverty line.

Nearly three-quarters of minimum wage workers are adults. We are not talking about kids. When I was a kid, I used to work at the minimum wage. Fine. It was great. I made 50 cents an hour. That gives away my age. Imagine if those Members of the Senator were still in the Senate. We would still have a minimum wage of 50 cents an hour. My goodness, we need to raise the minimum wage.

Seventy-two percent are adults. How can we look at these people and tell them they do not deserve an increase? By the way, they will still be below poverty even after we raise them to $7.

Every day we delay, minimum wage workers fall further behind. All the gains of the 1996 minimum wage increase have been lost already. The time is long overdue that we raise the minimum wage.

People are working hard but losing ground. The real value of the minimum wage: Today it is worth $4.98. That is what hard-working people are getting, $10,800 a year for a family of three. With our minimum wage increase, there would be a $3,800 yearly increase in wages. That would pay far more than 2 years of childcare.

We talk about how important this welfare bill is. As a matter of fact, my friend from Pennsylvania had a chart showing how wonderful it has been that children have been lifted out of poverty. Of course, we are seeing now an increase in poverty. During the Clinton years, that was true. There were so many jobs, 22 million jobs created, compared to 3 million jobs lost under Bush. Kids were lifted out of poverty.

This minimum wage increase would give children more childcare. That is important. It provides 2 years of health care; provides full tuition for a community college degree; provides a year and a half of heat and electricity; provides more than a year of groceries; provides more than 9 months of rent.

When we give to people at the lower echelon an increase in the minimum wage, they will spend it, and that will fuel our economic recovery. I ask our friends on the other side, Why are you opposing us?

We will look at which Presidents have signed minimum wage increases into law: FDR, Harry Truman, Dwight Eisenhower, Republican; John Kennedy, Democrat; Lyndon Johnson, Democrat; Gerald Ford, Republican; James Carter, Democrat; George H.W. Bush, Republican; William Clinton, Democrat.

The people who are trying to stop an increase in the minimum wage are going against a whole array of Democratic and Republican Presidents. Our increase is quite modest as shown by my chart.

American families are suffering since the Bush administration took hold. Look what has happened: 13 million children hungry; 8 million Americans unemployed; 8 million workers losing overtime. That is what they want to do. There are 7 million low-wage workers, some waiting 7 years for a minimum wage increase. All we want is an up-or-down vote. They are filibustering it. There are 3 million more Americans in poverty since President Bush took office and 90,000 workers a week losing unemployment benefits.

I hope compassionate Senators on both sides of the aisle, I hope savvy Senators on both sides of the aisle, will definitely allow a vote on this very simple proposition. Seven years ago we raised the minimum wage. It is time to do it again.

Take it to the people in your States. Ask them how they feel. The polls are overwhelming. More than 70 percent of the people want to see an increase in the minimum wage. Yet in this Chamber, one would think we are asking for something that makes no sense. We want to get people off of welfare. That is the point of the underlying bill. Let's get them into work that pays.

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

Mrs. BOXER. Mr. President, I retain the remainder of our time on this side.

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. Mr. President, I yield myself such time as I may consume.

I would ask the Senator from California—she suggested we are not going to allow a vote. I would be very happy to allow a vote. We suggested we would be happy to give a vote on the issue of minimum wage. But I think it is important, if we are going to give a vote on a ''message amendment''—that is the term that has been used by Members on your side of the aisle, a message amendment—we would be happy to give you a vote on your message amendment in exchange for you giving us a vote on something that is actually going to help people in poverty; that is, passage of this bill and going to conference. In fact, we have offered to the Democratic leader that in exchange for a vote on your message amendment, you allow us to pass and go to conference on a bill that is actually going to help low-income people get out of poverty.

So I would be happy to offer, as I did yesterday, a unanimous consent request to give you a vote on your amendment, in exchange for you allowing us to have a vote on passage, at a time certain, and a commitment to go to conference on this legislation.

I ask the Senator: Would you agree to such a proposal?

Mrs. BOXER. Thank you very much for asking. We are ready to vote on the minimum wage right now. We do not need any more debate time.

Mr. SANTORUM. I would be happy to——

Mrs. BOXER. The message we are sending is to the people in America

who need to have an increase. That is the message. We want to have that vote.

Mr. SANTORUM. Reclaiming my time.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SANTORUM. Mr. President, I ask unanimous consent that we have a vote on the minimum wage Boxer amendment, followed by a vote on the McConnell amendment on minimum wage, and then a vote on passage of the welfare reform bill, with the appointment of conferees, three Republicans and two Democrats. And then, on top of that, let's get everything done. Let's move, then, to the FSC/ETI bill, have a commitment to pass that bill by Thursday of next week, and a final vote, let's say, at 5 o'clock on Thursday.

So if you are committed to getting things done and helping manufacturing jobs, and you are committed to helping get welfare reform done, I offer that as a unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I say to my friend, there are a series of amendments that are important to the working people of this country. Overtime—the Bush administration is trying to take away overtime—we want a vote on that. The unemployment insurance, which has run out for millions of Americans, we want a vote on that. There are a series of amendments that deal with making lives better for the people.

Mr. SANTORUM addressed the floor.

The PRESIDING OFFICER. Does the Senator object?

Mrs. BOXER. This Senate is not the House. We are Senators. We are free to offer amendments.

The PRESIDING OFFICER. Does the Senator object?

Mrs. BOXER. I absolutely would agree if he would modify his request. We can agree on time agreements for these and keep it open for the rest of the amendments, and then we will agree.

The PRESIDING OFFICER. Does the Senator object?

Mrs. BOXER. I object, as he has done it. But I will agree to modify it.

The PRESIDING OFFICER. Objection is heard.

Mr. SANTORUM. Senator FRIST has offered to the Democratic leader a vote on all three of the amendments that the Senator from California asked for; that is, minimum wage, the issue of overtime, as well as the issue of unemployment insurance. We have agreed to votes on all three of those amendments, in exchange for votes on two things we would like to do; that is, pass a welfare reform bill that is actually going to help reduce poverty in America, help stabilize and build families, reconnect fathers with their children, and to pass a JOBS Act otherwise known as the FSC bill, which will help manufacturers compete in the international marketplace, save jobs, and create new jobs, and avoid harmful tariffs which are now in the process of being assessed against American workers by the European Union.

We have agreed to pay a ransom, to get two victims returned. The victims of the filibuster are the victim of welfare and the JOBS Act to help create manufacturing jobs. But we are not going to pay a ransom and not get a victim back. We are not going to pay a ransom to have votes on theme or message amendments and not get back for the American public two things that are absolutely necessary to help alleviate poverty and create jobs. This is not just going to be a political exercise.

The leader and the Republicans want to get things done. We are not here to message for Presidential politics. We are here because we want to do a job for the American people. We have a welfare bill that has worked—the 1996 welfare bill.

I will quote—by the way, not a Republican—June O'Neill, who was at the Congressional Budget Office, who said:

> Politicians and experts from the left and the right acknowledge that welfare reform has succeeded beyond the most optimistic expectations.

The 1996 Welfare Act, which Members on the other side of the aisle say: ''We are not trying to block. Oh, yes, we'll eventually get to it''—they say they are not trying to block it, so what do they do? Right out of the box, they offer an amendment and say: You either give us a vote on this amendment or we can't move forward on the bill.

They did not wait until we worked our will, until we had several amendments we were trying to work through. There are supposedly 30 germane amendments on the other side of the aisle. They did not wait to offer their 30 germane amendments. They did not work through the process.

Right out of the box comes an amendment that has nothing to do with welfare, that we said, from the very beginning, if you offer this amendment, then we will be happy to vote on it in exchange for a commitment to finish this bill. But no. No. We have to get our message amendments out. Why? Because I believe there are many on the other side of the aisle who do not want a welfare bill, who want message amendments instead of improving a bill that we know works for the American public.

Now, why would I say that? Well, let's listen to the Senator from Massachusetts, 8 years ago, on the floor of the Senate, dealing with this first welfare bill that we are trying to reauthorize and modestly improve. I underscore modest. This is not a major revamp of welfare in this bill. There are some modest improvements, tinkering, because we know what is out there is working. We want to make sure what has been put in place stays in place and make some minor tinkering to try to improve it. That is why this bill came out of the committee in a bipartisan basis, because these are not major changes. These are minor changes which amplify what we know has already been working out among the States.

But what did the Senator from Massachusetts say about this bill in 1996, which he voted against?

> These provisions are a direct assault on children and have nothing at all to do with meaningful reform.

Let's see if they had anything to do with a direct assault on children. Children in America who were at the highest poverty rates, when this bill passed, were African-American children. Let's see if Senator KENNEDY's assault, as he termed it, came to be. No. Wrong. The assault was on poverty, not on children. The assault that Senator KENNEDY foretold never happened. Over 40 percent of poverty was among African-American children in 1996. Now the rate of poverty among African-American children is the lowest ever recorded—the lowest ever recorded. Why? Because this bill works. Why? Because requiring work works. That is what this bill did. And that is what Senator KENNEDY was vehemently against—vehemently against.

He goes on to say:

> Here we are talking about American children living in poverty, the innocent victims of fate.
>
> ''[T]he innocent victims of fate.''
>
> If this bill passes, they will be the innocent victims of their own Government.

Let me change that around. For 30 years, African-American children in poverty were the innocent victims of their Government, in programs created by the Senator from Massachusetts, which locked them in poverty. And we have the courage on this floor to say: Stop this ''compassion'' that is killing America's children. We stood up and said, just because you are poor, you are not disabled, that we do not have a prejudice against you because you are poor, but we believe you can achieve just like the rest of Americans, if given the chance.

So we passed a bill that fundamentally changed the structure that the Senator from California and the Senator from Massachusetts, and far too many others, believed was the best for children—well-meaning but very wrong.

Instead of admitting this is the proper course, they now offer an extraneous amendment, having nothing to do with welfare, to block this hugely successful program in helping millions of families—millions of families—get off of welfare. How many millions? Two point eight million families. So 2.8 million families who used to get a welfare check now bring home a paycheck.

You ask, How big a difference is that in our world? I will give you a story of a young lady who told her story. She works for CVS. She had been on welfare for many years. She said after she

had her first week of work and got her first paycheck, all of the children piled into her car and wanted to go to the store. Why? They wanted to go to the store because they wanted to go through the checkout line and have their mom pay with cash instead of food stamps. They wanted not to feel looked at as someone who was using the person behind them and their money to help pay for their food, but they had earned it themselves.

You don't think that has an impact on a little child's life? You don't think that being dependent upon the Government has an impact on the psychology of little children who grow up in that environment? Do you think we are doing people a favor by saying, We will take care of you?

If we don't pass this welfare reform bill today, the majority of Americans on welfare will no longer have a work requirement. If we don't pass a welfare reform bill, a majority of Americans on welfare will be in the old welfare system prior to the reform in 1996.

You say, well, this bill doesn't really make any difference? It makes a huge difference because the incentives will not be there anymore. I can't tell you the number of welfare mothers I have talked to. As I mentioned before, we have employed nine in my State office. I have worked personally, hand in hand, in trying to deal with the difficulties of taking people from welfare to work. It makes an enormous difference in their lives. They have said to me, one after another: I probably would not be where I am today had welfare reform not passed and the Government changed their expectation of me. I had to look at myself differently. It forced me to do something I never had the courage to do because to get that first job is scary.

It is a frightening thing, if you have very little skills, to go out and hold yourself up to failure. Let's be honest. Remember your first job. You knew nothing about what it meant to work. You knew nothing. How did you sign up? Where did you get your paycheck? What timecard did you fill out? There are so many things in the world of work that you have no concept of if you have no experience in it. That first job can be frightening, particularly if you are unskilled. Taking that first step or staying at home and letting the Government send you a check, that is an option that far too many people took.

Well, we didn't allow that in this bill. And it was not cruel. It was a step in the right direction for 2.8 million families, 2.3 million children out of poverty, 700,000 African-American children out of poverty. And we are blocking a bill that would make this a reality for future generations of people who may have to go through the welfare system?

I yield the floor to the Senator from Iowa. I thank the chairman for his tremendous effort in bringing this bill to the floor and fighting to get it through cloture and on to passage and to reality. He has been a warrior for children on this issue. I thank him for his work.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself such time as I may consume.

I thank the Senator from Pennsylvania for managing the bill while I had to be in a conference to work out compromises on the pension bill. But more importantly, going back to his days in the House of Representatives, he has been a trailblazer in the cause of moving people from welfare to work so that those people have an opportunity to move themselves up the ladder.

Families on welfare and low-income families need childcare, and they need it now. This bill will help do that. If Democrats obstruct passage of this welfare bill, we risk losing a significant opportunity to substantially increase childcare funding for welfare families as well as for poor working families. If we simply continue the level of childcare funding under current law, hundreds of thousands of children and working families will lose their childcare. Estimates have been made that nearly 225,000 children could lose childcare assistance by the year 2006, and more than 360,000 children could lose it by the year 2008.

Is that what the Democrats want? Is that what they stand for in their vote against cloture on this legislation? That is playing politics on the welfare bill, and playing politics will not get this bill passed.

This bill is good policy. Democrats know that. And good policy is good politics.

Let me be clear: If Democrats succeed in their efforts to derail consideration of the welfare bill, hundreds of thousands of children will lose childcare. In other words, in order to score political points, Democrats are leaving poor children and their working single moms out in the cold. Without additional childcare resources, many States will be forced to make painful childcare cuts or institute waiting lists or increase copays.

If childcare funds are not available, low-income families, working families trying to do the right thing will be unable to help pay for childcare. Children work; children suffer. Or else children don't suffer and parents don't work.

Under this situation, they would be forced to resort to inadequate, unstable, probably unsafe childcare arrangements, or even be forced to give up their jobs and return to welfare, all so that political points can be made. That doesn't make sense to me, especially for a party that brags about putting the care of the people in need uppermost in their platform.

I think that is shameful. Democrats ought to be ashamed of themselves for making political hay on the backs of these low-income people.

In addition to the loss of childcare funding increases, if we are not able to enact this legislation—and you have to have cloture to get to finality, or else you have to have an agreement on the number of amendments and their germaneness to move ahead. So without one or the other, we are not able to enact welfare reform. In addition, we would also fail to make needed improvements to child support enforcement programs. We would fail to provide transitional medical assistance for 5 years as well as give States access to the contingency funds they have not been able to use because we liberalized States' access to those contingency funds. We leave States in the dark about what a reauthorization bill next year would look like. Why leave 50 State legislatures in a lurch when if we acted, they can put their State programs in place and move on with certainty?

When this is all added together—and there are a lot of other things we could say—it is an extraordinarily irresponsible policy that ends up with the lack of finality on the part of this Senate on welfare reform.

But then maybe welfare reform has never been a priority for Democrats. In the 107th Congress, even though my friend, Senator BAUCUS, reported a bill out of committee with $5.5 billion for childcare, welfare never made it to the floor of the Senate. This year, the Senate Finance Committee reported out a bill with significant Democratic priorities in it, but no Democrat voted for it.

Our Republican leader, Senator FRIST, gave us a week out of a very crowded legislative schedule because welfare reform—taking care of the needs of the poor, the needs of children—is high on the agenda of Senator FRIST. But it also has to be worked in with a very crowded legislative schedule. But he gave us time. He has many Members and many committee chairmen besides this Senator pressuring him for floor time to take up their bills, to consider legislation; yet, this had the high priority of our Republican leader.

We passed the bipartisan and Republican-sponsored Snowe amendment, increasing childcare by $6 billion, and still it looks like Democrats are prepared to block action on this bill, this bill that helps poor people, because they have an agenda that somehow outranks welfare. Obviously, their agenda is to make political points. I am sad to say that ultimately children and their working moms are the ones who will pay the price for this political grandstanding.

I hope we can do better by them, Mr. President. I have worked hard so that we could in fact do better for these people. It would be a shame if we are prevented from passing a bill that would genuinely help those in need just so the other side can score political points, or at least what they perceive to be political points.

The question is whether the Democrats will be held accountable if they

succeed in killing welfare reform and killing an additional $7 billion for childcare. This issue is not about a vote on minimum wage. Republicans are willing to take a vote on minimum wage. As my colleague from Missouri, Senator TALENT, said yesterday, ''We are willing to pay the ransom. We just need some assurances that we get the victim back.'' We need to know we can pass this bill and get it to conference. That is the issue over which Democrats are obstructing.

It is very unprecedented that Democrats are objecting to appointing conferees. Let me say that more broadly. It is almost unprecedented for the legislative process not to work the way the Constitution writers intended, and that is you get to a point where you work out compromises between the other body and this one, and that takes a conference committee to do it. If you want a product instead of politics, you go to conference. That begs the point, are we ever, then, going to be able to pass anything around here? In order to get a bill enacted, it has to pass both bodies.

We have $7 billion in childcare on the table right here. In order to score political points, Democrats are going to leave this banquet that is out there for people in need.

Again, the issue is not about getting a vote on minimum wage. Republicans are willing to take a vote on minimum wage. The issue is about getting a bill done, reaching finality. Democrats are preventing us from getting a welfare bill through the legislative process. I hope they have a surprise for this Senator and that we get cloture, and that they deliver to the people what they promised. This is very unfortunate for our country and for families who could have benefited from the bill that it looks like Democrats are going to kill today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Almost 18 minutes under Senator BAUCUS's time.

Mr. KENNEDY. I thank the Chair. I ask the Chair to remind me when I have a minute and a half left.

The PRESIDING OFFICER. The Chair will do so.

Mr. KENNEDY. Mr. President, we are voting at noontime today on a cloture motion, and those, obviously, in the Senate understand what this is all about. Before the Senate at the present time is a proposal offered by the Senator from California and myself to increase the minimum wage up to $7 in just over a 2-year period. The minimum wage has not been increased for the last 7 years. Now we find the minimum wage purchasing power is at an all-time low.

Now, those on the other side—we just heard from my friend Senator GRASSLEY—are saying we are somehow stalling this legislation. We are not. When this amendment was offered, the Senator from California and myself agreed to a 20-minute time limitation so we could move ahead with the rest of the debate on the TANF reauthorization. That was objected to. And then the majority leader put down a cloture motion.

I welcome the opportunity to speak on the minimum wage because there is so much to say about it, about the people who are experiencing it and the impact of our failure to increase the minimum wage, particularly the impact on children. We have not had an opportunity to have a vote in the Senate for the last 7 years on this. It is time that we do. We are being precluded from doing so because of the parliamentary maneuvers of the majority to deny the Senate of the United States a vote up or down on whether we think some of the hardest working Americans ought to have an increase in the minimum wage.

The Republicans are so frightened about voting on this, so they do the parliamentary tricks in order to try to deny the Senate an opportunity to vote on the minimum wage. Well, it is beyond me why they don't want to take the hard vote. Why not go back to your constituents and say, I am for this or against it. If you are against it, explain why. But we are being denied. It is not just denying the sponsors; they are denying over 7 million hard-working Americans the opportunity to get an increase in their pay.

As I pointed out in the beginning, the purchasing power of the minimum wage now, at the end of this year, will be near an all-time low since it passed in 1938. We have a chance to do something about it and do something now.

A quick response to my colleagues on the other side regarding the whole question of how increasing the minimum wage isn't really related to getting people off welfare into jobs. Well, it is difficult for people who have listened to the debate to accept that, particularly when the Secretary of HHS himself said this in comment to the underlying program, TANF:

> This administration recognizes that the only way to escape poverty is through work, and that is why we have made work and jobs that will pay at least the minimum wage . . .

Do you hear that? Secretary Thompson said this:

> . . . the centerpiece of the reauthorization proposal for the TANF program.

Still our Republican friends say our amendment is not related to this. Of course it is. The President's spokesman indicated that. Still we are unable to get this.

Mr. President, I have stated who these people are who are earning the minimum wage. They are men and women of pride and dignity. They deal with tough jobs—cleaning out buildings of our country, all over our Nation. They work in schools as assistant teachers. They work in nursing homes providing help and assistance for our senior citizens.

Let me read one short story which is typical about a minimum wage worker. The name of this person is Fannie:

> She weighs bunches of purple grapes or rings up fat chicken legs at the supermarket where she works, Fannie Payne cannot keep from daydreaming.
>
> ''It's difficult to work at a grocery store all day, looking at all the food I can't buy,'' Mrs. Payne said. ''So I imagine filling up my cart with one of those big orders and bringing home enough for all my kids.''
>
> Instead, she said that she and her husband, Michael, a factory worker, routinely go without dinner to make sure their four children have enough to eat. They visit a private hunger center monthly for three days' worth of free groceries, to help stretch the $60 a week they spend on food.
>
> ''We're behind on all our bills,'' Mrs. Payne said. ''We don't pay electricity until they threaten a cut-off. To be honest, I'm behind two months on the mortgage—that's $600 a month.''

The PRESIDING OFFICER. The Senator has 1½ minutes remaining.

Mr. KENNEDY. I yield myself 5 more minutes from Senator BAUCUS's time.

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

Mr. KENNEDY. She continues:

> ''We owe $800 on the water bill and $500 for heat.''

These are the real workers who are going to benefit from an increase in the minimum wage.

What has happened over the last 3 years? We have seen the number of Americans who are living in poverty grow from 31 million up to more than 34 million. These are 3 million Americans who are living in poverty, including hundreds of thousands of children, in the richest country in the world, who are living in poverty and, in so many instances, in hunger in the United States of America.

This is what the 2003 survey by the U.S. Conference of Mayors that looked at hunger found. These are mayors, Republicans and Democrats: 39 percent of the adults requesting food assistance were employed. Why? Because the minimum wage cannot provide sufficient income. These are hard-working individuals trying to look out after their families and feed them, and they cannot make enough to provide food for their families.

No. 2, a leading cause of hunger was low-paying jobs. We have a chance to do something about that by increasing the minimum wage. This is what the mayors from all over the country, Republican and Democrat, say, that a leading cause of hunger is low-paying jobs.

Emergency food assistance increased by 14 percent just this last year.

Fifty-nine percent of those requesting food assistance were members of families, with children and elderly parents. This is what is going on in this country. We can make a difference.

Finally, one of the major recommendations they make is raising the Federal minimum wage as a way

the Federal Government could help alleviate hunger. Do we hear that? That is the recommendation of the mayors of this country.

Look at what happened in a study the National Urban League did on the issue of minimum wage. They say:

Minimum wage workers are too often presented as teenagers or wives in the middle class. Yet the clear implication of this study is that the proposed increase in the minimum wage from $5.15 to $6.65 an hour, or to $7 an hour in the case today, would move 1.4 million American households to the level of being food secure, having enough money to buy nutritious, safe food for their families.

It continues:

The increase in the minimum wage lessens hunger in all households, but particularly in low-income households and in those households in which the householder was less educated, in African, Hispanic, or single parents.

This is what is happening. There is an increased number of those who are living in poverty and an increase in the number of children living in poverty.

Look at the impact of hunger, the consequences of hunger and food insecurity on children. This is the Heller study, June of 2002:

Elementary-school children from food-insufficient families were more likely to have repeated a grade in school in both a national sample of elementary-school children and a study of low-income families from the Pittsburgh area.

Hungry and at-risk for hunger children from 4 inner-city schools in Philadelphia and Baltimore were absent from school more days than other children and also had higher rates of tardiness. A similar finding with respect to missing school was found in a multistate survey of low income households.

These are the studies. Children are going hungry in America. This proposal is not going to answer all the problems, but it will help 7 million Americans. That is something worthy of this body this day. But we are going to be denied by our Republicans the opportunity of even voting on this amendment.

As I have said often, this is a women's issue because the great majority of individuals who receive the minimum wage are women. This is a children's issue because a great majority of those women have children. It is a women and children's issue. This is a family issue affecting women and children. This is a civil rights issue because so many of these men and women are of color. And finally, this is a fairness issue because people in the United States of America understand fairness, and they believe if you work 40 hours a week, 52 weeks a year, you should not have to live in poverty.

Let's vote up or down, at least have the courage of convictions on the other side and give us a chance and give these 7 million Americans who deserves an increase in the minimum wage an opportunity to have some hope at the end of the day because the Senate did the right thing.

I yield the floor.

Mr. GRASSLEY. Mr. President, yesterday I asked unanimous consent to have printed in the RECORD a letter to myself and Senator BAUCUS signed by 41 Democrat Senators. However, at the time of printing it was missing its second page. I again ask unanimous consent that the letter be printed in the RECORD.

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

U.S. SENATE,
Washington, DC.

Hon. CHUCK GRASSLEY, Chairman,
Hon. MAX BAUCUS, Ranking Member,
Senate Committee on Finance, Dirksen Senate Office Building, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN AND SENATOR BAUCUS: We believe reauthorizing the Temporary Assistance for Needy Families (TANF) program is an important item on the congressional agenda for this year. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) made dramatic changes in our Nation's welfare laws that have had a profound impact on disadvantaged families. We agree with the President that the main goal of welfare programs should be to strengthen families and support self-sufficiency. We would like to work with you to build on the strengths of the new system, as well as address areas where the new law falls short.

We are encouraged by the number of families who have moved successfully from welfare to work. However, 33 million Americans still live in poverty. The current economic downturn has led to increases in both unemployment and, more recently in many States, the welfare caseload. Today, almost every State in the Nation faces a fiscal crisis. Under these circumstances, a concerted, bipartisan effort is necessary to preserve the progress we have seen so far, as well as encourage States to help more families become independent.

We strongly support several of the concepts the President has outlined, if designed and implemented appropriately. ''Universal engagement'' of welfare recipients would help make sure each family's specific circumstances are considered and addressed. Ending the current ''caseload reduction credit,'' which gives States credit for people who are not working, and replacing it with an ''employment credit,'' would provide stronger incentives for States to move families not only off of welfare but into jobs. Similarly, bipartisan proposals to strengthen child support would encourage better relations between non-custodial parents and their children, and help families stay off welfare. We would like to work with you to make sure all States can participate and that families receive the child support they are owed. We also agree that transitional Medicaid benefits should be extended so parents who leave welfare will know their children will have health care as their families make the transition to work.

We are concerned, however, that the administration's proposals lack several key reforms that will help more families achieve self-sufficiency. We believe reauthorization should include four important components to achieve this goal.

First, to be successful, a work-oriented welfare program must demonstrate that work will be fairly rewarded, and that families will be better off if they play by the rules. We must make sure states can provide critical work supports, especially quality child care. Child care assistance is essential if parents are to get a job and stay employed.

A significant increase in funding for child care is needed not only to support the current level of child care provided to low-income working families, but also to improve the quality of care provided and cover the millions of eligible children currently without assistance. We know there are significant additional costs associated with increases in work requirements. Any welfare reform bill must include sufficient funding to ensure that we are not cutting child care services currently provided to low-income working families in order to pay for child care for families receiving TANF cash assistance. In addition, funding must be provided to improve the quality of child care to ensure that low-income children enter kindergarten ready to learn, as well as to increase access for the millions of families who are eligible but currently receive no child care assistance.

This investment is even more important because of the states' fiscal crises. At least 13 states cut their investments in child care in 2002 because of budget pressures, and more are likely to be forced to do so this year or even next year. In this climate, it is not realistic to rely on states to restore these needed funds, or fill in gaps left by federal policies. Failure to strengthen the federal investment in child care will have dire consequences for many low-income families that are trying to succeed in the workplace. We are pleased that the Senate Budget Resolution rejects the President's proposal to freeze child care funding, but we are still concerned that the proposed funding will not sustain current levels of support, let alone improve the quality of care or allow for increased work requirements.

Second, we must recognize the role legal immigrant families play in our economy. Most legal immigrants came to this country to find work; they contribute economically to their communities and play important roles in the labor force. Because of language and other barriers, many must take lower paying jobs and thus can be buffeted by economic dislocation. At their annual winter meeting, the nation's governors reiterated that immigration, which is controlled by the federal government, creates demands at the state level for education, job training, social and health services, and other assistance that is necessary to help immigrants integrate into our communities and become self-sufficient members of society. Currently, 31 states use their own funds, without federal support, to provide TANF benefits and services or health assistance to legal immigrants, and other states often absorb emergency health care costs for these families. Giving states the options to use federal funds for benefits and services to legal immigrants is an issue of fundamental fairness, and it would provide needed fiscal relief for states.

Third, states need more flexibility to make sure workers have the skills to succeed in the workplace. At a minimum, we support the provisions included in the bill reported by the Finance Committee last year. Full-time, work-related vocational training and education, post-secondary education, basic adult education, work-study, and other similar activities can lead to better jobs, more opportunities for advancement, increased family incomes, and a more competitive workforce. We should not arbitrarily limit states' ability to support these activities, since they provide a true ''ticket to independence.''

Fourth, we support state and local innovation, but will not support a ''superwaiver'' that merely shifts resources from one pot to another and eliminates basic protections for families, while bypassing Congressional oversight. A broad, vague superwaiver is no substitute for providing states with the flexibility within TANF to craft welfare-to-work programs that meet the particular needs of their state economies and the families they serve.

Finally, we would like to express concern over Administration and House proposals to significantly increase work participation standards and work hours, without flexibility and adequate increases in work supports. We agree that TANF recipients should be engaged in work activities that will help them to ultimately become self-sufficient. However, we feel strongly that we should not impose rigid requirements that would undermine successful state programs, or reduce states' flexibility, which allows them to consider and address the individual needs of participating families, including disabilities and other barriers to employment.

We would also like to point out that states have been successful in reducing their cash assistance caseloads because they have taken advantage of the flexibility in TANF to support low-income working families, including not only those receiving cash assistance, but also those who have left welfare or those who are at risk of needing welfare. These innovative efforts are already in danger because of the states' fiscal crises; increasing work participation requirements threatens the success of these programs by significantly reducing the help available to support low-income working families for child care, and other key services. We believe this would be a major step in the wrong direction.

We would also like to correct the perception that states can support higher work participation standards without additional resources. An argument has been made that states have more resources per TANF family than they had in 1996. This claim is misleading for several reasons. This line of reasoning assumes that non-TANF Child Care and Development Block grants (CCDBG), which support many low-income working families, are used only to support families receiving TANF cash assistance. In fact, the statute specifically states that CCDBG funds are to be used not only for families receiving assistance, but also for, ''families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program.'' (PRWORA, Section 603).

The Administration's figures also assume that all TANF resources are used to support only families receiving assistance. But states have been successful in reducing their cash assistance caseloads because they have taken advantage of the flexibility in TANF to support low-income working families, including those who have left welfare or those who are at risk of needing welfare. The General Accounting Office reported in April 2002 that ''at least 46 percent more families than are counted in the reported TANF caseload are receiving services funded, at least in part, with TANF/MOE funds.''

The President has said, ''It is not yet a post-poverty America.'' If we are to reach this goal, we must maintain strong federal and state support for welfare reform, so that families can escape the ravages of poverty and become self-sufficient. We look forward to working with you on a bipartisan basis to achieve these important goals.

Sincerely,

Tom Daschle, Bob Graham, Jay Rockefeller, Blanche L. Lincoln, John F. Kerry, John Breaux, Edward M. Kennedy, Jeff Bingaman, Hillary Rodham Clinton, Patty Murray, Jon S. Corzine, Barbara A. Mikulski, Maria Cantwell, Chuck Schumer.

Frank R. Lautenberg, Herb Kohl, Tom Harkin, Daniel K. Akaka, Russell D. Feingold, Byron L. Dorgan, Mary L. Landrieu, Paul Sarbanes, Dianne Feinstein, Joe Lieberman, Tim Johnson, Barbara Boxer, Dick Durbin, John Edwards.

Carl Levin, Daniel Inouye, Debbie Stabenow, Harry Reid, Jim Jeffords, Chris Dodd, Ron Wyden, Patrick Leahy, Mark Pryor, Fritz Hollings, Jack Reed, Kent Conrad, Joe Biden.

Mr. DASCHLE. Mr. President, how much time remains?

The PRESIDING OFFICER. Seven minutes forty seconds.

Mr. DASCHLE. Mr. President, if you could tell me when I have used 3 minutes, I would appreciate it. I want to leave some time for the distinguished manager of the bill.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, this issue is very important. If we really want to help people move from welfare to work, we ought to increase the minimum wage.

First, I wish to identify myself with the distinguished Senator from Massachusetts and what he just said about the importance of the minimum wage issue, but I want to talk more to the procedural question.

In 1995, when we debated welfare reform the first time, the Senate had 40 rollcall votes—40 rollcall votes. The next year when we dealt with it a second time, because the bill had been vetoed, the Senate had 30 rollcall votes, even under reconciliation. So we have had 70 rollcall votes in the consideration of this bill on two occasions in fewer than 10 years.

We have had one vote—one vote—on this bill so far. It was a good vote. I am very appreciative of the commitment made on a bipartisan basis to childcare. But the real question is, Can you have the kind of debate that has been experienced in the past, that should be anticipated now with the benefit of one vote?

I have offered the distinguished majority leader that we could work through the remaining amendments and finish this bill before we leave next week. I have offered that consistently through the last several days in the hope we could reach some agreement. I am very disappointed that we have not been able to find some way with which to resolve just the procedural differences. A vote on minimum wage, a vote on the unemployment compensation, a vote on relevant amendments to the welfare bill is not too much to ask and, indeed, that has been the practice of the Senate.

We are willing to work. This is not a question about whether we support welfare reform. We will get an overwhelmingly bipartisan vote on welfare reform, as we should. This is not a question of whether we should have anything less than an opportunity to debate issues that are directly relevant to people's lives as they try to cope with the extraordinary financial pressures they feel trying to get off welfare. We are hopeful we can do that.

We are hopeful we can work with our Republican colleagues and figure out ways to deal with these relevant amendments and these amendments about which our Democratic caucus feel very strongly.

We will oppose cloture today but in no way, shape, or form is it an indication of our lack of willingness to work to finish the legislation itself. Give us a chance to do what we have done twice before on this bill. Give us a chance to vote on amendments that are critical to a good and full debate about the direction we ought to take with regard to this bill, and you will have closure on it at a time in the not too distant future.

I hope my colleagues will work with us to make that happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, what the Democratic leader has just suggested is allowing us to vote on welfare reform, but what the Democratic leader has insistently refused to do is to allow that bill to go to conference. Of course, a bill passage means nothing unless there can be a final resolution on that legislation. So what we are being told is they will give us an apparent victory of passing legislation with no end in sight. The idea that somehow or another we are going to have a final resolution—I think the words of the Senator from South Dakota were ''final resolution''—is simply not accurate. Passing a bill that has already been passed by the House gets basically put in limbo until we go to conference.

The Democratic leader has been very clear about not moving this bill to conference. So let's be perfectly clear, we are absolutely ready—in fact, I will offer a unanimous consent. We are absolutely ready to give votes on issues of importance to the Democrats and, as I said before, we are willing to pay a ransom. But we want to make sure we get our victims back, and the victims in this case are the welfare reform bill and FSC/ETI.

We want to make sure they have a chance of becoming law, not put in the bin of bills that have yet to go to conference because of some concern about fairness in conferences.

I ask unanimous consent that at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to back-to-back votes, first, in relation to a public minimum wage amendment, to be followed by a vote on or in relation to the Boxer amendment with no second-degrees in order to either amendment; provided further that the bill be limited to germane amendments, and at 9:30 on Friday, April 2, the substitute amendment be agreed to, the bill be read a third time, and the Senate proceed to a vote on passage of the bill with no intervening action. Finally, I ask unanimous consent that following the passage of the bill, the Senate insist on its amendments, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

I will explain what I have requested, and that is that we give a vote up or

down, which has not been allowed on a whole host of judges on this side, on the issue the Democrats say is the important issue of the day, in exchange for all the germane amendments the Democrats would like to offer between now and tomorrow morning. And if they would like a little bit more time tomorrow, we would be happy to do that, but passage and conference, that is what this request asks.

Historically in the Senate, when we passed a bill we automatically went to conference. That has changed. So now we have to specifically include to do so in the unanimous consent or we do not get to conference.

I ask unanimous consent according to what I just read.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Is there objection?

Mr. DASCHLE. Reserving the right to object.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I simply say that on 21 occasions now when we have completed our work on a bill, we have done what is actually the normal process. We have—

Mr. SANTORUM addressed the Chair.

Mr. DASCHLE. I am reserving the right to object, and I assume I have the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor. There is no right to reserve the right to object.

Mr. SANTORUM. Mr. President, I am happy to let the Senator from South Dakota talk on his time since my time is limited. If he would not mind taking his time, he could reserve the right to object.

Mr. DASCHLE. Mr. President, I simply reserve the right to object and ask consent that the bill be sent to the House once it has been completed.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I object to that modification because what the Senator from South Dakota has just said is, no, I will not let the bill go to conference. That is what sending the bill back to the House means, which means, no; no conference.

As we all understand, without conference we do not get closure. Without closure, we do not get a bill and we do not help millions of Americans get out of poverty. What we are playing is politics.

I commend to my colleagues a Brookings Institution Policy Brief of September 2003 ''Welfare Reform & Beyond #28.''

Mr. President, I ask unanimous consent to have several articles printed in the RECORD.

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

[From the New York Post, Apr. 14, 2003]

WELFARE REFORM WORKS, YET POLS SEEK ROLLBACK IN N.Y.C. AND U.S.

(By June O'Neill)

Politicians and experts from the left and the right acknowledge that welfare reform has succeeded beyond the most optimistic expectations. Yet the reforms are nonetheless under political siege: Reauthorization of the major welfare-reform law is now nearly a year overdue and seems mired in Capitol Hill politics. And last week the City Council gutted the welfare-to-work policies that made New York City one of the brightest examples of reform's success.

One can only hope that Congress will listen to the message of a large body of research that the council totally disregarded—and pass a bill that retains the emphasis on work that has served us so well.

In 1995 and '96, many in the policy community predicted disaster—children crushed by poverty and neglect—if work-oriented reform were approved. Instead, as documented in the recent Manhattan Institute report I wrote with Anne Hill, the poverty rate for single mothers, the major group affected by welfare reform, has fallen by a record amount, from 40 percent to 32 percent between reform's passage in 1996 and 2001.

Underlying this drop in poverty was a dramatic rise in the employment of single mothers and an earnings gain large enough to more than offset the decline in welfare benefits: Single mothers saw their incomes rise by more than 20 percent over the same period.

As to the children, a recent study by Northwestern University's Lindsay Chase-Lansdale and others found that mothers' transitions off welfare and into employment were not associated with negative outcomes for their preschool or young adolescent children.

New York City was perhaps the ultimate testing ground for reform. In 1996, prior to passage of the reform law, 10 percent of the city's population was receiving welfare benefits, compared to only 3 percent in the rest of the state and 5 percent nationwide. Moreover, that number had fluctuated little in decades. But by December 2002, the city welfare rolls had dropped 55 percent, even including those getting state and city rather than federal aid. And the number of recipients continued to fall despite the painful 2001–2002 recession.

What happened to the people who left welfare? A 1997 Columbia University study predicted that 500,000 single mothers would be forced into poverty within five years. That prediction proved totally wrong: The poverty rate among the city's single mothers fell by more than a fifth, from 52 percent to 40 percent. Far from ending up helpless and in deprivation, single mothers moved into the workplace in record numbers.

Some have tried to explain away these positive developments by claiming that they were caused by the 1990s economic boom. That explanation fails under scrutiny. In our Manhattan Institute report, we find that welfare reform can account for more than 40 percent of the rise in single-mother employment between 1996 and 2001; the boom was responsible for less than 10 percent.

Of course, it is always difficult to separate out statistically the net effects of different variables when both are changing. However, our formal statistical analysis is bolstered by historical observations which clearly show that both the welfare and work participation of single mothers in the pre-reform period was only weakly responsive to the ups and downs of the business cycle. This explains why welfare rolls have not risen much during the recent recession and in many places have continued to decline.

In other words, single mothers didn't leave welfare for work because a good economy pulled them in. They left because welfare reform changed the incentives single mothers face, making work a much better option for them in the short and long-terms.

Before reform, welfare was a long-term entitlement to a guaranteed income—cash, food stamps and medical benefits, and often subsidized housing, too. This income was a limited one, but it was given without any work requirement. So a woman on welfare, particularly one with school-age children, also gained something everyone values—lots of time to spend on activities of her choosing.

Welfare reform changed all that. Strict work requirements sharply curtailed discretionary time. The five-year time limit meant that long-term welfare support was no longer an option. Faced with a dramatic shift in incentives, some women who would have gone on welfare did not do so, while many on welfare chose to leave welfare much sooner than they would have.

The commitment to join the workforce has given single mothers the impetus to gain the skills and experience essential to improving their lives. Indeed, my recent research shows that women did better economically the longer they stayed off welfare and in the workforce. Poverty rates dropped 50 percent for women who did these things for four years.

Why? Each year in the workforce brings additional money—their hourly pay rose about 2 percent (after inflation) per year worked, 3 percent if they stayed with one employer for that time—enabling many to raise themselves out of poverty.

Welfare reform succeeded because it made going to work more attractive than going on welfare. Reauthorization of reform is being held up and threatened by the failure of many in Congress to recognize this point.

Some would tie reauthorization to an increase in the ability of single mothers to substitute education and training programs for work experience. Such proposals sound good—and typically were the centerpiece of the failed welfare initiatives of the past—but they fly in the face of what we know about why welfare reform worked, in New York City and throughout the country.

(From the New York Times, Mar. 6, 2004)

THERE'S MORE WELFARE TO REFORM

(By Douglas J. Basharov)

When the landmark 1996 welfare reform law came up for reauthorization in 2002, easy approval was expected. After all, the legislation was popular, it had originally passed with significant bipartisan support and, well, it was working, with the number of people on welfare down an astonishing 60 percent since states started putting reforms in place.

But instead of sailing through Congress, the reauthorization effort became trapped in a political tug of war between Republicans (who wanted tougher work requirements added to the law) and Democrats (who wanted increased federal money for child care). Instead of reauthorizing the law, Congress has simply extended it several times, and now it looks as if there will be yet another extension. That's a shame—because the legislation needs to be updated now.

Despite the law's success in getting people to join the work force, roughly two million families remain on welfare, many headed by single mothers who are unable to get—or keep—a job because of limited education and skills.

The Bush administration's reauthorization proposal focused on these mothers. Because few states had made a concerted effort to move them into programs that build specific job skills, the administration called for states to adopt tougher work and training requirements. Under the proposal, states would have to put 70 percent of their adult recipients in these designated activities for 40 hours a week.

The administration's proposal was not quite as tough as it seemed. It had a number of participation exemptions. What's more, as the bill moved through the legislative process, it was watered down in order to win support from moderates on both sides of the aisle.

But the administration was reluctant to broadcast the legislation's softer side—doing so might undermine its pro-work rhetoric. That silence played into the hands of Democrats. If the Republicans wanted welfare mothers to work more, they argued, there should be a parallel increase in child care financing.

The Democrats had a point. But their demand for as much as $10 billion in additional child care aid went far beyond the needs of welfare families. It would have covered families that had never been on welfare—and were in no danger of needing it. Over time, the Democrats lowered their demands; at this point, they would probably settle for about $6 billion over five years, which is still more than what is needed to carry out the administration's plan.

For the past two years, the administration has rejected such large spending increases and, given the criticism President Bush is receiving for the growing federal deficit, it seems unlikely that he will give the Democrats what they want. The Democrats' position likewise seems to be hardening. They are now talking about waiting for a President John Kerry to reauthorize welfare reform.

The stalemate is doubly painful because there are clear grounds for compromise. Republican modifications have resulted in work requirements that, if clarified, would enjoy wide support. Democrats know that reauthorizing the legislation now will ensure that states get modest but still substantial increases in child care money. Another year's wait would keep the states at 2002 financing levels, something that has so far cost them $400 million.

Further delay would also forestall desperately needed changes to the legislation. States have to be encouraged to address the needs of the hardest-to-employ welfare recipients by toughening participation requirements. Judging by the experience of the states that have had the most success moving these mothers into employment, we should require 50 percent of a state's welfare recipients to spend 24 hours a week in required activities—perhaps 32 hours a week for mothers with no children under the age of 6. States should be given greater flexibility in how they reach this level, so long as at least 10 percent of their welfare recipients are in mandatory community service or on-the-job training programs. (A separate exemption of up to 15 percent would be needed for the disabled.)

To cover additional child care and administrative costs, a formula should be established that ties payments to the states to increases in participation. The question of whether there should be more federal aid for child care should be reviewed on its own merits, not under the guise of welfare reform.

This kind of bipartisan compromise is never easy in an election season. But two million American families are still trapped on welfare. Can we really afford to wait another year?

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(From the Washington Post, Aug. 5, 2003)

WORK: THE KEY TO WELFARE

(By Brian Riedl and Robert Rector)

Should Congress make work requirements for welfare recipients stricter? That's what would happen under a bill the House of Representatives has passed. It would require more recipients to work 40 hours a week instead of the current 30 and stop vocational training from counting as ''work.''

Bad idea, the critics say. They claim that education and training programs lead to successful high-paying careers, while putting welfare recipients to work immediately traps them in low-paying, dead-end jobs.

Wrong.

Welfare recipients assigned to immediate work see their earnings increase more than twice as fast over the following five years as those first placed in education-based programs, according to calculations we made using data from the Manpower Demonstration Research Corp., a New York-based nonprofit group. In fact, most government-run job training programs barely raise hourly wage rates at all, a report commissioned by the U.S. Labor Department reveals.

If the goal of welfare reform is to raise earnings while reducing dependency, then quickly moving welfare recipients into real jobs is the answer. Prolonged classroom training tends to be the dead end.

Before the 1996 welfare reforms, the Aid to Families with Dependent Children (AFDC) safety net was just that—a net not only catching but also trapping nearly all who fell into it. Welfare reform replaced AFDC with a program called Temporary Assistance to Needy Families (TANF). This program was designed not as a net but as a trampoline, springing families back up to self-sufficiency by placing adults in permanent jobs.

The undeniable success of this approach is demonstrated by the more than 5 million people (including 3 million children) who have risen out of poverty since the law was enacted. After remaining static for nearly a quarter-century, the poverty rate of black children has dropped by a third and is now at the lowest point in U.S. history. The poverty rate for single mothers has plummeted in a similar manner since 1996; it, too, is at the lowest point in national history.

But welfare reform wasn't perfect. Today less than half of TANF adult recipients are employed or preparing for employment in any way. Most remain idle and continue to collect welfare checks.

President Bush and his congressional allies want to strengthen welfare reform by increasing the TANF work-participation rate to 70 percent; opponents seem content excluding millions of families from working or even preparing to work. Yet those who would enact legislation that leaves hundreds of thousands of welfare recipients in idle dependence are clearly harming those they wish to help.

And those who believe welfare recipients are better served by education and training programs are ignoring the skills that would help these poor adults the most. A study conducted by the Washington-based Urban Institute shows that employers consider a positive attitude, reliability, work ethic and punctuality the most important traits they look for when hiring for entry-level positions. These traits can't be taught in a classroom, or as part of a training program—they are acquired through firsthand work experience. Not surprisingly, the same employers consider job training the least important qualification.

Unlike those stuck in a classroom or government-run job-training office, individuals placed in immediate work gain real-world experience mastering job duties. As they build work records, more job options and higher earnings become available. In the meantime, even minimum-wage parents can use the earned income tax credit, food stamps, Medicaid, the Child Care Development Fund and the school lunch program to raise their total income to two-thirds above the federal poverty line.

Some critics insist that all employable adults have already left welfare, leaving only individuals with insurmountable personal barriers to work. Not true. Urban Institute data reveal the current welfare recipients are no less work-ready than those who have left welfare. In fact, a substantial number of them aren't classified as having any barriers to work. And most of those with such barriers as a lack of transportation, a slight disability or an inability to speak English can, in fact, land jobs. But their chances of doing so are much better if we insist on immediate work.

The PRESIDING OFFICER. Is there objection to the unanimous request of the Senator from Pennsylvania?

Mr. DASCHLE. I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise to oppose the pending motion to invoke cloture. We are here today because the majority chooses not to allow a vote on a minimum wage. It is that simple.

That is wrong. It is wrong because the millions of hard-working Americans making the minimum wage deserve a raise. It is wrong because the Senators from California and Massachusetts also deserve to get a vote on their amendment. It is not right that a person who has a full-time job at minimum wage still has to live in poverty, but that is where we are today in America.

For a family of three, let's say a mom and two kids, the gap between the poverty line and the minimum wage is $3,681. That is right, a family would need $3,681 more just to get up to the poverty level, and that is before taking into account the cost of child care, which is a big factor, or the cost of gasoline for the car—we know how much gasoline prices are rising—or the cost of clothes for a job. Often a person has to buy separate clothes for a job.

If we want people to be able to move off welfare and into work—and that is what we want, people off welfare into work—we have to make sure the work they get pays enough so they can get off welfare and lift them out of poverty. That is what we have to do, and that is why increasing the minimum wage is so important.

Most people who are on welfare will say they want to get off welfare; they do not like it; they hate it. That is what they tell me. I have talked to a lot of people on welfare. One of the main reasons they will say it is so difficult to get off welfare is because the job that pays at minimum wage does not pay enough for them to get by. I have heard that countless times. They are working full time but they cannot make ends meet. We need to raise the minimum wage to help people get off welfare.

The vote today is also about another point. The Senators from California and Massachusetts deserve at least to have a vote on their amendment. They are willing to enter into a short time agreement. They are not delaying. They say, sure, let's have a vote on

their amendment, with a short time agreement. They are not delaying. It is the other side which is preventing them from having a vote.

We on this side of the aisle do not wish to delay this bill. We are willing to work to get a finite list of amendments. We are willing to enter into a time agreement on amendments. We are not asking for anything out of the ordinary.

I remind my colleagues that during the 13-day period for which the Senate considered the basic bill, the 1995 welfare bill, September 7 to September 19 of 1995, the Senate conducted 43 rollcall votes on amendments. So far this year we have conducted one, and yet there is a cloture motion to try to stop debate. That is not the way to legislate. We are not asking for anything out of the ordinary. We merely ask that Senators be able to offer amendments and get votes on their amendments.

We have time agreements, we have lists, and so forth. That is what this debate is about. I urge my colleagues to uphold the rights of Senators. I urge Senators to vote to increase the minimum wage. I urge Senators to oppose cloture.

How much time does each side have remaining?

The PRESIDING OFFICER. Ten seconds.

Mr. BAUCUS. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I reiterate that we are perfectly willing to give up-or-down votes for a chance to pass this bill. I have asked unanimous consent and the other side has said no.

I have heard so much about everyone having a right to get up-or-down votes. We have had a debate on the floor of the Senate for a year and a half about up-or-down votes on Federal judges. So maybe we can exchange up-or-down votes.

I ask unanimous consent that we have an up-or-down vote on the Boxer-Kennedy amendment, followed by a vote on a McConnell relevant amendment dealing with minimum wage, in exchange for a vote on Calendar No. 169, Carolyn Kuhl, of California, to be a judge on the Ninth Circuit Court of Appeals, and Calendar No. 455, Janice Rogers Brown to be United States Circuit Judge for the District of Columbia.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. SANTORUM. So we understand up-or-down votes only apply to their amendments and the things they want to do, not what Republicans want to do.

We need closure and we are not getting it.

The PRESIDING OFFICER. All time has expired.

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

The PRESIDING OFFICER. Is there objection?

Without objection, the clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

SENATOR BYRD'S 17,000TH VOTE

Mr. DASCHLE. Mr. President, I would inform my colleagues that with this vote we will witness history. Senator BYRD will have cast his 17,000th vote. No Senator in all of history will have done that. I will have more to say about that after the vote.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant journal clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute amendment to Calendar No. 305, H.R. 4, an act to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

Bill Frist, Charles E. Grassley, John E. Sununu, Conrad Burns, Lamar Alexander, Peter G. Fitzgerald, Larry E. Craig, John Cornyn, Robert F. Bennett, John Ensign, Orrin G. Hatch, Mike Enzi, Mitch McConnell, Ted Stevens, Norm Coleman, James M. Inhofe, Kay Bailey Hutchison.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the pending committee substitute amendment to H.R. 4, an act to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality childcare, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Alaska (Ms. MURKOWSKI) is necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay.''

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

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

[Rollcall Vote No. 65 Leg.]

YEAS—51

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Miller
Bennett	Ensign	Nickles
Bond	Enzi	Roberts
Brownback	Fitzgerald	Santorum
Bunning	Frist	Sessions
Burns	Graham (SC)	Shelby
Campbell	Grassley	Smith
Chafee	Gregg	Snowe
Chambliss	Hagel	Specter
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Talent
Cornyn	Kyl	Thomas
Craig	Lott	Voinovich
Crapo	Lugar	Warner

NAYS—47

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Bayh	Edwards	Lincoln
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Graham (FL)	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Pryor
Cantwell	Inouye	Reed
Carper	Jeffords	Reid
Clinton	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Corzine	Kohl	Schumer
Daschle	Landrieu	Stabenow
Dayton	Lautenberg	Wyden
Dodd	Leahy	

NOT VOTING—2

Kerry	Murkowski

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

Mr. FRIST. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

CONGRATULATING SENATOR ROBERT C. BYRD ON CASTING HIS 17,000TH VOTE

Mr. FRIST. Mr. President, I would like to take a moment to remark on a truly historic moment that just took place about 15 seconds ago, a moment we all witnessed which is special in United States history in a way we will shortly lay out.

Senator ROBERT BYRD is already recognized as an American icon. In 1917, he began life as a virtual orphan. His mom passed away when he was a year old. His aunt and uncle brought him to West Virginia to raise him on their own.

Hard working, enterprising, ROBERT BYRD made the most of every single opportunity along the way and rose to become the third longest serving Member of Congress in U.S. history.

Among his many distinctions, Senator BYRD has held more leadership positions in this body, the U.S. Senate, than any other Senator in American history.

Over the course of eight consecutive terms, Senator BYRD has cast more votes than any other Senator in the

history of the Republic. Today, just a couple minutes ago, Senator BYRD cast his 17,000th vote in this Chamber. I applaud Senator BYRD for his commitment to public service. This vote is truly a milestone in his career and the history of the U.S. Senate.

Without question, when history is written, Senator BYRD will hold a prominent place as a Senate legend.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I join the majority leader and all the Members of our body in congratulating Senator BYRD on reaching this historic milestone. I thank him for his half century of service to the U.S. Congress. Seventeen thousand votes is an astonishing number. It is even more astonishing when you consider that Senator BYRD has now cast 652 more votes than the first runner-up, Senator Thurmond. He has served 2 years less than Senator Thurmond.

Here is another remarkable statistic: In the last 45 years in the Senate, ROBERT BYRD has voted on 98.72 percent of the questions put before this body. He has missed only about 1 percent of all votes cast over 45 years—the second highest percentage of all Senators who have cast 10,000 votes or more.

From July 25, 1984, through September 17, 1997—a period of more than 13 years—Senator BYRD did not miss one single vote. He cast 4,705 consecutive votes—the second highest consecutive vote total in Senate history. Of the 11,708 persons who have ever served in the U.S. Congress, only two have served longer than ROBERT C. BYRD. But what makes Senator BYRD's vote totals and voting percentages even more remarkable are some of the other achievements Senator BYRD has recorded over these last 45 years.

He is the first person ever to start and finish a law degree while serving in Congress. It took him 10 years. He graduated from American University Law School in 1963. President Kennedy was his commencement speaker.

In 1994, he fulfilled a lifelong ambition. He finally received his bachelor's degree from Marshall University summa cum laude—the first person in his family ever to go to college.

There are two reasons Senator BYRD has reached this historic 17,000-vote milestone. First, ROBERT C. BYRD believes, in his bones, if you have a job to do, you do it. He is a coal miner's son who has worked hard all of his life. He got his first job when he was 7, selling the Cincinnati Post. He has been a produce boy, a gas station attendant, a head butcher, and the owner of a small grocery store. He is a man who believes in earning his pay, who knows how it feels to fall asleep at night exhausted but proud for having met his responsibilities for 1 more day.

The other reason Senator BYRD has reached this milestone is because of his great love of West Virginia, of this Nation, and of the Senate.

Of course, the greatest love in Senator BYRD's life is his wife Erma. For the last 3 years, Mrs. Byrd's delicate health, and Senator BYRD's desire to be with her as much as possible, to support her, has made it even more difficult for Senator BYRD to answer every rollcall vote. Yet he has continued to do so.

We are privileged to work with him.

On this historic occasion, we congratulate him. And we thank ROBERT and Erma BYRD for all they have given this Senate and our Nation.

(Applause, Senators rising.)

Mr. BYRD. Thank you.

The PRESIDING OFFICER. The senior Senator from West Virginia.

Mr. BYRD. Mr. President, 17,000 votes ago, I achieved a dream. I stood on the floor of the U.S. Senate and prepared to cast my first vote as a Senator from the Mountain State of West Virginia. Seventeen thousand votes later, I still feel much the same. It is a great honor, a great privilege to serve the people in the Senate.

Ours is a glorious country. Its people are wise. They are brave. They are hard-working and fairminded.

Once it was possible for a poor young man with no important connections, with no PR firm behind him, with no fundraising apparatus racing at full tilt, to simply go out to the people, carrying his fiddle and having a mind full of poetry, and on the strength of his energy and his convictions, to be elected to the greatest deliberative body the world has ever known.

That time is light-years away from today's reality. Too often now in America it is the size of the pocketbook that elects public officials. I regret that change. It keeps people out of public service instead of welcoming them into public service.

This Senate is the forum which exists to welcome and to protect the airing of all points of view. Both sides of the aisle need to work together to ensure that the Senate will stay true to its constitutional purpose. We swear an oath before God and man to support and defend this Constitution. Many times I have sworn that oath before God and man to support the Constitution of the United States.

I have had a good run in this wonderful institution. And like Majorian, who, when he became Emperor of the Roman Empire in 457 AD said, ''I still glory in the name of Senator.''

My patient and devoted wife Erma, with whom I will celebrate a 67-year-long partnership 58 days from now, the Lord willing, deserves much of the credit for that good run. I also thank my talented staff for their tireless work and dedication.

No man is an island, and I have had the good fortune to have many steadfast friends and supporters over the years. To the people of West Virginia, I owe my everlasting gratitude. They have expressed their faith in me time and time again. I am proud to be their Senator, and I hope to continue to serve for a long while.

I thank my colleagues. They have been patient. They have known my shortcomings. I have said things from time to time that I regretted. We are all human. But my colleagues have been considerate of me, and I thank them.

Pericles, the brilliant Athenian statesman, gave mankind one of the greatest funeral orations ever made. This address was delivered in 431 BC as a memorial to the first Athenian soldier who fell in the Peloponnesian War. In this address, Pericles said:

> It is greatness of soul alone that never grows old, nor is it wealth that delights in the latter stage of life as some give out, so much as honor.

And so it is honor itself that never grows old. I thank my colleagues for the honor they show today.

Finally, but most of all from Chronicles, 29th chapter, verses 11 and 12:

> Thine, O Lord, is the greatness, and the power, and the glory, and the victory, and the majesty: for all that is in the heavens and in the earth is thine; thine is the kingdom, O Lord, and thou art exalted as head above all.
>
> Both riches and honor come of thee, and thou reignest over all; and in thine hand is power and might; and in thine hand it is to make great, and to give strength unto all.

(Applause, Senators rising.)

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the Senator from West Virginia honors us all with that last statement he made.

Over the years I have been here, it has been my privilege to travel with the Senator from West Virginia to many events. I want to recall one for the Senate that I am sure the Senator will remember.

We were in West Virginia with the British American Parliamentary Conference. One of our guests from Britain made the mistake of saying it was too bad that their American cousins did not know anything about British history.

My colleague was the host that evening. And making a closing statement for that dinner, Senator BYRD decided to show our British cousins his wealth of knowledge about the history of Britain and proceeded to name every monarch, every spouse, every person who had a personal relationship with every monarch, and a complete history of the monarchy of Great Britain.

Needless to say, when he finished, which was quite a few minutes later, the British stood and applauded politely, and we have never heard such a comment again from our British cousins. There have been many other occasions we have had together.

I wanted to say that one of the great joys of serving in the Senate is my being able to get to know my friend from West Virginia. We have had our disagreements, but that is natural because this aisle separates us once in a while. But nothing has separated ROBERT BYRD from each Senator in the Senate. He has been the most agreeable Senator, on a personal basis, that I have known in the Senate. I think every Senator will say the same thing.

He always has a smile. He always increases that smile if we remember to ask about Erma.

Mr. President, I join in the applause, but I think the Senate itself has been honored today to witness this historic mark in his career.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I wanted to say that last night I had the pleasure of going to the Smithsonian Institution and meeting members of the Baseball Hall of Fame. There were people there who were, to me—as a young boy, I wanted to be a baseball player and always listened to the game of the day. There were people there, including Gaylord Perry, Dave Winfield, Joe Morgan, Sandy Koufax, Stan Musial.

I have to say to my friend from West Virginia, as great an experience as that was for me visiting with those great athletes of yesteryear, that pales in comparison to the experiences I have had while serving with the ''Babe Ruth'' of the U.S. Senate.

When I was elected to this leadership job, Senator BYRD supported me. I wrote him a letter—and I am confident he remembers that like he does everything else—and I said I believed he was the Babe Ruth of the U.S. Senate. When I say that, he is a member of the hall of fame, of course, but the Babe Ruth in the Baseball Hall of Fame stands above all the rest. In the Senate, Senator ROBERT BYRD stands above all of us. I have a degree in history and I know something about it. I know we have great Senators here, but I have had the opportunity to serve with the greatest.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I rise for a moment to add my voice to those who praise Senator ROBERT C. BYRD. I think what every public servant deserves, and occasionally gets, is a recognition that his or her service is in fact profoundly appreciated. That is usually not the case. The American people are not as aware of what goes on in these Halls, or even in their own legislative halls, as they ought to be.

But I take special happiness out of this day for Senator BYRD because he has accomplished something that nobody else has with his 17,000th vote. He rose to cast his vote, as he always does. When somebody comes to greet him, argue with him, plead with him, and he is at his seat, he always rises, be that a man or a woman. He has brought, in my judgment, not only a tautness to the debates that we have in this Chamber, not always agreeing with the majority or with the minority, but he knows his mind and he knows his soul, and he knows his God. He does not deviate from that and he cares not who appreciates that or who doesn't.

In other words, Senator BYRD is a man who, over the years, through the crucible of tough experiences and steadfast devotion not only to his God but also to the great figure who is not here today, who is so much part of his life and who brings out even in saying her name a great emotion in me, and that is his absolutely wonderful, wonderful wife Erma, honors us by his service.

I was with him earlier this morning as he was talking to schoolteachers from all over the United States who are trying to get their students to write better. It is called the ''writers project,'' which he has been instrumental in doing. He talked to them of public service and the need for accuracy and being fair. What he was really saying is that doing something in your life which is not only important but which you give yourself to profoundly, completely, an utter devotion to duty, is what separates the great and the near great.

I am very proud to serve with Senator BYRD. We have served together for 20 years now and have known each other for close to 40 years. Our wives are good friends; we are good friends. I sit behind him in the seat that Senator Moynihan used to occupy. I enjoy seeing people coming up to him and making their case, which talks not only of his courtesy, because he is so often on the floor, but also of his power to get things done, which then makes me say that there is no possible way to describe, from the point of view of the Senators in my State of West Virginia, what he has meant, does mean, and will mean for that State.

West Virginia is a State that has always had to struggle. We have always had to keep pushing the rock uphill, not daring to take one hand off for fear that the rock may roll back over the top of us. It takes a tough person and a moral person and a determined person to fight the battles that are needed to be won for our people in West Virginia. That comes to Senator BYRD instinctively.

I am so proud of this day because I cannot help but feel that when Senator BYRD goes to bed tonight, he will have a strong and profound sense of satisfaction—not that he needs to feel that, but that will make me feel better if he does feel that, because he serves our State and our Nation as few people have in the history of our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I join with our colleagues and just tell Senator BYRD what a mentor he has been to the newer Members of the Senate. There are moments and experiences here that one never, never will forget. I will never forget the first time, with somewhat trembling knees, I rose to give my first speech. In the course of that speech, I happened to mention it was my maiden speech in the Senate.

Of course, I was speaking to an empty Chamber, except for the Presiding Officer. All of a sudden, the doors swing open and in strides Senator BYRD. As I finished my remarks, Senator BYRD rose to his feet and said: Will the Senator yield?

And then proceeded to give a history of the maiden speeches of the Senate. What a mark upon this junior Senator, what a pleasant memory that he is such a great mentor to all of us. We thank him.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it is entirely appropriate for the Senate to pause for a few moments to recognize not only the record of 17,000 votes, but also the presence and continued service of a remarkable man who happens to be the senior Senator from West Virginia.

BOB BYRD is our Lou Gehrig the iron man of the Senate. For me, BOB BYRD personifies what our Founding Fathers were thinking about when they were thinking about a United States Senate. He brings the kind of qualities that the Founding Fathers believed were so important for service to the Nation.

When history records his remarkable service to the United State Senate, they will find there has been no one—no one—in this body who has defended the Constitution of the United States more vigorously, tenaciously, and with a greater understanding, awareness, and belief in its words.

There has been no one in history that has better understood the importance of the United States Senate and its role in our great democracy. BOB BYRD understands what our Founding Fathers intended, and because of his constant and persistent efforts, this institution is finer and all of us are finer Senators.

Senator BYRD, we are grateful for your service and this country is appreciative and grateful for your defense of the Constitution and for your service to this country. I am grateful to have you as a friend.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I add my voice as well to my seatmate, if I may. I sit in this chair by choice. Senator BYRD sits in his chair by choice as well, but he makes the choice before I do. I wanted to find out where he was going to sit so I could sit next to him. I did that because I wanted to sit next to the best, to learn everything I possibly could about the ability of this institution to provide the kind of leadership I think the country expects of us.

Several thoughts come to mind. This is a day of obvious significance in the number of votes that have been cast, 17,000, but it is far more important to talk about quality than quantity. Quantity is not an insignificant achievement, but the quality of my colleague and friend's service is what I think about when the name ROBERT C. BYRD comes to my mind.

I carry with me every single day, 7 days a week, a rather threadbare copy of the United States Constitution given to me many years ago—I can't even read it well now; it is so worn out—I may need a new copy—given to me by

my seatmate, ROBERT C. BYRD. I revere it. I tell people why I carry it because it reminds me of the incredible gift given to me by the people of Connecticut to serve in this Chamber, to remind me of the importance of an oath we all made, and that is to do everything we can to preserve, protect, and defend the principles upon which this Nation was founded. ROBERT C. BYRD, in my mind, is the embodiment of that goal.

It has often been said that the man and the moment come together. I do not think it is an exaggeration at all to say to my friend from West Virginia that he would have been a great Senator at any moment. Some were right for the time. ROBERT C. BYRD, in my view, would have been right at any time. He would have been right at the founding of this country. He would have been in the leadership crafting this Constitution. He would have been right during the great conflict of civil war in this Nation. He would have been right at the great moments of international threat we faced in the 20th century. I cannot think of a single moment in this Nation's 220-plus year history where he would not have been a valuable asset to this country. Certainly today that is not any less true.

I join my colleagues in thanking the Senator from West Virginia for the privilege of serving with him. He has now had to endure two members of my family as colleagues. Senator BYRD was elected to the Senate in 1958 along with my father. He served with my father in the House. I have now had the privilege of serving with Senator BYRD for 24 years, twice the length of service of my father. That is an awful lot of time to put up with members of the Dodd family. We thank Senator BYRD for his endurance through all of that time.

There is no one I admire more, there is no one to whom I listen more closely and carefully when he speaks on any subject matter. I echo the comments of my colleague from Massachusetts. If I had to pick out any particular point of service for which I admire the Senator most, it is his unyielding defense of the Constitution. All matters come and go. We cast votes on such a variety of issues, but Senator BYRD's determination to defend and protect this document which serves as our rudder as we sail through the most difficult of waters is something that I admire beyond all else.

I join in this moment in saying: Thank you for your service, thank you for your friendship, and I look forward to many more years of sitting next to you on the floor of the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I join with my more senior colleagues in paying my respects and tribute to the great Senator from West Virginia, Mr. BYRD. It is a mark of his greatness that he has had such a powerful effect on not only the most senior of his colleagues who have been here the longest, but also the more junior Members of the Senate, such as myself.

When I arrived here in January 2001, just a little over 3 years ago, I was one of 12 freshman Senators from both sides of the aisle. We were given many words of encouragement from our colleagues, but basically left to find our own way or flounder along the way. It was Senator BYRD who took it upon himself to convene tutorials with the 12 of us. We convened promptly at 4 o'clock in his office, and he shared with us his perspective on the Senate.

From the four volumes he has orated and published as the history of the U.S. Senate, as well as the volume he orated from his own direct knowledge and reading about the Roman Senate, there is no one who possesses more wisdom and a broader understanding of the historical role and the responsibility of this body and this great democracy and Republic.

Those of us who had the benefit of those tutorials learned more from those sessions about how to conduct ourselves in the Chamber where he has served with such greatness than from anything else.

When the time came for us to preside, as we took the majority, I had the opportunity, through many hours, to watch and listen to Senator BYRD, particularly in the fall of 2002 when we were debating the resolution to give the President authority to make the final decision on whether to commit this Nation to war in Iraq.

Senator BYRD was heroic in standing forth and taking a stand which I supported because of the compelling wisdom of his words and the power and the eloquence to remind us that we had a constitutional responsibility in this body which we were forsaking by abdicating that responsibility to the President.

I believe Senator BYRD received over 20,000 phone calls from his fellow citizens around the country. Back in my State of Minnesota, I heard time and again from those who were so admiring of his courage and his steadfastness as I was then, too. I learned more about the U.S. Constitution during that time than I had ever learned before in my life, and I learned more about the proper role of the Senate than I possibly could have learned through years of experience, just by having the benefit of serving with and listening to and learning from Senator ROBERT BYRD.

I am very proud to pay tribute to him today. He has been the most influential Member of this body in my development here, and I am grateful beyond words for the privilege of serving with him.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I, too, rise to bring the attention of the Senate to a historic occasion. Those who are witnessing this debate may not realize that they are seeing a moment in the history of the United States of America that is not likely to be repeated.

Our colleague, the distinguished and senior Senator from West Virginia, ROBERT C. BYRD, has just cast his 17,000th vote in this body. I do not rise today to bring any embarrassment to my colleague. I am honored to call him friend. I rise to congratulate and honor him, and to note the historical span of his service to our country.

On January 8, 1959, Senator BYRD cast his first vote in the Senate. Fittingly, it was a vote on Senate procedure. He has since become a master of the rules of the Senate. When Senator BYRD rises and raises a parliamentary point, a hush falls over this Chamber, respectful of the fact that this man from West Virginia knows more about the procedure and rules of the Senate than any person.

On April 27, 1990, Senator BYRD cast his 12,134th vote earning him the record for the greatest number of rollcall votes in Senate history.

On May 5, 1998, he became the first Senator in history to cast 15,000 votes.

Let us put this in historic context. When Senator BYRD cast his first vote, Senators John Kennedy and Lyndon Johnson were in the Chamber with him and Richard Nixon was the Presiding Officer of the body. When he cast his first vote, Hawaii had not yet become a State and the United States had not yet launched a man into space. When he cast his first vote, a state-of-the-art computer would have taken up half the space of this Chamber and had roughly the same amount of computing power as today's Palm Pilot.

Senator BYRD has served with 11 Presidents—and I underline the word ''with'' because Senator BYRD makes it clear that he has never served under any President.

He brings to mind often the words of the Constitution which give equality to the branches of Government.

He has been a candidate for election. As he said, he stood before the bar of public opinion 11 different times, 8 times as a candidate for the Senate and 3 times as a candidate for the House. And he has never lost.

Senator BYRD has served in the Senate as majority leader and held more leadership positions in the Senate than any other Senator in the history of the United States. He has chaired the Senate Appropriations Committee, on which I am honored to serve, and currently serves as the panel's ranking member. He has earned his place as the unrivaled expert on Senate rules and he has become perhaps the most popular political figure in his home State of West Virginia. He was named ''West Virginian of the Century'' by the residents of his home State. What greater honor could they give him.

As of this Friday, Senator BYRD will have served, if my calculation is correct, 18,716 days in Congress, 51 years, 3 months, and 2 days. Of the 11,708 individuals who have served in Congress,

only 2 have served longer: Carl Hayden of Arizona for 56 years and Representative Jamie Whitten of Mississippi for 53 years.

Senator BYRD will become the longest serving Member on June 11, 2006. He has cast more rollcall votes than any other Senator in history. Strom Thurmond ranks No. 2 with 16,348 votes.

We are all privileged to have served in this body. Few Senators in the history of this institution have had such a command of both the nature and nuance of Senate debate as ROBERT C. BYRD of West Virginia, and few, if any, spanning the entire history of this body have had such a reservoir of knowledge, from Roman and Greek history to the deliberations of the Founding Fathers to hundreds, maybe even thousands, of poems which Senator BYRD has committed to memory.

Perhaps it is through his love of poetry that I have gained a deeper understanding of my colleague. President Kennedy once said:

> When power leads man toward arrogance, poetry reminds him of his limitations. When power narrows the areas of man's concern, poetry reminds him of the richness and diversity of his existence. When power corrupts, poetry cleanses, for art establishes the basic human truths which must serve as the touchstone of our judgment.

That is a magnificent quote which pays tribute to a man who has integrated poetry into his entire life. But if we were to end there when it comes to procedure and poetry, we would not tell the story of this great man's service.

His is not just poetry when it comes to service in the Senate. It is also powerful prose. It is not just his eloquence but his integrity. Those of us who serve with him know that during the most recent debate on the invasion of Iraq, one voice in the Senate was heard above all others. This man, after many years of service, has not forgotten his responsibility to this Nation and the people he represents. He stood up and took controversial, difficult positions and did them with the kind of force and power which won friends for him far and wide.

I have told this story before but it bears repeating. When I went to a Catholic parish in Chicago with my wife and we had come back from communion and were kneeling down, an elderly fellow walked up to me in the midst of the Iraqi debate and leaned over and said, ''Stick with Senator BYRD.''

I came back to tell him that. His fans are far and wide, in Chicago, West Virginia, and across the United States of America, because time and again he spoke the truth and did it in a way that touched the hearts of Americans far and wide.

He is an inspiration to all of us who have been honored to serve with him. He brings to this body the kind of decorum, the kind of integrity, and the kind of commitment to which all of us aspire.

For all of his great and varied achievements, Senator BYRD shows his dedication and humiliation not by wielding his power like a club but by performing the most basic requirement of a Senator more times than any other Senator in history. I wish to recognize and honor the senior Senator from West Virginia for the quality as well as for the quantity of his service. It is entirely fitting that this noted lover of history today makes history himself. My commendation and congratulations to ROBERT C. BYRD of West Virginia.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise to join so many of my colleagues and friends in paying tribute to the great Senator from West Virginia. As my friend from Illinois indicated, we are praising and honoring him today not just for the number of votes he has cast but for the courage of his votes. It is one thing to cast 17,000 votes; it is another to look at the quality and the integrity behind those votes.

So I join with my colleagues in saying thank you to Senator BYRD. I was proud to join with Senator BYRD as he spoke out on the Iraq resolution and what our role in the Senate should be and is.

I went home, as did my colleagues, and over and over again people asked me did I know Senator BYRD; did I work with Senator BYRD; listen to what he is saying because he is speaking for all of us.

I also thank Senator BYRD for helping me as one of the 12 Members who came in 2000. When we were in the majority, we had the opportunity to preside over the Senate, and I am very grateful for all I learned about the Senate, about the process, about the importance of being dutiful in our responsibilities, and also about the important role we play in governing our country. I will forever be grateful to Senator BYRD for the lessons that I have learned and continue to learn.

One of the most wonderful images I have of being in the Senate actually occurred during orientation when I was first elected and coming here in December of 2000. I had the opportunity to invite my son to join me in the Old Senate Chamber where we heard from Senator BYRD, some wonderful, eloquent words and stories from the early days in the Senate. It was captivating. It was inspirational. It was motivating. It was a wonderful opportunity for me to share with my son, the new venture I was undertaking and the responsibilities I was undertaking as a Senator from Michigan.

I thank the great Senator from West Virginia for his friendship, for his courage, for his role in the Senate in helping us to understand our responsibilities and our duties to the country.

Ms. LANDRIEU. Mr. President, I join with many colleagues who came to the Senate Chamber today to express appreciation and recognition of Senator ROBERT BYRD as today he cast his 17,000th vote representing the people of West Virginia.

I can hardly think of what more to say other than he has truly been an exemplary Member of this body and a pillar of this institution, someone we all respect. I only hope our votes can be cast as conscientiously as his have been all these many years. I join my colleagues in congratulating him today.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I want to say a few words about our distinguished and beloved colleague, Senator BYRD, whose friendship I have treasured for many years—more than 20 years now. I seek and listen to what he says, to be aware of the knowledge he possesses about so many things, and the memories he carries.

When I first arrived here, I met Senator ROBERT C. BYRD and extended my wishes that we would have a chance to serve together—this is 20 years ago; and 20 years is a long time, except when it is compared to more than 40 years—and that he would continue to provide the kind of leadership and inspiration that he has for all of us for all these years.

We wish him well. We want to see him continue to provide the example he has shown all of us, with his dignity and intelligence and knowledge and awareness of the rules that govern this body of ours—as fractious as they have become in recent years. We always want to pay attention when Senator BYRD issues a view of the process that is developing, about where we ought to be, about the courtesies we should extend to one another.

I will never forget Senator BYRD, with his rage at one of the Senators who was addressing the President by his first name, saying: Where is he? Where is Bill? Why isn't Bill here? Senator BYRD stood up, with all his stature in front of him, saying: How dare you. How dare you call our President Bill. In all the years I have served with Republican Presidents, never, never would I dream of calling the President Ronald or George or otherwise.

With that little reminder, he brought us all back to a reasonable state of dignity and comity that we need to be reminded about on many occasions.

Very few have the knowledge stored in our being that Senator ROBERT C. BYRD has.

Again, when I first arrived in the Senate, I had not been in Government before, so it was all very complicated and perplexing. But I wanted to spend some time with Senator BYRD, and he was courteous and he did it. We sat in his office, talking about the background of our society and our country. He talked about the English Kings from the period somewhere maybe about the time of William the Conqueror, the 11th century, and he talked

about how long each succeeding monarch served, the year that person took the office, and the year they left the office, what caused them to leave the office, who died, how they died, by assassination or otherwise, from the 11th century on up to contemporary times. You will hear Senator BYRD often quote from the early days of Roman and Greek civilization. It is remarkable.

I come out of the computer business. I think I can safely say that I have never met a computer the equal of ROBERT C. BYRD, to have the depth of knowledge that he has and to be able to call upon it at so many times.

I will bet that in the 17,000 votes ROBERT C. BYRD cast, he knows more about the votes he cast almost than any Senator who has been here just for 100 votes or 200 votes. He understood every one of them. He never cast a vote without thought.

Each of us has had the experience, I am sure, of disagreeing, perhaps, with one another, even with a distinguished leader such as Senator ROBERT C. BYRD, and have him disagree with knowledge and with experience and say: This is why I think you are wrong. You are my friend, FRANK, but I disagree with you on this, and I am going to vote the other way.

It was always with respect and friendship that these exchanges took place.

So we mark a historical moment. No one before has ever cast that many votes. As a matter of fact, very few have cast a number of votes that come anywhere close to the 17,000 mark. This is a record, as I think has been said by others, that will stand probably forever. It took ROBERT C. BYRD some eight terms to acquire the voting record that he has. When you know that person and you see the devotion and loyalty he brings to his family—he and his wife will celebrate their 67th anniversary, I believe. That is quite a tribute in a period like we now see in our country when the institution of marriage is not what it used to be. So we wish Mrs. Byrd, Erma Byrd, a return to better health—we know she has been having some difficult times these last few years—and for them to share many more good years together and for ROBERT C. BYRD to stand here as our example of what can be, as an example for children across this country.

If they read the history of ROBERT C. BYRD, they will see his growth from a poverty stricken, uneducated, simple family, to go on as he did to reach the level of responsibility, of importance that he achieved, and the contributions he made to country in so many ways, reminding us about our responsibility to avoid conflict wherever we can do it, but always sticking up for his State and constituents who sent him here.

I think I hold a voting record also. I think I am the only Senator on the books that ever, as a freshman, cast almost 7,000 votes. That, I think, is fairly remarkable. You have to discount the first 18 years I was here, but a freshman with 7,000 votes, it doesn't compare to Senator BYRD's record, no matter what.

Mr. ALEXANDER. Mr. President, I rise today to salute my senior colleague, Senator ROBERT C. BYRD of West Virginia. Today, the Senator passed a milestone that has never been passed before, and may never be passed again: he cast his 17,000th vote on the Senate floor. It's an amazing achievement. No other sitting Senator has cast more than 15,000 votes. Senator Thurmond, who is no longer with us, cast the next highest total of 16,348 votes.

Mr. President, Senator BYRD has had a long and distinguished career in the United States Senate. He was first elected to this body in 1958. Only Senator Thurmond served longer, but Senator BYRD may soon pass that record, too—he's only got two more years to go. He became the Democratic Leader in 1977, holding that position for six consecutive 2-year terms, three terms as majority leader, and three as minority leader. He also served as President pro tempore—third in line in the order of succession to the Presidency, after the Vice President and the Speaker of the House—from 1989 to 1995 and 2001 to 2003.

The Senator from West Virginia is also a master historian. His four-volume, 3,000 page history of the U.S. Senate has been called ''the most ambitious study of the U.S. Senate in all of our history.'' He is a passionate advocate for understanding our history, not only among Senators, but for the entire country. In 2000, the Senator's efforts led to the creation of the Teaching American History Grant Program—commonly referred to as the Byrd grants—to encourage better teaching of American history in our schools. I was fortunate to follow his lead with a bill I introduced last year, the American History and Civics Education Act, which Senator BYRD co-sponsored. The Senate passed it unanimously last year, 91 to 0. I hope the House will act on it soon. I'm sure one reason the Senate was prepared to support such a bill is that we have all learned the value of our history from one of history's great teachers: Senator ROBERT C. BYRD.

I salute my colleague, the senior Senator from West Virginia, and wish him well as he sets a new record with each succeeding vote.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Ohio.

Mr. DEWINE. Mr. President, I join my colleagues today in congratulating my friend and colleague, my neighbor from West Virginia, for his great accomplishment today but, more importantly, for his great service in the Senate.

When I first came to the Senate, I did what many of my colleagues have done, and that is I paid a visit to my colleague from West Virginia. I went into his historic office. He was kind enough to give me the books he has written about the Senate and was kind enough to autograph his books. Those books will always be a great treasure for me to keep.

But they have not just been something that has been in my bookcase; they are something I can pull down to then read the history of the Senate. What wonderful books they are, what wonderful references, what wonderful stories they tell about the Senate. That is so because my colleague is not only a great Senator, he is a great historian. We are reminded of that many times when he comes to the Senate floor. Not only does he have a great institutional memory from his many years of the Senate, but because of his reading not only about the United States and the U.S. Senate, but because of his great love of history, he can put what we do in the United States in its historical perspective.

As the new Members of the Senate, we take turns presiding over the Senate. One of the great benefits of doing that is to sit in the Presiding Officer's chair, as my colleague is doing now, and we have the opportunity to listen to our colleagues. I have had the opportunity, many times, to listen to Senator BYRD.

I can remember many times listening to his speeches. Sometimes it was his great annual speech on Mother's Day, sometimes a speech on the U.S. Constitution, or a speech on whatever legislation is in front of us, or about the history of the Roman Senate or, as my colleague from Illinois has said, a speech about a pending resolution. It didn't matter what it was, it was always something for us to think about, always something for us to ponder and meditate on.

Senator BYRD, thank you for your service and thank you for causing us to think. Whether we agree with you or not on every matter, you always make us think. That is the job of the Senate. As you referred a moment ago to this great deliberative body, you make sure that we are that, you make sure we continue to be that great deliberative body. I thank you for that.

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

Mr. DEWINE. Certainly, I yield.

Mr. BYRD. Mr. President, I take a moment to thank my colleagues who have spoken. They have been so gracious. I shall never, never forget the beautiful words, the lovely phrases they have uttered here today. They have made this a very beautiful day. I know that my wife Erma has listened from home.

I thank each and all of these wonderful, wonderful friends. That is what they are, they are friends. I shall never forget them. I shall not name them. The RECORD already has done that.

I yield the floor and thank my friend from Ohio for his graciousness in yielding.

THE PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. I thank the Chair.

(The remarks of Mr. DEWINE pertaining to the introduction of S. 2270 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

PERSONAL RESPONSIBILITY AND INDIVIDUAL DEVELOPMENT FOR EVERYONE ACT—Continued

NATIONAL PUBLIC RADIO

Mr. DURBIN. Mr. President, last week I took the floor of the Senate to note the decision which has been made by National Public Radio concerning the host of Morning Edition with Bob Edwards. It was announced in the Washington Post that National Public Radio management had decided after some 24 years to relieve Mr. EDWARDS of his responsibility as host of the morning show. There was not much given by way of explanation, and it was clear from comments by Bob Edwards that it wasn't his decision.

It has been interesting since I took the floor and noted my disappointment over that decision the response which I received from my colleagues in Congress. It turns out Members of Congress on both sides of the aisle feel as I do—that this decision by National Public Radio is the wrong decision; that Bob Edwards, who has been not only a host of this program but the most successful morning voice in America, is being moved away from this assignment in a situation and in a circumstance that is almost impossible to understand.

Many of my colleagues have come to me and asked, What can we do? Can we go after the appropriations of NPR? I don't recommend that at all. I think National Public Radio is such an important institution more than any single individual that we should do this in a positive and constructive fashion.

What I encourage my colleagues to do is to remember that National Public Radio is, in fact, public radio; that all of us who enjoy it so much, who rely on it so much, and who contribute to it from our own individual finances, have a responsibility if we disagree with this decision by the management. I have encouraged my friends and those who feel as I do to get onto their Internet and e-mail, and to e-mail NPR.org, to do it immediately and let them know that their decision to remove Bob Edwards at the end of this month of April is the wrong decision. I have done it myself.

I have received a reply from Mr. Kernis which, frankly, I find very troubling. When asked why they think this man who has become such an institution in America should be removed, the response is nothing short of gobbledygook. They talk about bringing someone who has depth and experience. But who else would you turn to rather than Bob Edwards?

I would like to make part of the RECORD at the end of my statement a series of columns and editorials from across the United States from those who enjoy Bob Edwards in the morning and can't imagine public radio without him. Some of these, starting with the Chicago Tribune, were published recently as the news reached that city of the decision by National Public Radio.

As they said in this editorial in the Chicago Tribune, people do not understand why this decision was made. Here is what they concluded in the Tribune editorial about Bob Edwards:

> In contrast to their audience, though, NPR executives seem to have forgotten about the public part of their title. In commercial broadcasting, a beloved host who had presided over huge ratings gains would almost never be nudged aside. Public broadcasting is valuable precisely because it is relatively free from such worldly concerns. But it is also, effectively, a public trust, and for the public to continue to trust it, this institution needs to do a better job of explaining its momentous decisions. This is not the only newspaper, by far.

In the St. Louis area, Linda Ellerbee, known to many of us because of her news reporting and posting of programs wrote: ''Time and Age: NPR Tossing Out Bob Edwards.'' Linda Ellerbee should know. She was moved away from a television network position because they thought for a woman she was too old. She says:

> But we're not aging the way our parents did. We're reinventing the process. Besides, there are a lot of us out here.

The point she made in her article about Bob Edwards is at his advanced age of 56—which I still consider very young—he speaks not only to people of my generation but so many older and younger. If it is the marketing belief of NPR they need to have a new, fresh voice, they are missing the big picture.

For 24 years every morning when my clock radio goes on, I hear Bob Edwards. I know whether times are bad, dangerous, or peaceful. I can count on him. I have done it this morning. I have done it so many mornings. I cannot imagine ''Morning Edition'' without him.

There is also a comment from the Washington Post, Richard Cohen. He tells about the same experience.

> Now the news from NPR is that Edwards will soon be gone.

He talked about the fact he may just decide to start listening to Mozart on disk, rather than turning on ''Morning Edition.'' He says:

> NPR Executive Vice President Ken Stern told the Washington Post that the firing of Edwards was part of a ''natural evolution,'' that had ''to do with the changing needs of our listeners.'' What ''natural evolution''? What does that mean? And what is ''changing needs''?

Mr. Cohen goes on to say to the Washington Post:

> Listen, Ken, my needs haven't changed. I still want news in the morning. I still want smart features. I do not want interviews with airheaded celebrities a la Matt and Katie or, worse, interviews with the latest humorousless person Donald Trump has just fired from ''The Apprentice.''

He concludes:

> But the firing-cum-transfer of Edwards (he may become a senior correspondent) is nonetheless disquieting. Maybe my fear is misplaced and maybe the end of the Edwards era will turn out not to be a bad thing. Still, it will be jarring to wake up in the morning with a stranger.

He closes by saying:

> Goodbye, Bob. Get some sleep. You've earned it.

Mr. Cohen may have given up, but I haven't. I still believe the people across America should be contacting National Public Radio, npr.org. Send them your e-mail that Bob Edwards, ''Morning Edition'' is important to you. As a Senator, as a citizen, he is important to me.

The San Diego Union-Tribune in an editorial entitled ''NPR Show Is a Big Hit, So It Must Need Fixing?'' by Robert Laurence:

> This story makes no sense.
>
> As such, it's the kind of story that can only happen in the topsy-turvy Orwellian world of public broadcasting.
>
> It's this: The host of a hugely successful morning radio show, a show where ratings have done nothing but climb for years, a man whose skill as an interviewer is unexcelled in the world of broadcasting, whose very voice helps millions of Americans get their day grounded, is being evicted from a seat in the studio.

Mr. Laurence goes on to say:

> That's Bob Edwards, since November 1979 the host of National Public Radio's ''Morning Edition . . . ''

He goes on to talk about the explanations from NPR management, explanations he and I both find wanting. And Scripps Howard, Bill Maxwell and the St. Petersburg Times, entitled ''A Morning Voice That Will Be Missed:''

> All good things must come to an end.
>
> And so it is with the ouster of Bob Edwards . . .
>
> To say that Edwards is the end of an era is an understatement.

He continues:

> Thanks in large part to ''Morning Edition,'' when I report to the St. Petersburg Times editorial board each morning at 9:30, I know what's going on in the Nation and the rest of the world.

Millions of us would say the same thing.

Columbus Dispatch, Tim Feran: ''Shame On NPR For Axing Edwards Before Big Date.''

The big date, of course, is the 25th anniversary on the air. I agree with Mr. Feran.

The Cleveland Plain Dealer: ''Not a Good Way To Start The Day,'' a title from Connie Schultz, a columnist. She writes:

> The man I've been waking up with is leaving me.

She talks about her disappointment and how hard it is to understand why NPR is making this decision.

Turning to the Seattle Post Intelligencer, Bill Radke, a columnist, writes: ''Mornings Without NPR's Colonel Bob.''

He starts:

Bob Edwards has been canned, and there seem to be two types of people in the world: The ones saying, ''You've ruined my life, Bob's life, and the lives of everyone I know,'' and the ones saying, ''Who is Bob Edwards?'' Those who did not listen to Bob Edwards may now never know. Those who do, understand full well.

The Hartford Courant, in Connecticut, by Jim Shea:

It's not often that you can use the words National Public Radio and stupid in the same sentence but such an occasion has arisen:

National Public Radio's decision to replace ''Morning Edition'' host Bob Edwards is just plain stupid. What are you bozos who run NPR thinking? You know, we've really got to do something about the fabulous ratings we have.

Bob Edwards is not just the bright, witty, urbane, insightful and immensely likable host of ''Morning Edition,'' he is for the program's 13 million weekly listeners the voice of the morning.

There is something soothing, something comforting, something reassuring about stumbling from slumber into the gentle embrace of Edwards' mellifluous baritone that makes morning bearable.

He speaks for many people when he writes that.

Finally, on salon.com, Alexandra Marshall makes many of the same points about the importance of Bob Edwards' ''Morning Edition.''

Those who are following this debate may be puzzled as to why a Senator would stand up in this Chamber to make an issue over the replacement of a man who is, by all measures, just another voice in the morning. But Bob Edwards is not another voice in the morning. He is the voice we have counted on and the voice we rely on.

If he is as important to you as he is to so many of us, please, understand National Public Radio exists because of people like us who listen to it and contribute to it out of our own pockets, love it, and want it to continue to be the great institution which it is today. Those who are shareholders of National Public Radio by virtue of our contributions, if we disagree with this decision, have an obligation to tell the management right now.

I encourage those who feel as I do that the replacement of Bob Edwards is wrong, to do two things: First, go to your Internet, e-mail npr.org and let them know what you think; and second, call your local affiliate of the National Public Radio system and let them know this is a sad and sorry decision.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the submission of S. Res. 327 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

RECENT VIOLENCE IN IRAQ

Mr. LAUTENBERG. Mr. President, I would like to take a minute to express my outrage and the outrage of Americans across this country in seeing the mutilation and the horrible attack on the Americans who were serving, not in the military but serving their country nevertheless, and the gleeful crowd gathered around.

We have to remember that it was a relatively small group of people. But nevertheless, the deed was so horrendous that it is hard for those of us who live in a democratic environment, as we do, who live with the respect that we have for other human beings, to look at this and in any way understand what is happening.

So we send our condolences to those families who lost someone they cared about, and to lose them in some kind of atrocious assault we hope will serve as a reminder to all of us of what responsibility we took on when we entered Iraq and the things we should have tried to contemplate before we got to the point that we are.

One cannot criticize our military. I was in Iraq a couple weeks ago. Most of my colleagues have been there at one time or another to see the courage and the willingness to serve that we have with our wonderful young people there. I talked to them. I especially met with those service people who come from New Jersey, men and women. I was very impressed with the quality of their thinking, their education, their view of life and country.

I served in World War II. We were some 14 million in uniform. I enlisted when I was 18. I remember the associations and friendships I made in the small unit in which I served in Europe during the war. When I saw the young people who are serving us today, I was truly impressed with the quality of those who wore that uniform.

We now see the situation in Iraq is a very grim one. I am not sure that the turnover on July 1 to a ruling council, a governing counsel, can stem the tide of violence or reduce the volume of our responsibility. But I wish all of our people well and make a pledge here that I would like to carry back the message that I got from my conversations with some soldiers there.

I asked them to be frank with me and tell me what, if anything, they thought they needed. And they were reluctant at first. I asked whether the food was all right, the shelter was OK. Oh, yes.

But one young captain finally felt comfortable enough to speak. And he said: Yes, I will tell you what we could use, Senator.

He said: The flack jacket that is the best available out there is being worn by members of the coalition in some places, and we don't have those. They are lighter, they are more efficient, and I don't understand why we don't have them.

Fair enough. He said: You see this rifle?

I think it was an M–16, but they have changed considerably from the time I carried a weapon in World War II.

He said: I see members of the coalition with lighter, better aiming mechanisms than we have on these guns. They are easier to work with at any time. We don't have them, and I don't understand why.

When he talked about armored vehicles, he said they don't have enough of them. I was almost dumbstruck. I didn't know what to say because I know we have allocated lots and lots of funds. We have placed over $160 billion into the effort in Iraq, and we are about ready to place a lot more with a special allocation, a supplemental allotment. I asked our military leadership to tell us what it is that prevents us from delivering the kinds of tools, protections, and instruments that our people need to conduct their duty there.

I saw something in the paper last week that said much of the material we would like to have there is not sent because we don't have the transportation available. I think we ought to get after that problem. I pledge to do whatever I can to search out the reasons and make sure we expedite the process of getting our courageous service people, who serve us so well, the equipment and the support that is needed.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank the Senator from New Jersey for his leadership on this and so many issues. He expresses the feelings I have heard from soldiers returning from Iraq who are in Walter Reed Hospital recuperating, who are still strong in spirit and still dedicated to our country and hoping that we will help them win this battle and let them come home safely. There is a lot more we can and should do. I thank the Senator from New Jersey for his leadership in this area.

DIETARY SUPPLEMENTS

Mr. DURBIN. Mr. President, there has been an issue I have worked on now for almost 2 years relative to dietary supplements in America. We passed a law called the Dietary Supplement and Health Education Act in 1994. In passage of that legislation, we attempted to establish a standard for the legal treatment and regulation of dietary supplements. They are known to many Americans. It is a multibillion-dollar industry.

There are many of us who take vitamins and minerals and believe they are good for our health. I took one this morning. I hope it helps me. I don't think it will hurt me. For a lot of Americans, it is something they rely on.

There is another category that goes beyond ordinary vitamins and minerals, which are products known as dietary supplements. In many respects,

what they consist of are herbal extracts, so-called natural products that are put in combination and sold in stores with many claims about whether they can help you from a health viewpoint.

Most Americans who walk into a drugstore, pharmacy, or nutritional supplement store believe the products on the shelf being sold to them are, in fact, safe. They may believe they have been tested. They may believe the proper clinical evaluation has been done. They may believe the Government is monitoring whether there is something wrong with the drug that causes a bad health event. Those beliefs are right and true and accurate, when it comes to prescription drugs. They have to go through extensive testing before they are ever put on the market. The FDA and many agencies look at them carefully to make certain they are both safe and effective—in other words, that they will not harm you and, in fact, will do what they are supposed to do and help you. That happens for prescription drugs, and it is what happens to the key ingredients in over-the-counter drugs.

When you walk into a dietary supplement store, a health store, that is not the case at all. What you see on the shelves there are products which, by and large, have never, ever been tested. Never tested. The law we passed said the makers of those products, unlike the pharmaceutical companies that make prescription drugs and some over-the-counter drugs, have no responsibility to test their products for safety before they are sold to the public. In fact, the burden is shifted 180 degrees. The Food and Drug Administration of the Government has the burden to prove that what is sold on the shelf is unsafe.

Think about that for a moment. Think of the hundreds, thousands, tens of thousands or more dietary supplements for sale in the U.S., and you come to the obvious conclusion that there is no Government agency large enough to test every possible combination that can be included in a dietary supplement. So the simple fact is very few are tested.

This week, Consumer Reports magazine reported on the issue of dietary supplements. I think a lot of this magazine. I have subscribed to it over the years. I think what they present is done in a very dispassionate and objective fashion. In this issue, they identify the problem we face in America with dietary supplements. They note the fact that U.S. consumers, since passage of the law I mentioned earlier, have literally spent billions of dollars on dietary supplements. They say it is interesting that for 10 years, although the FDA had the authority to remove an unsafe dietary supplement from the shelf, they never did. I will quote:

> Yet, until very recently, the U.S. Food and Drug Administration had not managed to remove a single dietary supplement from the market for safety reasons.

> After seven years of trying, the agency announced a ban on the weight-loss aid ephedra in December of 2003. And in March 2004 it warned 23 companies to stop marketing the body-building supplement androstenedione (andro).

That is a steroid precursor. Here we have it on the books for 10 years, with thousands of products that fall under its purview, and only two have been removed. Frankly, what it comes down to is described later by Bruce Silverglade, legal director of the Center for Science in the Public Interest, a Washington, DC, consumer advocate group:

> The standards for demonstrating a supplement is hazardous are so high that it can take the FDA years to build a case.

Years—while the product is still being sold. How many people at the FDA are responsible for monitoring dietary supplements, a multibillion-dollar industry, with thousands of products? Their supplement division consists of about 60 people with a budget of only $10 million to police a $19.4 billion-a-year industry.

Consumer Reports goes on to draw this comparison:

> To regulate drugs, annual sales of which are 12 times the amount of supplement sales, the FDA has almost 43 times as much money and almost 48 times as many people.

So it is very clear this agency is not prepared and staffed and, frankly, doesn't have the authority to protect the American consumer. So what happens? People unsuspectingly go into these health food stores, vitamin stores, and see the dietary supplements with all sorts of claims on them; they buy them, they use them, and the consumers of America become the guinea pigs.

We are the ones who are testing these products to see if they are dangerous. You might say, if they are dangerous, if they hurt someone, clearly then the Government will take them off the shelf, right? No, I am sorry, that is not right because understand that the law we passed at the request of the industry does not require dietary supplement manufacturers to report to the Government when people are literally dying from the products they sell.

I am sure many people listening to this debate say that cannot be true. It is true.

Let me give a specific example. Metabolife International, a leading ephedra manufacturer, did not let the Food and Drug Administration know it had received 14,684 complaints of adverse events associated with ephedra products. But Metabolife 356, which you may remember, in the previous 5 years had received notice of 18 heart attacks, 26 strokes, 43 seizures, and 5 deaths. Under the law of the United States of America, Metabolife had no legal responsibility to tell the Government a product it was selling was killing people.

People listen to that and say that cannot be true, but it is. It is a fact.

When a Harris poll surveyed 1,000 Americans about what they thought the law was, they found 59 percent of them said they believe supplements must be approved by a Government agency before they can be sold. They went on to say 68 percent said the Government requires warning labels on a supplement's potential side effects or dangers, and 55 percent said supplement manufacturers cannot make safety claims without solid scientific support.

Sadly, every single response by the overwhelming majority of Americans was plain wrong. There is no Government regulation of the products, there is no requirement for warning labels, and these companies can make safety claims without solid scientific support. That is a fact.

It seems the Institute of Medicine has decided it is time for a change, a change I believe is long overdue. Today the Institute of Medicine released this report. It is a framework for evaluating the safety of dietary supplements. In the fall of 2000, the Food and Drug Administration contracted with the Institute of Medicine to develop a scientific framework for safety evaluation of dietary supplements within the confines of the law. They also asked them to test their framework on six commonly used dietary supplements. The report took more than a year longer to complete than was expected, but it is comprehensive and thorough. It contains many observations we need to scrutinize closely.

First, their framework depends on the collection of data that is not required to be turned over to the FDA by supplement manufacturers, namely adverse event reports.

The IOM report states that the first step in the process for reviewing safety is to look for signals of safety problems, including adverse events. What do I mean by an ''adverse event''? Does it mean if you have an upset stomach from a vitamin you have to report it to the Food and Drug Administration? Does it mean if you get dizzy from taking any kind of supplement, from garlic to fish oil, you have to call the Food and Drug Administration? No.

What I believe the standard should be is serious adverse health events. If you pass out, have a stroke, or heart attack, or die—serious things that can occur.

Lest you think this is something that does not happen, let me tell you the story of a young man, 16 years old, who lived a few miles from my home in Springfield, IL. Sean Riggins of Lincoln, IL, a 16-year-old high school student, played on the football team. He had a big game coming up. He went over to the local gas station—gas station, mind you—and saw a product on the shelf called Yellow Jackets. It was an ephedra product. Yellow Jackets were supposed to give him energy. This man thought: I need energy; I am going to play football. He purchased this product over the counter at a gas station in Lincoln, IL, washed it down with a Mountain Dew, which happens

to be loaded with caffeine, and started feeling sick. When he got to the football game, he didn't feel good at all. The next day, his mom and dad took him to the hospital, and later that morning he died from a dietary supplement with ephedra. Under the law as it is written, if the parents of Sean Riggins called the company that made Yellow Jackets and said, ''Your product just killed my son,'' that company would not be required under law to even report that to the Government. That is not right.

The Institute of Medicine report we are looking at today recommends that that change. Metabolife misled the Government. Companies that make products such as Yellow Jacket sadly are not much better.

Let me tell you about another company called Rexall Sundown. It marketed an ephedra product called Metabo-lite described by the Government as having adverse event reports. In other words, people were getting sick who took this product. We heard about it and requested the company provide us with information about the adverse reports, about people getting sick after they took this product.

The response I received was truly astonishing. The company said Rexall Sundown was a new company and had never sold ephedra products. Therefore, it never had any adverse event reports in their possession. They used the oldest trick in the book to shield themselves from liability for the dangerous products they sold. They had dissolved their old company, started a new one with the same name, and tried to escape any liability for the life-threatening products they had been selling. We tried to get more information from them and failed, but we will continue that effort.

Let me also say to people who said, ''Thank goodness, ephedra is off the market, so you can stop worrying,'' that is not the case. The same Consumer Reports magazine that is coming out has a table which I commend to everyone who takes dietary supplements. It is impossible to read this chart, I am sure, on television. I will summarize a few points of it for those who would like to understand what Consumer Reports, an objective magazine, says about 12 supplements. They said you should avoid these supplements.

A supplement that is ''definitely hazardous'' is aristolochic acid. This is something that is sold under a variety of names. They say it is a potent human carcinogen. It can cause cancer potentially, kidney failure, sometimes requiring transplant. The Food and Drug Administration warned consumers and the industry in April 2001. It has been banned in seven European countries and Egypt, Japan, and Venezuela. But it is still being sold in the United States. Aristolochic acid is also known as birthwort, snakeroot, snakeweed, sangree root, and so forth.

Then they list another group of ''very likely hazardous'' products banned in other countries where we have a warning from the FDA: Comfrey, which includes blackwort, bruisewort, and so many other herbal names.

Incidentally, let me say at this moment how difficult it is for consumers to follow this because they change the names on these bottles in the dietary supplement store, and you have no idea what you are buying. The Food and Drug Administration advised the industry take it off the market in July 2001, but it is still being sold. It creates abnormal liver function or damage, often irreversible, causing death.

Androstenedione, I mentioned this earlier. The FDA finally banned it in supplements.

Chaparral is another product which is sold under a variety of names. It causes abnormal liver function or damage, often irreversible. FDA warned consumers in December 1992.

Germander is another product banned in France and Germany.

Kava is an ingredient in a variety of products. FDA warned consumers in March 2002 to avoid it. It is banned in Canada, Germany, Singapore, South Africa, and Switzerland, but it can still be sold legally in the United States because the Food and Drug Administration does not have the power and the authority to police this kind of dangerous product.

Under ''likely hazardous'' products there is one I would like to speak to, bitter orange, citrus aurantium. You will find this in Metabolife Ultra. When they took ephedra out, they put bitter orange in, and there are a lot of other products, diet products, energy products. It can cause high blood pressure and increased risk of heart arythmia.

We wrote to seven companies that make supplements that contain citrus aurantium and asked them: What kind of tests did you engage in to determine whether citrus aurantium, which is now replacing ephedra, is safe? One of the CEOs wrote back and said: We have a scientific study to prove our product is safe. So we looked at the study. The study did not have anything to do with citrus aurantium or bitter orange. It was about the safety of using orange juice—orange juice—in drug metabolism studies.

We then contacted one of the scientists involved in this study and asked: Do you realize this company that is selling thousands of products worth millions of dollars is claiming your scientific study says citrus aurantium is safe?

This scientist came back to us and said: That is an improper use of that study to justify the sale of that product.

So there is no scientific basis for the safety that CEO asserted. These manufacturers are literally putting together dangerous and sometimes lethal combinations of chemicals and selling them under the banner of dietary supplements to unsuspecting American consumers.

For some consumers, it is a waste of money. For others, it is much more dangerous.

There are other products that are mentioned here. I am probably going to fail to pronounce many of them properly: organ/glandular extracts, Lobelia, Pennyroyal oil, Scullcap and Yohimbe. When one goes through these, they will find many of these have been banned in other countries.

One of the conclusions from the Institute of Medicine, after looking at dietary supplements, is unreasonable risk does not mean the Food and Drug Administration has to prove the supplement is harmful.

The report concludes, given the limited amount of data available, definitive statements judging safety of these products may be difficult to completely substantiate scientifically.

The committee determined that concluding a supplement presents an unreasonable risk does not require complete evidence a dietary supplement causes a serious adverse event. In other words, the unreasonable risk standard that is written in the DSHEA law is a standard which frankly is going to be a very difficult one for the FDA or others to prove.

So what they are suggesting at the Institute of Medicine is we look to a different and more reasonable standard. They also talk about premarket review of some of these products, which I think is something that needs to be done.

I particularly believe stimulants should be subject to premarket review so we have some testing to make sure they are safe so many of these products here, such as bitter orange, citrus aurantium, which cause an increase in blood pressure—and, frankly, I believe what they are suggesting in the Institute of Medicine report kind of parallels legislation which I have introduced—to try to bring some sanity to this industry.

This has been a battle which I have been engaged in for almost 2 years now. I know what happens when one takes on a giant industry in America, a multibillion-dollar dietary supplement industry. If one walks into most vitamin stores around America, they will find my name, not in a praiseworthy fashion. They are passing out leaflets saying: Write to DURBIN and tell him to stop taking away your vitamins and minerals.

It is a scare tactic. It is a scare tactic from an industry that should be running scared. There are good actors in this industry and there are bad actors, but unfortunately the bad actors are being protected by the good ones.

Right now I believe Americans should be able to buy vitamins and minerals which have been tested and proven, make their own choices about their own health, but I also believe this industry has a responsibility when it sells products that can be dangerous to Americans to do two things.

First, if they are selling stimulants they should be tested in advance so we

do not have another ephedra which is going to take the life of an innocent young boy in Lincoln, IL, or a major league baseball player like Steve Bechler of the Baltimore Orioles.

Second, I believe all of these dietary supplement manufacturers should have a legal obligation to report to the Food and Drug Administration when people get seriously ill or die as a result of taking their products. I think that is the least we should demand.

I am happy to see the Institute of Medicine creating momentum for Congress to finally make a decision. I am happy to see the administration, after more than a year of urging, finally banning ephedra, but more has to be done. Today as we speak, innocent children and consumers across America are buying products which they presume to be safe and they are not.

We have an obligation to American consumers to set a standard of care so they know when they make a purchase, whether it is in a drugstore or in a vitamin store, they are buying a product that is more likely to help them than hurt them. Sadly, the DSHEA law which currently exists does not meet that standard.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. COLEMAN. I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

GOPHER WOMEN BASKETBALL AND HOCKEY

Mr. COLEMAN. Mr. President, in these challenging times, it is always nice to rise to the floor of the Senate to speak about some good things, about the accomplishments of some of the folks from your State that elicit a great sense of pride.

Minnesota is the home to more than 15,000 lakes. It says on our license plates ''10,000 Lakes,'' but there are more than 10,000 lakes. Judging from the performance of our homegrown college athletes this winter, there might be something very special in the water. I congratulate Coach Laura Halldorson and the University of Minnesota Golden Gophers Women's Ice-Hockey team, which claimed its first NCAA championship this Sunday with a convincing 6-to-2 victory over Harvard University.

Finishing with a record of 30 wins, 4 losses, and 2 ties, a conference championship, and the top seed in the NCAA tournament, the Gophers did what so many No. 1 seeds often fail to do, they finished the job and they brought home the hardware.

I think Americans love an underdog, but we also enjoy marveling at excellence, and the women Gopher hockey team achieved this and they deserve our congratulations, they deserve our plaudits.

I wish to highlight the recent progress of women's hockey for a moment.

Hockey is to Minnesota what basketball is to Indiana or football is to Texas. Minnesota has been the center of the hockey universe for almost 100 years. Until very recently, women's college hockey was dominated by Eastern schools. In fact, Augsburg College was the first Minnesota school to field a women's hockey team in 1995. I can proudly say that since the inception of a NCAA Division I National Championship in 2001, no school outside Minnesota has won the national title.

The first three tournaments were won by the University of Minnesota-Duluth, which I had the pleasure of meeting last year.

The hockey rinks of Minnesota—and almost every town has at least one—have always been full of young ring rats wearing hockey jerseys with the names of Minnesota legends such as Broten, Bonin, Pohl, and Gaborik. Today, however, it is as common to see young ring rats skating around the ice with ponytails coming out of their helmets. I got my 14-year-old daughter her first pair of Betty hockey skates this winter, and she uses them proudly. They have the ponytails coming out their helmets. They are wearing names such as Brodt, Darwitz, Wendell, and Potter on their backs. Minnesota has always been the State of men's hockey. Now, thanks to the pioneers of women's hockey such as the women who just won the national championship, Minnesota can rightly claim to be the State of all ice hockey.

Switching from the hockey rink to the basketball gym, the story that has all of Minnesota abuzz right now is the Minnesota Golden Gophers women's basketball team's appearance in the NCAA Final Four. After earning a seventh seed in the regional tournament, Minnesota defeated the No. 3 seed, the No. 2 seed, and finally top-ranked Duke, 82 to 75, on Tuesday night. Prior to this year, the Gophers had never made it past the Sweet Sixteen in three previous NCAA tournaments. Now the Gophers will be the highest seed to play in a Final Four since No. 9 Arkansas in 1998. I believe they are the first No. 7 seed to play in the Final Four.

I had a chance to watch—not watch, I watched here in Washington—the game against UCLA with my daughter in Minnesota who, in addition to wanting to be a hockey player, wants to be a basketball player. On the phone, play by play, as we were talking about it, I just loved the sense of excitement.

I was unable to watch the game against Duke the other night; I had a speaking engagement at the time of the game. But I was anxious, when I checked my cell phone as soon as that speaking engagement was over, to hear first a message from my daughter, with just a couple of minutes left, that we were ahead and then this excited message that we won. We won. It is great to see young kids, young women look at other young women and look at their sense of accomplishment, athletic accomplishment and say, Boy, I would like to be like that. It is great to have role models, and we have them at the University of Minnesota now, led by second year coach Pam Borton and Most Valuable Player Lindsay Whalen, a young woman who broke her wrist and was out for a while and I believe the first game back in the tournament scored 31 points.

The Gopher women will face the University of Connecticut at 8:30 Minnesota time. I wish the team all the best of luck, and the thanks of millions of Minnesotans who will be glued to the television, cheering you on, including me and my daughter.

The University of Minnesota women's ice hockey and basketball teams have made all Minnesotans proud. A source of intense pride for all Minnesotans is that these championship teams are overwhelmingly comprised of Minnesota-grown young women. Eleven of the 14 players on the Gopher basketball team, and 12 out of 20 on the hockey team, are from Minnesota. These young women represent cities from corners of Minnesota, such as Fosston, Marshall, Stewartville, Moorhead, Hibbing, and the Twin Cities.

Congratulations to the University of Minnesota Golden Gophers women's ice hockey and women's basketball teams for their athletic success, and for, really, making all of Minnesota proud, doing such a fabulous job of representing Minnesota on the national stage.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, in the last couple of hours since we had our vote today, I have been asked by a couple of press people who are lingering in the hallways about the issue of obstructionism. Apparently, there are some who suggest there is obstruction going on in the Senate.

It is interesting to me that there are charges of obstructionism to the Senate's business. We are not voting today, really. We voted once on a cloture vote. We did not vote yesterday. Apparently, we are not voting now until next Wednesday.

Why is that the case? Because there was an amendment offered to increase the minimum wage, and the majority party did not want to vote on the amendment.

It seems to me if there is obstruction around here, it is obstructing the ability to have a vote on an amendment to

increase the minimum wage. The people at the bottom of the economic ladder in this country have not had an increase in the minimum wage for years. It is perfectly appropriate for us to consider that in the context of welfare reform.

So an amendment is offered; but because the majority does not want it to be voted on, business essentially is stopped dead on the floor, and there are no votes, and we are at parade rest for 4 or 5 days. If anybody is obstructing, I would say it is those who brought the welfare reform bill to the floor and then decided they did not want to vote on anything, and we go, day after day, with no votes. And those who create that situation now accuse others of obstructing.

I think it is a curious thing to do, but maybe there is a language here I have not yet learned and do not yet understand. But there is certainly no obstruction on the part of those of us who want to have a vote on the amendments we offered.

OUTSOURCING OF AMERICAN JOBS

Mr. President, we are going to be turning, we think, in the next week or two back to a piece of legislation that was on the floor of the Senate that was also pulled from consideration because they did not want a vote on an amendment that was pending. When that bill comes back that deals with the issue of tax incentives for foreign sales—when that bill comes back to the floor, I intend to offer an amendment dealing with an issue that has been discussed recently, and that is the movement of jobs from this country to overseas.

We talk a lot about the concern of the outsourcing of jobs. This country, as you know, has lost over 3 million jobs in recent years, the last 3 years or so, 3½ years, and we are now down a net roughly 2.5 million jobs. We gained a few jobs back, but we are about 2.5 million jobs less than we were 3½ years ago.

So the question is, will this economy create new jobs? We need them desperately. The other question is, why are we having policies in place that remain in place that actually incentivize the movement of jobs overseas?

Let me describe one of them I intend to fix with an amendment as soon as I have the ability to offer the amendment on the floor of the Senate.

Assume, for a moment, there are two businesses. Both produce garage door openers. They are both located in the United States. They both manufacture garage door openers, and they sell them in the United States. One of them decides they will move to China, so they move their plant to China. They fire their American workers. They hire workers in China. They make the same garage door opener in China and ship it back to our country.

There is one substantial difference now between those two firms, and that is the taxes they will pay on the profits they earn. The company that has moved to China to produce the product to ship back into this country will pay a lower U.S. income tax. In fact, they will largely pay no U.S. income tax.

We have a tax incentive in our law books that says: If you move your plant overseas and produce there for the purpose of shipping back into our country, we will give you a tax cut.

You talk about perversity, this is it. Our country says: We will reward you if you shut down your American company, your American business, move it to China, move it to another country, and ship the product back into our country.

Well, at a time when we are losing jobs and desperately need jobs in our country, the very least we should do—at least the baby step we ought to take—is to shut down the perverse incentive in our Tax Code that says: Ship your jobs overseas and we will give you a big break.

We will have an opportunity to vote on that. The Senate voted on that, actually, in an amendment I offered some years ago, and my amendment came up short. Perhaps having lost now 2.5 million net jobs in the last 3½ years, the Senate will come to a different conclusion. I hope that is the case because this issue of jobs is critically important.

TRADE AGREEMENTS

Mr. President, I have spoken often on the floor of the Senate about the subject of international trade. I will do so again briefly, just to say we have recently negotiated two free trade agreements, negotiated by the trade ambassador. I do not expect either, frankly, to come to the floor of the Senate this year. Why? Because I do not expect the administration, which negotiated these trade agreements, will want to have a debate on them: the Central American Free Trade Agreement and the Australian Free Trade Agreement. Why don't they want to have a debate on them? Because, like most recent trade agreements, they are not mutually beneficial; that is, beneficial to us and those with whom we negotiated the treaty. In most cases, they will end up costing this country lost jobs and large trade deficits.

I will not go into great discussion about the so-called CAFTA, Central American Free Trade Agreement, or to go back and talk about NAFTA, the North American Free Trade Agreement, both of which are terrible agreements, or the recent bilateral agreement we did with China, which is an awful agreement, or the agreement with Australia that really short-changes us in terms of what we should have required to have happen with state trading enterprises. I will not do that. But suffice it to say, I do not expect there to be brought to this floor a debate on this trade agreement by the administration because that is the last thing they want between now and this election, because it will be a significant debate about jobs and whether these trade agreements cost us jobs or gain jobs. The record is quite clear, we are losing jobs as a result of these many trade agreements.

We have the highest trade deficit in the history of this country, by far: a $470 billion trade deficit. Every single day—every single day—almost $1.5 billion in trade deficit; that is, goods we are importing in excess of goods we are exporting. Someday, someone has to pay the cost of that trade deficit.

Now let me describe my concern about this trade. I am not concerned about expanding trade. I happen to believe it is largely beneficial to expand trade. I think countries that engage in activities because of natural resources, and other things, where they have a natural advantage, that it makes sense for us to trade with them, and for those countries to trade with us in circumstances that are the reverse.

But that is not the case with most trade agreements today. In fact, the case is we have not a doctrine of comparative advantage, as Ricardo used to talk about nearly 200 years ago. The doctrine of comparative advantage is irrelevant. It is a natural advantage that becomes a political advantage by countries that create circumstances of production that are fundamentally unfair with respect to free trade.

An example: A country says: We will not allow workers to organize. If they try to organize, we will fire them. And, oh, by the way, we will not require the payment of any kind of a minimum wage. You can hire workers for 16 cents an hour, if you wish. And, by the way, there is no age issue with respect to child labor, so if you want to pay 16 cents an hour, and hire a 12-year-old kid to do it, that is fine as well. And, also, we will not require the workplace be safe. If you want to hire 12-year-olds, pay them 12 cents an hour, and put them in an unsafe workplace, that is all right, too. By the way, when you do it, and you have a 12-year-old working in an unsafe plant, working 12 hours a day, 7 days a week, you can dump the chemicals into the air and the water from that plant, and that is just fine as well.

Now if countries decide that is the condition of production in their country, and plants move to those countries to hire those workers so they can produce a product to ship back into our country, is that what we should aspire to have American workers compete with? The answer is, no, of course not. Yet that is exactly what is happening today. You think I am wrong? Check the facts. I am not saying in every factory they are hiring 12-year-olds, but I am saying it is happening in many parts of the world. I will give you one example I have used on the floor of the Senate previously to describe in more specific terms the way this works.

This is a picture of a Huffy bicycle. Most people know about Huffy bicycles—20 percent of the American marketplace. You can buy them at K-Mart, you can buy them at Wal-Mart, and you can buy them at Sears. Huffy bicycles used to be made in Ohio. They

were made by workers who made $11 an hour. They would get up and go to their jobs. I am sure they were proud of their jobs. They worked $11-an-hour jobs in Ohio to make Huffy bicycles. Right between the handlebars and the front fender they had a little insignia, a little metal insignia of the American flag.

Well, Huffy bicycles are no longer made in America. They are now made in China. The workers who made Huffy bicycles in Ohio were fired because $11 an hour was too much to pay someone to make a bicycle. Huffy bicycles are now made in China by workers who work 7 days a week, 12 to 14 hours a day, and are paid 33 cents an hour. In fact, Huffy bicycles no longer have the decal of the American flag between the handlebar and the front fender. They have a decal of the globe, descriptive, it seems to me, of what is happening to the elements of production and the manufacturing base in this country.

The question is this: Is it fair competition to ask workers in Ohio, making $11 an hour, to compete with workers in China who work 7 days a week, and make 33 cents an hour? Does that represent fair competition? Is that what we aspire to do? Or is this driving to the bottom the wages of American workers? And is it exporting the manufacturing expertise and base of the U.S. economy?

Globalization has happened quickly. The rules of globalization have not kept pace. We know that we don't want the product of Chinese prison labor to come in and hang on a store shelf in an American store and represent that as fair competition. Most all in the Chamber would probably agree the product of Chinese prison labor ought not be sold in this country because it is not fair competition. But then what about someone in Indonesia who works for 16 cents an hour? Is that fair competition for an American worker? Should we aspire to have an American worker compete in a circumstance where someone works 12 hours a day, sleeps in a bunker, 12 to a room, works 7 days a week in a plant that is unsafe?

The question of outsourcing of American jobs and the question of what is fair trade are questions that this Congress ultimately will have to answer because, if not, we will see a continued exodus from this country of jobs.

The economists, the so-called big thinkers who wear small glasses, tell us we are only talking about the outsourcing of low-tech, low-skill, low-wage jobs. That is absolutely untrue, flat out false. If those economists are still giving opinions and still making money, they should not be. I won't name the economists, but the economists who told us what would happen with the United States-Mexico trade agreement who were dead, flat out wrong. They said with that agreement we will import from Mexico the product of low-skilled, low-wage labor, and we will, therefore, benefit from that. It won't cost us high-skill, high-wage labor in the United States.

That is not true. The three largest exports from Mexico are automobiles, automobile parts, and electronics—the product of high-skilled labor. It has cost dearly American jobs.

There are so many elements to this that almost defy description. Part of it is the start of this process, when we negotiate the trade agreement. Let me give you one of the most idiotic provisions in an agreement I have ever seen. It was done a couple years ago. I have no idea which unnamed and unseen negotiator negotiated this, but we negotiated a bilateral trade agreement with China. And we have with China a very large trade deficit, now nearly $130 billion a year. So this is what our side agreed to: we will put a 2.5-percent tariff on Chinese automobiles shipped to the United States, and the Chinese will impose a tariff 10 times higher on any U.S. cars that we aspire to sell in China.

How would one come to that agreement with a country with whom we have such a large trade deficit? I have no idea. It is fundamentally incompetent to negotiate treaties that so undermine the basic manufacturing interests of our country.

Another example of automobiles—I don't come from a State that produces automobiles—is the country of Korea. I have a chart that shows what is happening with Korea. We import a substantial number of cars from Korea. Most people know the names of those cars. They buy those cars. We have ships coming across the ocean loaded with Korean cars. In fact, in a recent year, we had 618,000 Korean cars shipped in the U.S. marketplace for sale. Do you know how many cars we sold in Korea? Two thousand eight hundred. So there were 618,000 cars coming from Korea to the United States and 2,800 cars from the United States to Korea.

Why is that the case? Is it because Korean consumers don't want to buy American cars? No. It is because the Korean government has put up barrier after barrier to try to stop such sales. That is why you have a ratio of 217 to 1 Korean cars sold in the United States to U.S. cars sold in Korea. Why do we put up with it? It is because this country lacks the backbone and the spine and the will to demand fair trade and stand up for our products. If our producers can't compete, shame on us. Then we lose. But requiring our producers to compete when the game is rigged, saying our producers ought to compete, when foreign markets are closed to us, is fundamentally wrong. Yet that is what is happening. Japan, Europe, Korea, China—you can go right down the list.

I have mentioned a number of times that we have a trade regime in this country and people who work in that area seem to lack the stiff backbone that is necessary to stand up for our own economic interests. There is no evidence that we ever get tough with anybody, no matter the circumstances, because most of our trade policy is mushy-headed, foreign policy rather than sound, sensible economic policy.

We had a dispute with Europe on about beef trade, because Europe will not allow U.S. beef into its market. The WTO, for a change, ruled that the United States was right, and that we could retaliate on Europe for blocking our exports. And what do we do? We put tariffs on Roquefort cheese, goose liver, and truffles. That is going to scare the devil out of somebody, scare them with tariffs on Roquefort cheese, goose liver, and truffles, won't it?

Our country's trade officials don't have the foggiest idea how to deal with trade problems, whether it is standing up for beef interests in this country or standing up for manufacturers or the interests of workers. Our trade officials simply have been AWOL.

There is much to talk about with respect to international trade and jobs. The discussion about all of this relates to whether we have a job base to allow those who aspire to go to work to find a job. We have seen 2.5 million fewer jobs now than 3½ years ago, and at least a part of that is because we are outsourcing and seeing jobs move from this country to other countries.

At least two of the reasons for that are, one, we have a perverse Tax Code that actually rewards companies that move their jobs out of this country, and we ought to do something about that. And, second, we have basically incompetent trade agreements that fail to stand up for this country's economic interests.

My hope is that we could have a debate on trade in the Senate this year. It appears to me we are going to have a debate on virtually nothing. The minute someone offers an amendment, the others pack up their duffel bags and leave town. I don't understand it. Day after day we have no votes. Why? Because someone dared come to the floor to say, after 6 or 8 years, maybe we should have an increase in the minimum wage.

What does that do? It fills up airplanes leaving Washington, DC, because nobody wants to vote. And while they are out of town, they tell the press that those who offered the amendment are obstructionists, forgetting, of course, that the obstruction is really the refusal to give a vote to those who offered a very sensible amendment to the bill.

Most of us came here because we want to do serious things about serious issues. It would be good if, in the interest of this country, we could, in a spirit of some cooperation, decide here is the legislation we want on the floor, offer your amendments, have reasonable time agreements, have votes, and move on. Whatever the will of the Senate is, that is what we ought to do.

But instead, especially recently, we have seen a regrettable situation of the Senate deciding, if there is a controversial amendment that is offered, the majority doesn't like it, we will just stop working.

There is a lot to do. This country has an economy that regrettably at this point, while producing some growth, is not producing jobs. I just finished reading an article by an economist from the Reagan administration, Paul Craig Roberts, who was one of the architects of the economic strategy back in the 1980s. Paul Craig Roberts has it about right. He said this may well be an economic recovery without new jobs—a jobless recovery. And if that is the case, we are in trouble.

We need to search for ways to begin to create these jobs. If we have a recovery and no new jobs being created, we face some pretty difficult times. The American people want to go to work. These kids coming out of college want jobs. They want opportunity and hope. They want a good future. You do that by having an economy that produces jobs. There is no social program we discuss in the Congress that is as important or as productive as a good job that pays well.

That is what allows people to have a good life, provide for their family, and do the things they want to do. So the question for us is, what happened here? Why the disconnect? Why is an economy that is growing not producing jobs?

One answer is that we are seeing jobs moving to Sri Lanka, Bangladesh, China, Mexico—you name it. They are leaving. As they leave, a part of that departure is to be rewarded with a reverse tax cut, a tax incentive that says we will reward you while you leave.

We ought to close that now. We ought to go back and look at some of these trade agreements and decide whether it is in this country's interests not to be protectionist but to demand that the rules of trade be fair. If we are unwilling to do that, we are not going to see the creation of the kind of jobs that are necessary to restore the 2½ millions jobs that were lost and provide the additional jobs an increase in population requires year by year.

Mr. President, there are no votes today, tomorrow, Monday, or Tuesday. I guess the Senate comes back with perhaps a vote on Wednesday. I hope that perhaps we can start over and decide to treat seriously those things that are serious. There is such a tendency here to treat lightly those things that are serious and treat seriously those things that should be treated lightly. We never get to where we should be with respect to the interests of this country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

The Senator from Louisiana.

GET OUTDOORS ACT

Ms. LANDRIEU. Madam President, I rise with my colleague from Tennessee, to recognize the introduction of legislation in the House of Representatives today by Congressmen DON YOUNG of Alaska and GEORGE MILLER of California. The Get Outdoors Act is similar to an effort that many of us in the House and Senate were involved in during the 106th Congress.

I am particularly pleased to be joined by Senator ALEXANDER to announce our intention to introduce similar legislation in the Senate in the coming weeks.

The principles and concepts within this legislation from the 106th Congress were then and continue today to be one of the most significant conservation efforts ever considered by Congress. Our goal is to provide a steady, reliable stream of revenue to fund some of the most urgent conservation needs in the country.

The Get Outdoors Act, or GO Act, as the House bill will be referred to, is almost identical to the legislation considered by the House and Senate in the 106th Congress. That legislation had overwhelming bipartisan support. It was a landmark, multi-year commitment to conservation programs benefitting all 50 States.

The legislation we will be introducing uses a conservation royalty earned from the production of oil and gas off the Outer Continental Shelf for the protection and enhancement of our natural and cultural heritage, threatened coastal areas and wildlife habitat. It also reinvests in our local communities and provides for our children and grandchildren through enhanced outdoor recreational activities.

By enacting this legislation, we can ensure that we are making the most significant commitment of resources to conservation ever and ensure a positive legacy of protecting and enhancing cultural, natural, and recreational resources for Americans today and in the future.

As many of our colleagues will remember, during the 106th Congress the House of Representatives passed almost identical legislation by a vote of 315 to 102 and the Senate Committee on Energy and Natural Resources reported a similar version that had the support of both the Chairman and Ranking Member.

In addition, in September of 2000, a bipartisan group of 63 Senators sent a letter to the majority and minority leaders indicating their support to bring the bill to the floor. The effort was supported by Governors, Mayors and a coalition of over 5,000 organizations from throughout the country.

Unfortunately, despite that tremendous and unprecedented network of people who came together in support of the legislation, our efforts were cut short before a Bill could be signed into law. Instead a commitment was made by those who opposed the legislation to guarantee funding for these programs each year through the appropriation process.

However, as we have painfully witnessed since then, that commitment has not been honored. What has happened is exactly what those of us who initiated the effort always anticipated. Each of these significant programs has been shortchanged and a number of them have left out altogether or forced to compete with each other for scarce resources. So, today, the House has taken a great step to introduce similar legislation. The principle of the bill Senator ALEXANDER and I will soon introduce provides a reliable, significant and steady stream of revenue for the urgent conservation and outdoor recreation needs of our rapidly growing cities.

If we were to look at a map of the country and put lights where most of the population is, we would see a bright ring around the country because two-thirds of our population reside within 50 miles of our coasts. As a Senator from a coastal State, I understand the pressures that confront many of our coastal communities.

Today, with the price of oil near a 13-year high we should channel some of those revenues and re-invest them in our natural resources.

Some of the programs in the legislation we plan to introduce will include: impact assistance, coastal conservation and fishery enhancement for all coastal States and eligible local governments and to mitigate the various impacts of producing States that serve as the ''platform'' for the crucial development of Federal offshore energy resources from the Outer Continental Shelf. It does not reward drilling, but it does acknowledge the impacts to and the contributions of States that are providing the energy to run the country; flexible and stable funding for the State and Federal sides of the Land and Water Conservation Fund while protecting the rights of private property owners and with a particular emphasis on alleviating the maintenance backlog confronting our national parks; wildlife conservation, education and restoration through the successful program of Pittman-Robertson; urban parks and recreation recovery to rehabilitate and develop recreation programs, sites and facilities enabling cities and towns to focus on enhancing the quality of life for populations within our more densely inhabited areas by providing more green-spaces, more playgrounds and ball fields for our youth and the parents and community leaders that support them; historic preservation programs, including full funding of grants to the States, maintaining the National Register of Historic Places and administering the numerous historic preservation programs that are crucial to remember our proud past and fully funding the Payment In Lieu of Taxes program, or PILT, in order to compensate local governments, predominantly out west, for

losses to their tax bases because the Federal Government owns so much land in a number of those States.

While we confront the challenges of a war, budget deficits and a struggling economy, I believe it would be wise and we would show good stewardship to take this opportunity to set aside a small portion of the oil and gas royalties to our States and localities for initiatives such as outdoor spaces or recreation facilities where our children can play. The essence of this legislation, the American Outdoors Act, is to take the proceeds from a non-renewable resource for the purpose of reinvesting a portion of these revenues in the conservation and enhancement of our renewable resources.

We wanted to come to the floor today to share these ideas with our colleagues, to encourage their input and ask them to be a part of this unique conservation effort.

I would also like to add how much I appreciate the leadership of Senator ALEXANDER. I think we will make a great team and thank him for his cosponsorship as we attempt to move this legislation through the process.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, the Presiding Officer and I are new Members of the Senate, but we learn our lessons pretty quickly. One of the things you learn here is if you want to have an impact in the Senate, you have to put a focus on something you care about and then keep after it.

The Senator from Louisiana has done that. In her first term here she focused on the great American outdoors. Working with others, she came pretty close to passing an important piece of legislation 3 years ago.

There were some problems in it for Members of the Senate. It is my goal, working with her this year, and we hope with many others of our colleagues on the Energy and Natural Resources Committee and others of our colleagues on both sides of the aisle, to solve those problems and come up with legislation that represents the conservation majority, the huge conservation majority that exists in the United States of America.

The conservation majority of this country does not have a line down the middle with chairs on each side. It exists on both sides of every aisle and has broad support. We are good legislators, and if we are as good as we hope we are, we will be able to work and represent what our constituents would like us to do. So it is a privilege for me to work with Senator LANDRIEU. We both serve on the Energy and Natural Resources Committee. We are fortunate under Chairman PETE DOMENICI and ranking member JEFF BINGAMAN that we, most of the time, are able to work in a bipartisan way. So we are off to a good start in terms of fashioning a piece of legislation that will gain the support of our colleagues.

We are deliberately today not offering legislation. We want to discuss it first with members of our committee. We want to discuss it next with others, such as the Presiding Officer of the Senate, who has a long interest in conservation matters. We want her ideas and those of others. Then, perhaps in 3 weeks, after the recess, we will be able to come forward with a piece of legislation that has broad bipartisan support.

As the Senator from Louisiana said, this morning Congressman YOUNG of Alaska and GEORGE MILLER of California introduced the GO Act, the Get Outdoors Act of 2004. I believe they used it to emphasize we might do some work on this obesity problem that is really worrying us, in terms of health, if more of us spend a little more time walking outdoors, playing outdoors, and taking advantage of our country.

As the Senator from Louisiana said, the bill therefore will provide, I believe, about $3 billion in guaranteed annual funding for outdoor recreation purposes. It would be paid for, as she described, by what I think of as a conservation royalty. This is the way I think of it. It is a royalty on the revenues from oil and gas drilling on offshore Federal lands. After the royalties are paid to the landowner and after the royalties are paid to the State, this conservation royalty would be paid to a trust fund which would then spend the money for the benefit of conservation. Then, after that, the rest of the Federal revenues would go into the regular Federal appropriations process.

That is the way I like to think about it and I hope that is the way a majority of the Members of the Senate will want to think about it as well.

As the Senator said, we will be discussing these concepts that she so well outlined with our colleagues. And we hope they will join us as cosponsors. As she said, our bill will be similar to that which was introduced this morning in the House of Representatives, but it will not be the same.

In addition, it will be similar to the so-called CARA legislation that Senator LANDRIEU and many others worked hard on 3 years ago, but it will not be the same. There are some lessons that we need to learn from what happened 3 years ago.

For example, the cost of the Senate legislation may not be as much as the cost of the legislation offered in the House. That is yet to be determined.

In addition, as the Senator said, we intend to discuss with our colleagues whether States should have the option, for example, of spending the Federal share of the Land and Water Conservation Fund for maintenance of Federal lands rather than for acquisition.

I have learned over the years that there is a big difference of opinion between Senators from the West and Senators from the East about the acquisition of Federal lands. In North Carolina and Tennessee, we don't have much Federal land. So a lot of us—even many of us conservative Republicans—would be glad to have a little more. Out West there are a lot of people who think the Federal Government not only has enough but it has too much, and they don't want to see legislation that would acquire more.

We need to take that into account as we develop a piece of legislation that will represent the conservation majority but do it with respect for those States that are already largely owned by the Federal Government.

Our legislation, like that proposed in the House, will ensure that State and Federal parts of the Land and Water Conservation Fund will fulfill the intention that Congress originally envisioned. It will provide for wildlife conservation. That will benefit hunters and fishermen. There are more hunters and fish people with hunting and fishing licenses in Tennessee than there are people who vote. I am not sure that is a statistic to admire, but it is a fact, and it is one to which I pay attention. Bird watchers and all Americans who enjoy outdoor recreation will benefit from this legislation. It will provide funds to establish city parks so the children in and around our metropolitan areas can have decent, clean places to play; so families can have decent places to go; and so senior Americans can have decent, safe places to walk.

Someone once said Italy has its art, England has its history, and the United States has the Great American Outdoors. Walt Whitman wrote, ''If you would understand me, go to the heights or watershores.''

Our magnificent land, as much as our love for liberty, is at the core of the American character. It has inspired our pioneer spirit, our resourcefulness, and our generosity. Its greatness has fueled our individualism and optimism and has made us believe that anything is possible. It has influenced our music, literature, science, and language. It has served as the training ground of athletes and philosophers, of poets and defenders of American ideals.

That is why there is a conservation majority—a large conservation majority—in the United States of America.

That is why so many of us, as the Senator from Louisiana said, feel a responsibility in our generation to ensure to the next generation the inspiration of the dignity of the outdoors, its power, its elemental freedom; the opportunity to participate in the challenges of its discovery and personal involvement; and the fulfillment that is to be found in the endless opportunities for physical release and spiritual release.

Some of the words I just used came from the preamble of President Ronald Reagan's Commission on American Outdoors, which I chaired in 1985 and 1986.

In 1985, President Reagan asked a group of us—I was then the Governor of Tennessee—to look ahead for a generation and see what needed to be done for Americans to have appropriate places to go and what they wanted to do outdoors.

Our report, issued in 1987—very nearly a generation ago—recommended

that we light a prairie fire of action to protect what was important to us in the American outdoors and to build for the future. We focused on the importance of a higher outdoors ethic, suggested an ''outdoor corps'' to improve recreational facilities. We examined the role of voluntarism. We pointed out that the park most people like is the park closest to where they live and how important it is, therefore, to have urban parks as well as great national parks. We warned of how the liability crisis and runaway lawsuits threatened our outdoor activities and called for a new institution or set of institutions to train leadership for outdoor recreation.

We formed State commissions, such as Tennesseans Outdoors, which went to work with the same objectives in our own State that we had in our national Commission.

We envisioned a network of greenways, scenic byways, and shorelines. Most of the action we suggested was not from Washington, DC, but was community by community by community.

But we also acknowledged the important role the Federal Government has to play in providing outdoor recreation opportunities. Of course, we must have clean air and clean water, and we must protect and enhance recreation opportunities on Federal lands and waters.

Almost all of us on the Commission called for the creation of a $1 billion fund to fully fund the Land and Water Conservation Fund—both the State share and the Federal share. This is a way of balancing our need for more oil and gas with our need for recreational opportunities in the outdoors.

As I mentioned earlier, I think of these annual payments from the revenues derived from offshore drilling for oil and gas on Federal land as a royalty payment. Pay the owner a royalty, pay the State its royalty, then pay a conservation royalty for the use of that resource. Then the rest of those revenues go into the Federal Treasury to be appropriated. Pay a $3 billion annual conservation royalty—that is the number that the House bill uses—before it ever gets to the Federal appropriations process. Then appropriate the rest.

I believe this legislation will have broad bipartisan support in the Senate.

I look forward to working with Senator LANDRIEU, Chairman DOMENICI, with our colleagues on the Energy and Natural Resources Committee, and with all of our colleagues on both sides of the aisle to fashion legislation that is good legislation, that represents the overwhelming conservation majority in the United States of America, and which can pass the Senate and the House of Representatives this year.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I commend my colleague, the Senator from Tennessee, for his leadership—as I said, for not just this year and the years he has been in the Senate but for his years of service in Tennessee, and as Chairman of this important Commission that outlined some of the principles we are talking about and searching for solutions to today; and for his eloquence in reminding us that even more than good stewardship is required.

One particularly fresh idea that he has brought to this effort is the conservation royalty.

I think we can begin to see that the companies are not only paying a royalty to the Government, but they are paying a royalty to future generations through conservation. I think it is royalty they would gladly pay. We are not asking them to pay more than they are today. But a portion of what they pay today.

I thank the Senator for his leadership, and I look forward to getting, as we said, ideas from our colleagues, taking it to the Energy Committee and developing broad bipartisan support. Even in these days of tight budgets, we can think about setting aside a portion of these revenues which are not insignificant. As you know, last year we generated $6 billion off the coast primarily of Louisiana, Texas, Mississippi, and Alabama, while still honoring the moratorium that is in place along the western coasts the eastern coasts and Florida. Even honoring the moratorium in place, we still were able to generate billions of dollars. Hopefully through this legislation we can dedicate that conservation royalty, a portion, to the worthy causes.

I thank the Senator.

Mr. ALEXANDER. Madam President, I thank the Senator from Louisiana.

Her comments make me think of this report. Let me hold this up. So staff will not worry, I will not ask to put this in the CONGRESSIONAL RECORD. There is a summary I will bring to the Senate when we introduce the bill. This is the report of President Reagan's Commission on Americans Outdoors, published in 1987. It is a very good resource and backup for many of the ideas we envision being part of this legislation.

I learned very quickly as Chairman of this Commission that most of the decisions we have to deal with in environmental and conservation matters involve balance. Senator LANDRIEU and I know, because of our service on the Energy and Natural Resources Committee, as we work hard to try to develop a national energy policy, that we are having a difficult time as a country compromising, creating balance between our need to produce and our need to conserve.

I certainly do not want to draw into this discussion all of those arguments. I will say very little more about it except it would be nice to find in this contentious Presidential year, in this time when we have so much disagreement about energy production and conservation, one area where we could show we are skilled enough as legislators to properly represent the huge conservation majority in the United States.

Most Americans, as President Reagan's Commission thought and almost all Members thought, of course, we have to drill for oil and gas; otherwise our natural gas prices are going through the roof; our jobs will be in Mexico; our lights will be out. Of course we have to do that.

Is that an insult to the environment? Yes, it is. What do we do about it? Shut down the wells? No, one thing we can do is take some of that money—actually a lot of this money—and pay a conservation royalty, compensate for that by creating a conservation benefit on the other side. This idea of the land and water conservation fund has been endorsed by politicians of both parties for a long time. What we are trying to do today is assure a steady stream of revenue to the State and Federal side of the conservation fund, plus a number of other conservation areas, in a way that respects each of our States. We can do it. There is enough of a majority; we can do that.

President Reagan's Commission on Americans Outdoors from 1985, 1986, and 1987, and the work that Senator LANDRIEU and the majority in both Houses did, form a wonderful beginning. We will see in the next few weeks if we are wise enough to take that to a successful conclusion.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. DOLE. I ask unanimous consent that the order for the quorum call be rescinded.

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

FALLUJAH DEATHS

Mrs. DOLE. Mr. President, I watched with horror yesterday as the media displayed the images of crowded streets, in Fallujah—and burning bodies in the center of that horrific celebration. In the middle of that city that is part of the volatile Sunni Triangle, four Americans were attacked, executed, and then burned as a mob of Iraqis danced around the corpses.

I found it hard to believe I was watching a news program, given that the scene playing out before my eyes looked far more like a gruesome movie than tragic reality.

Sadly, it was a reality—and that reality continues today. Families have been notified that their loved ones were among the four casualties and are mourning the loss of these brave souls.

My home state of North Carolina grieves today as well. The four men who were brutally assassinated yesterday were employees from Blackwater Security Consulting, based in a city in northeastern North Carolina. Preliminary reports tell us that three had been Navy SEALs and one had been an Army Ranger.

The four contractors were stationed in Fallujah to provide a convoy of security—the very purpose of their presence was to protect the lives of Iraqi men and women and they in turn were subjected to such barbaric and despicable acts.

Yesterday's attack on these innocent men only further illustrates the evil influence Saddam Hussein still has over so many Iraqis. We are told that the 150,000 residents of Fallujah are being held captive by a brutal regime that wants nothing more than to return to the past days of tyrannical rule and streets of violence. The perpetrators of these ghastly acts hate freedom, loathe democracy and wish to turn back the clock—it is important to say now more than ever that we will not let this happen.

Mr. President, the horrific slaughters yesterday will not weaken the American resolve to bring order, democracy, and peace to this war torn nation. The criminal who orchestrated these murders are few—and the Iraqis who stand firm against such violence are the men and women we are seeking to serve as the Coalitional Provisional Authority acts to establish stability in the middle of chaos.

As peace and order are brought to all regions of Iraq, may justice arrive alongside them. It is my sincere hope that those responsible for these attacks will not escape punishment. Let our response be swift and just.

While I wish there were more I could offer to the families who grieve the horrific loss of their loved ones, my condolences and my prayers are all I have. My heart aches for the tears of so many—and my earnest prayer is that we see the end of these tragedies as brave Americans continue their work in Iraq. I deeply believe in their mission and in the cause of democracy, freedom, and peace.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CRAIG. I ask unanimous consent to speak for not more than 15 minutes as in morning business.

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

ENERGY PRICES

Mr. CRAIG. Madam President, I have spoken in the last 3 days about the current price crisis this country is experiencing with the critical resource energy. The American consumer is going to the pump in their local community today to refuel their car and paying record high prices; in fact, the highest ever recorded on average in our history. I would hope they are beginning to ask the question why, why is this happening and why am I having to pay another $5 or $6 per tank of gas, an average of maybe $15 or $20 or $30 a month more.

In fact, I and the chairman of the Energy Committee, PETE DOMENICI, and others, held a press conference to speak to the issue of energy and why the Senate was not yet debating a comprehensive energy bill that is ready for us to debate once again and vote on.

At that time I mentioned the average consumer today will pay, as an individual, $300 or $400 more a year for the price of energy, and collectively, as a family, they may well pay more than that. When you consider their electrical bills and space heater bills, the average family is going to pay considerably more this year. That is money that won't come as a result of having a pay raise and, therefore, having the money to offset those costs. Those are dollars and cents that are going to come directly out of the family budget this year. It will have a substantial impact on that family's ability to do what they did a year ago, whether it was providing food for the table, clothes for their children, or maybe the family vacation, or the recreational value they place on a certain activity that would cost them a certain amount of energy.

I mentioned some days ago that I think probably families are already, if they own a motor home, recalculating whether they will actually be able to take that home and go someplace in the country this summer because of the potential cost, additional cost that 15 or 20 cents on a gallon of gas will mean this year. Those are all very real issues and some that clearly this Senate ought to address.

I have said for that average consumer who is asking the question why, I have an answer. The answer is that the Senate of the United States has refused to bring out and pass and set on our President's desk a comprehensive energy bill that addresses those and other issues that in the long term will get us back into the business of producing energy for our country and becoming less dependent on foreign supplies and, therefore, certainly dependent upon ourselves more than others. It is an important issue that we have before us today.

We have even seen it now break into Presidential politics, as Senator KERRY speaks of ways he can propose to bring down those prices. I have noticed he has not talked about production. He has not talked about increasing production. So there are going to be a lot of schemes. I use the word ''scheme'' because some are scheming at this moment as to how they might turn this to their political advantage, tragically enough; that is, the price of energy at this moment.

Why don't they just stop and ask the Senate why they can't pass a comprehensive national energy policy for our country? We have been 14 years without any new directions or new ideas as it relates to energy production, and it is clearly time we speak to that. There is a proposal that has just been brought forth. It is called the Gasoline Free Market Competition Act of 2003. Each time we see something like this as an idea, it is important that we put it in the right context. Each time a government agency investigates gasoline prices—and there have been 29 such investigations by Federal and State agencies over the past several decades—the findings literally have been all the same. The market controls the price of energy, not some unscrupulous producer. It is the market forces that ultimately produce the price at the pump.

The purpose for antitrust law is to protect the interests of the consuming public, not to increase the profit of any level or type of distributions, which is what happens in the legislation I have mentioned, which is S. 1731. That particular legislation would try to dictate refiners' distribution practices. I don't think our Government ought to ever get into the micromanagement of a marketplace. Our goal—and it always should be our goal—is to create transparency in the markets so all of the parties involve can understand them.

As noted in a recent economic study on ''The Economics of Gasoline Retailing,'' a Dr. Andrew Kleit, professor of energy and environmental economics at Penn State University, puts it this way:

> There is a difference between protecting competition and protecting competitors. Protecting competition means moving to provide consumers with the lowest sustainable prices, not protecting the profits of any level of production or any individual firm.

Professor Kleit's analysis shows that eliminating the ability of refiners to restrict where their brands can be distributed, as proposed in S. 1737, would likely reduce refiners' investment in distribution outlets and ultimately harm consumers.

From a competitive point of view, Professor Kleit says, ''these calls [for this type of distribution concepts in legislation] are [clearly] misguided.''

The strategy at issue is the result of competition between various forms of distribution in gasoline marketing. This competition promotes efficiencies which benefit consumers by bringing products to market for less cost. My fear is S. 1737 would not protect competition, only some of the competitors.

That is clearly where we ought not be going. But what I think S. 1737 really does is it tries to speak to a market today that is a product of Government interference in the past. By that I mean standards and new standards that do not allow the normal marketplace to flow and that, ultimately, confuse the process and create dislocations, whereas a more free market approach certainly would allow that to happen.

As we have seen in recent years, the Federal Trade Commission has carefully studied many of the proposals about mergers within the industry. In many instances, the FTC has required

companies to sell assets to new competitors as these mergers occur. Let me give some examples.

For example, the Exxon Mobil merger in 1999 resulted in the largest retail divestiture in FTC history—the sale or assignment of approximately 2,431 Exxon Mobil gas stations in the Northeast and mid-Atlantic, some 1,740; California stations, some 360; Texas stations, 319; and in Guam, 12; and the sale of Exxon refineries in California, terminals, a pipeline and other assets.

So my point is, while we may try to micromanage and use that as an excuse or an attempt to help the marketplace, what the FTC has done relating to these mergers has in part done that. In other words, we have given them the authority to do so.

Similarly, when British Petroleum merged with Amoco in 1998, they agreed to make certain divestitures to free up more than 1,600 gas stations in 30 markets in order to satisfy FTC concerns that their merger would substantially lessen competition in certain wholesale gasoline markets.

Let's stop passing the buck on energy prices.

Let's stop attempting to tinker with the energy bill and apply untested concepts and theories in the hope that we can create the perfect bill while our citizens are being crushed by high energy prices.

Let's pass the energy bill and implement the energy policies included in that bipartisan piece of legislation.

Let's stop the partisan rancor and do what our constituents sent us here to do—protect their jobs, protect their quality of life, and protect their security by passing this energy bill.

While many Senators may come to the floor well meaning in the next several months to find some political safe haven in which to address the issue of high energy prices, there really are not any. Nobody is scheming today. Nobody is glutting the marketplace. The reality is a problem of supply and demand. While I am quite sure you will have some State attorneys general out there calling for investigations, the problem is supply and demand. It clearly is that, and there is no other argument that can really fit or begin to explain why we have record high gas prices.

This Senate needs to pass a comprehensive energy bill, and we have one. It is ready to come to the floor. We are being denied that opportunity to bring it to the floor. All I am saying is use due caution as it relates to all kinds of new ways to argue the problem in the marketplace. But when you don't have enough supply of product or crude to go around, when you have world demands and us now depending on a world market for our supply of crude, we have a problem. This Senate refuses to address that problem.

I hope in the coming days as gas prices continue to spike, consumers will ask the question why, and turn to the Senate and say very simply: Do something. Pass a national energy policy. Put it on the President's desk and allow this country to get back into the business of production and meeting the supply to the market, instead of trying to find a scheme or another excuse that will only be a short, limited political ground on which to stand.

I believe there is no place to hide today and no Senator can have that opportunity. The vote has been on the record. Let's change the record and improve the record by the passage of a national energy policy that will once again put our country in the business of energy production.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

(The remarks of Ms. LANDRIEU pertaining to the introduction of S. 2274 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

JOBS CRISIS AND INDIFFERENCE TO WORKING FAMILIES

Mr. DASCHLE. Mr. President, in the last 3 years, America has lost nearly 3 million private-sector jobs, including nearly 2.9 million good manufacturing jobs.

The Bureau of Labor Statistics says there are 8.2 million Americans out of work today.

But that doesn't include the millions of ''discouraged workers'' who have stopped looking for jobs. And it doesn't include millions more who are underemployed.

All together, nearly 15 million American workers today are unemployed, under-employed, or have given up looking for work.

A month ago, the President's Council of Economic Advisors released its annual report on the economy. It predicted that the economy would create 3.8 million new jobs this year.

The President's own Labor and Commerce secretaries refused to endorse that prediction. Then the President himself backed away from those numbers.

After 3 years of promising jobs that never materialized, the Bush administration won't even predict anymore how many jobs their policies will create.

Last month, the economy added only 21,000 new jobs—every one of them in government. 21,000 new jobs. That is one job for every 389 Americans who need jobs.

All over America, people who have lost jobs are draining their savings accounts, tapping their 401(k)s, and running up expensive credit card debt to try to make ends meet.

The average length of unemployment is at a 20-year high.

When people finally find work, it often involves a substantial cut in pay. Jobs in growing industries pay, on average, 21 percent less than the jobs in industries that are shrinking.

We have a jobs crisis in this country. And it is not just unemployed workers who are feeling the pain.

With wages stagnant or falling, and health care and child care costs rising, many parents are working longer and harder than ever—and it's still not enough.

Consumer debt is at an all-time high. Home mortgage foreclosures, car repossessions, and credit card debt are all at record levels.

Millions and millions of American families are just one health crisis, one pink slip, or one bad break away from financial disaster.

You would never know any of this to look at the agenda of the Bush administration and Congressional Republicans.

The President and Congressional Republicans tell us, ''don't worry, the economy is getting stronger.''

Getting stronger for whom?

Not the millions of Americans who are unemployed and underemployed. Not the workers whose jobs are being shipped overseas with help—help—from this administration.

Not the 43 million Americans who can't afford health insurance and are living with the daily dread that one serious illness or accident could put them in a financial hole they will never dig their way out of.

America's families need jobs. And workers who have lost their jobs need help until they get back on their feet.

They need unemployment insurance, job training, and health care until they can find their next job.

Yet, this week, instead of just ignoring the economic stress so many American families are under, the Bush administration is knowingly, deliberately, increasing that stress.

Yesterday, the Federal unemployment insurance program expired.

Despite repeated Democratic efforts to extend the program, the Bush administration and Congressional Republicans have refused.

As a result, over one million workers have seen their unemployment benefits expire over the past 3 months, and nearly one million more will see their benefits expire in the next 3 months.

Last week, the President's Commerce Secretary said President Bush would sign an extension of the Federal unemployment program if Congress passed it.

So I urge President Bush to use his powers of persuasion to convince the Members of his own party to extend unemployment benefits.

It is wrong to punish workers who can't find jobs in a jobless recovery.

There is something else the President should do.

President Bush should make it clear that he will not strip overtime pay protections from one American worker. Not one.

Any day now, the Labor Department is expected to issue new regulations that could deny 8 million American workers their right to overtime pay. Those regulations were expected to be released yesterday, but they have now been delayed for some reason.

Bipartisan majorities in the House and the Senate voted last year to overturn the Bush regulations stripping workers of their overtime protections.

But the White House worked behind closed doors with Republican leaders in Congress to push the regulations through anyway.

If they have their way, up to 8 million workers—including firefighters, nurses, store supervisors and others—will lose their overtime pay.

Overtime pay isn't for luxuries; it is essential family income that's needed to pay mortgages, tuition, grocery bills, utility bills, health insurance premiums, and prescription drug costs.

For eligible workers, overtime pay makes up, on average, 25 percent of their income.

Last week, Republican leaders in the Senate actually pulled the JOBS bill to avoid voting on a Democratic amendment that would have preserved the overtime rights of American workers.

The Bush administration would rather force American companies to pay tariffs on the goods they sell in Europe than protect the overtime pay of American workers.

That shows how deeply out of touch this administration and its allies in Congress are with the real needs of average working Americans.

There are other signs as well. Two days ago, the Senate voted overwhelmingly to increase child-care funding in the welfare bill so that mothers who are moving from welfare to work won't have to leave their children home alone or with strangers.

Even though States are slashing funding for child care, the Bush administration insisted that no more money for child care is needed. If their view prevails, 450,000 children would be forced out of child care. That is how out of touch they are with this economy.

This administration has also refused, repeatedly, to raise the minimum wage.

It has fought to deny the earned income tax credit for low-income parents—at the same time it insists on more and bigger tax cuts for the wealthiest one percent.

The President's economic advisors even suggested re-classifying Burger King jobs as manufacturing jobs to try to disguise how many manufacturing jobs America is losing.

I have some advice for them: Forget about creating better-sounding statistics and figure out how to create better-paying jobs here in America.

Millions of Americans are hurting and need help.

I urge the President and the members of his administration, and Republican leaders in Congress, to listen to them and extend the federal unemployment insurance payments, stop this effort to deny working people overtime pay, work with us in a bipartisan way to create and keep good jobs here in America and make affordable health care and child care available for working families.

VIOLENCE IN FALLUJAH

Mr. President, today, I offer my condolences to the families of the nine Americans who lost their lives in Iraq yesterday.

Five Marines were killed in the most deadly car bombing our forces in Iraq have yet seen in the 11 months since the fall of the Saddam Hussein regime.

In addition, yesterday four private security contractors were attacked and brutally killed by a mob in Fallujah.

The barbarity of these acts is shocking, and it reminds us of the courage of the men and women—both civilian and military—serving in Iraq, working to bring freedom to the Iraqi people.

Every day, our soldiers and the private contractors engaged in the work of serving our military and rebuilding Iraq face the fear of violence.

Yet every day, they go about their work with skill and resolve because they understand that their efforts are building a safer Iraq, and a more secure Middle East.

The cost to our Nation has been profound.

Six hundred American service men and women have lost their lives since the beginning of hostilities.

Over 3,000 soldiers have been wounded.

Just over the weekend, in fact, a young man from my hometown of Aberdeen, SD, Sergeant Sean Lessin, sustained a severe head injury in the course of his duties in Iraq.

Sgt. Lessin is a member of the 147th Field Artillery Unit and is now receiving treatment at the U.S. Military Combat Support Hospital in Baghdad.

Our thoughts and prayers go out to Sgt. Lessin and his wife Jessica in Aberdeen.

Someone once wrote that ''True heroism is remarkably sober, very undramatic. It is not the urge to surpass all others at whatever cost, but the urge to serve others at whatever cost.''

The Americans who lost their lives yesterday—indeed, all those serving their Nation in Iraq—are true heroes.

At times such as these, when our Nation faces great challenges, the loss of such heroes is particularly painful, because they are so rare, and so important.

To the families of those killed, we offer our deepest condolences and our unbounded thanks for the sacrifice your loved ones have made.

To the men and women still serving in Iraq, you have the thanks and admiration of your Nation.

We recognize the escalating violence you face, and we will spare no effort to ensure that you have every tool, every resource, every possible advantage we can offer to help you complete your work and return home safely to your loved ones.

America will not be intimidated by barbaric acts whose only goal is to spread fear and chaos throughout Iraq.

Yesterday's events will only serve to strengthen America's resolve and seal America's unity.

The brave people who lost their lives did not die in vain.

Americans stand together today and always to finish the work we started and bring peace and democracy to the citizens of Iraq.

I yield the floor.

Mr. ALLEN. Mr. President, I rise today in support of the Senator WYDEN's amendment to the PRIDE Act that provides States the option to extend current TANF waivers and create additional waiver authority.

Virginia has been a leader in many important national reform movements throughout the history of our country. In February of 1995, during my tenure as Governor of the Commonwealth, Virginia enacted one of the most principled, tough, comprehensive welfare reform measures in the United States. It was a tough fight to get this measure passed by a Democrat led General Assembly.

Many other States enacted successful reforms and our approach and that of Wisconsin and Massachusetts served as a model for the entire Nation and encouraged self-sufficiency, the dignity of work and the pride of independence rather than dependence.

The ''Virginia Independence Program'' transformed an outdated welfare system that was failing taxpayers, sapping initiative from welfare recipients, and breaking up families. I have had many former welfare recipients thank me for ending the downward cycle of dependency and despair.

Unlike the Federal work requirement outlined in the 1996 law, able-bodied recipients in Virginia were required work within 90 days, the State had a 2-year limit on benefits, with transition assistance in the third year and promoted individual responsibility by allowing no increase in State benefits for recipients who have more children while receiving welfare.

Vital reforms were made for children. Virginia ended the marriage penalty, increased enforcement of child support by suspending professional and driver's licenses for ''deadbeat'' parents, required mothers to identify the father to receive benefits, or receive no benefits—this led to 99 percent identification and more child support.

Finally, the law required that minor-age mothers having children while on welfare must live with a parent or guardian and stay in school, more commonly referred to as ''Learnfare''.

These reforms resulted in a 60 percent decrease in welfare rolls, and saved more than $357 million in taxpayer funds in Virginia which were used for other priorities in education and law enforcement. Ultimately, I measure our success not by how many people are receiving welfare checks, but rather by how many people are leading independent, self-reliant lives.

Virginia's trailblazing welfare reform has been extremely successful in setting the stage for Federal welfare overhaul, significant declines in welfare roles nationwide, and increasing the number of former welfare recipients getting back to work. Virginia's waiver from Federal law has enabled much of the success in requiring able-bodied men and women to work for their benefits.

With the passage of the Federal welfare reform in the fall of 1996, Congress intended to give the States flexibility with the law. Flexibility through these waivers has allowed States the ability to develop innovative programs that best serve their citizens. Fifteen other States opted for waivers. Indeed, Virginia has far exceeded the goal of the Federal welfare legislation offering Virginians the best tools to provide for themselves and their families.

As of June 2003, Virginia's welfare waiver expired. It is imperative that the PRIDE Act, a continuation of welfare reform started in 1996, include waivers for States that have taken the initiative to make comprehensive welfare reforms. We need to ensure that States can continue to encourage independence through work, promote families and marriage and guarantee child-support enforcement.

I urge my colleagues to support this amendment so that States can maintain these positive results and successful welfare reforms.

UNEMPLOYMENT COMPENSATION

Mr. BINGAMAN. Mr. President, I rise today in support of the extension of the temporary extended unemployment compensation program, which expires today. I support this effort because, in my view, we still face an extremely serious problem of unemployment in the United States, specifically as it relates to the number of workers who have exhausted their unemployment insurance benefits and are still unable to find work.

The Democrats have tried to extend this program through unanimous consent at least a dozen times this winter and the effort has been rejected by Republican leadership every time. We tried in February of this year. We tried in January of this year. And we tried a number of times in November 2003. Each time the other side of the aisle said the program was no longer needed. Even worse, they said that extension of the program would only give incentives to workers to stay home instead of look for work. This is a very different view of American workers than I have.

According to the latest data from the Department of Labor, between December and February there will be at least 781,000 workers that will have exhausted their regular State benefits and will go without additional Federal unemployment assistance. Based on extrapolations from that analysis, the Center for Budget and Policy Priorities argues that with each week that goes by, another 80,000 workers will be added to this list. In no other comparable data on record has there been this many ''exhaustees.''

In my State of New Mexico, it is estimated that 4,300 workers have exhausted their benefits from December 2003 through March 2004. Through September 2004, it is estimated that 7,200 workers will have exhausted their benefits. In a State where the most recent unemployment rate is 5.7 percent and jobs are very difficult to come by, this is hardly an encouraging figure.

The Bush administration has argued that extension of the TEUC program is not necessary because the unemployment rate is low and the economy is growing. They suggested again and again that we are on the verge of an economic recovery and jobs are being created. I respectfully disagree.

In 2001, the Bush administration claimed that their tax cuts would create at least 800,000 jobs by 2002. That did not happen. In 2002, the Bush administration claimed that 3 million jobs would be created in 2003. That did not happen. In February, the Bush administration claimed in their economic report that 2.6 million jobs will be created in 2004, but everyone in the administration quickly backed away from that number. No one truly believes that this will happen.

Given the lack of coherent or comprehensive policy proposals by the administration, I say it is time we in Congress act to address job creation and help the victims of their failed policies. Extending the temporary emergency unemployment compensation program is, in my view, the least we can do for Americans that have been attempting to find work but cannot do so. As a practical matter, this means workers can continue to get unemployment insurance benefits while they continue to search for work.

So I want to add my voice to the others today and say that we must pass this legislation before it expires. American workers deserve to be dealt with in a fair and equitable manner, especially in this time of need. They need a lifeline, and it is up to us to provide it.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On July 4, 2000, an 18-year-old Brooklyn man was charged with allegedly slashing three men and threatening the life of another because he believed the men to be gay.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

DECRYING THE ETHNIC VIOLENCE IN KOSOVO

Mr. BIDEN. Mr. President, I rise today to condemn in the strongest possible terms the violence 2 weeks ago in Kosovo, which claimed the lives of 20 persons, injured more than 600 others, displaced more than 4,000 individuals, destroyed more than 500 homes, and destroyed or damaged more than 30 churches and monasteries.

In a reversal of the brutal murders and ethnic cleansing carried out in 1998 and 1999 against Kosovar Albanians by the forces of former Serbian strongman Slobodan Milosevic, the perpetrators of this violence were the former victims—the ethnic Albanians. Their principal targets were Kosovo Serbs, although Ashkali and other minorities in the province also suffered.

There is no way to gloss over or disguise these events: They are a disaster of the first magnitude. Five years ago last week, I submitted the resolution that was adopted by this body, authorizing military action against the Milosevic government in order to rescue the persecuted Kosovar Albanians. Over the subsequent eleven weeks the United States and its allies successfully waged an air war, which resulted in the withdrawal of Serbian forces from Kosovo. A United Nations Security Council Resolution created a protectorate administered by the United Nations Interim Administration in Kosovo—known popularly by its acronym UNMIK—under the military protection of NATO's Kosovo Force or KFOR.

Since the summer of 1999 the international community, working through these civilian and military structures, has attempted to pacify and stabilize the situation, rebuild the shattered infrastructure, and help guide the embittered and traumatized population toward eventual democratic self-rule. Resolution of Kosovo's final status was

understandably deferred until significant progress was achieved.

From thousands of miles away it is difficult to appreciate the scope of the effort that the international community has devoted to Kosovo. I might offer a very personal example. My older son, Beau, served for nearly a year in UNMIK as a lawyer, helping the Kosovars to build a legal system that would impartially dispense justice to all inhabitants of the province. Tens of thousands of other Americans, together with citizens of dozens of other countries, have similarly worked in civilian and military capacities for the last five years.

Although there has, in fact, been considerable progress in several areas, the recent violence graphically demonstrates that, on the whole, the effort is in danger of failing. The economy is in sad shape with more than half the population unemployed. Kosovar Albanians complain that the lack of action on final status has choked off any significant direct foreign investment, which is the sine qua non for economic development. But it would be irresponsible to move to final status before stability and democracy have been achieved—as clearly they have not yet been.

So where do we go from here? Kosovo is a complex problem, for which there are no simple answers. In fact, every policy in the short run carries significant downside potential. Nonetheless, we must immediately take several steps.

First of all, through KFOR and UNMIK, we must make it unmistakably clear to all the citizens of Kosovo that the violence must cease completely.

Second, all citizens of Kosovo must cooperate with KFOR, UNMIK, and the Kosovo police in identifying for prosecution the perpetrators of violence and the destruction of property.

Third, all displaced persons and refugees must be returned to their former towns and villages, guaranteed their personal safety, and granted assistance to rebuild their homes as speedily as possible. In this regard, I am encouraged by the commitment made by the Kosovo Assembly to establish a fund for the reconstruction of homes, churches, and other property destroyed during the March attacks.

Fourth, the United Nations should undertake a review of the structure and organization of UNMIK.

Fifth, the authorities in Pristina and Belgrade should reinvigorate and intensify their dialogue.

A resolution submitted by my good friend from Ohio, Senator VOINOVICH, and of which I am an original co-sponsor, makes many of these points.

I would add a few more important policy recommendations.

The so-called ''benchmarks'' established by UNMIK must be reviewed. I have supported the policy of ''standards before status'' whereby Kosovo must fulfill rigorous goals before the province's final status is considered. I still believe that, in general, this is the correct course. The precipitous calls by some people for abandonment of the benchmarks and rapid independence for Kosovo would, I believe, be a cure worse than the disease. The international community simply cannot reward murder and violence. ''Riots before status'' is not the answer.

Nonetheless, I believe that the UNMIK benchmarks have been too elaborately constructed. Few countries could completely fulfill their requirements. In the wake of the violence, the benchmarks should be streamlined and prioritized, with emphasis given to personal security, minority rights, and some kind of decentralization of government, although not the apartheid-like ''cantonization'' being demanded by politicians in Serbia.

If by the middle of 2005 the benchmarks on personal security and minority rights can be completely fulfilled, and significant progress made on the other benchmarks, then discussion of final status for Kosovo can begin.

We should do our best to strengthen the moderates in Kosovo and Serbia, but there are, unfortunately, very few such ''good guys'' on the political scene in Pristina and Belgrade. Short-term political expediency seems to trump principle, despite the occasional lofty sounding speeches. Most Kosovar Albanian leaders hesitated before publicly condemning the ethnic violence, Prime Minister Rexhepi being a very positive and conspicuous exception. General Ceku's call for restraint on the part of members of the Kosovo Protection Corps was also helpful. In the future, all Kosovar leaders must get the message that rewards will flow to those who genuinely try to build a peaceful, democratic, multi-ethnic society.

It would be easier to be sympathetic to the cries from Belgrade to defend and give special rights to the Kosovo Serbs if Serbian politicians had not been so demagogically nationalistic in the weeks and months prior to the violence. The new Serbian Government led by Prime Minister Kostunica seems hell-bent on insulting the very international community that it needs for support in the Kosovo question, and in other matters.

Above all, the Kostunica administration has repeatedly thumbed its nose at the International Criminal Tribunal for the Former Yugoslavia. In a speech in late February, Kostunica himself candidly explained: ''This country is not a simple deliverer of human goods to The Hague tribunal.'' No political campaign can justify this kind of know-nothing jingoism.

Then just last Tuesday the Serbian Parliament outdid even Kostunica's blustering when it voted by a wide margin to pay all Serbian war crimes indictees at ICTY ''compensation for lost salaries, plus help for spouses, siblings, parents, and children for flight and hotel costs, telephone and mail bills, visa fees, and legal charges.'' The measure was supported by deputies from the parties of ultra-nationalist Vojislav Seselj and of Milosevic. Both these gentlemen, of course, are currently residing in prison in The Hague. The party of Prime Minister Kostunica joined in voting for this measure, which, were it not so grotesque, might almost be labeled comic opera.

As long as up to 16 indictees, including three former Serbian generals, are openly living in Serbia, and the ''butcher of Bosnia,'' former General Ratko Mladic, is also probably there, the Serbian Government cannot expect much international support. The U.S. Government has just announced that it is suspending all economic assistance not used for democratizing purposes because of Belgrade's unsatisfactory level of compliance with ICTY, and until it cooperates fully, Serbia will not be allowed to join NATO's Partnership for Peace.

We can take some solace in the opposition to the Serbian Parliament's resolution by a few smaller parties, including that of Defense Minister Boris Tadic, a genuine democrat and man of principle. During the Kosovo violence, Tadic, who has carried out a vigorous reform of the Serbian military and security services, proved that he has instituted civilian control by keeping the lid on hotheads calling for intervention, reportedly in cooperation with U.S. Admiral Gregory Johnson, NATO's AFSOUTH Commander. There is a chance that later this year Mr. Tadic may run for President of Serbia against a candidate of Seselj's party.

In order to get Kosovo back onto the right path, the U.S. Government must alter its policy. And make no mistake about it: Kosovo matters. It matters to the people of Kosovo. It matters to the people of Serbia. It matters to the stability of the entire area of the former Yugoslavia. It matters to the Balkans, since Serbia is the key to regional stability, and because the fate of Kosovo directly impacts ethnic Albanians in neighboring Albania, in the Former Yugoslav Republic of Macedonia, in southern Serbia, and in Montenegro. In that context, Kosovo matters to the security of all of Europe and, hence, to the security of the United States of America.

One thing is crystal clear: the Bush administration can no longer afford to relegate Kosovo, Serbia and Montenegro, and Macedonia to the back burner of its international concerns. The administration has been living in an ideologically driven dreamworld in which victory in the Balkans was prematurely declared in order to get on with perceived higher priorities like national missile defense.

Lest anyone think I am criticizing the focus on the war on terrorism in Central Asia and the Middle East, I am not. As early as the fall 2000 election campaign—nearly one year before the terrorist attacks of September 11, 2001—Presidential candidate George W. Bush announced that he would unilaterally withdraw U.S. ground forces

from the NATO-led peacekeeping operations in Bosnia and Kosovo. His future National Security Advisor Dr. Rice echoed this misguided notion in a newspaper interview. The following spring, Defense Secretary Rumsfeld, flying in the face of all objective evidence, declared that the problem of Bosnia had been settled three or four years earlier. Even in this body resolutions for withdrawal of U.S. forces were periodically submitted, but, I am happy to say, rejected.

Now we are waging war, attempting to quell resistance movements in Afghanistan and Iraq. We all know that our armed forces are stretched perilously thin, and obviously some troop adjustments have had to be made. U.S. forces in Bosnia have been reduced to little more than one thousand, or about 5 percent of their initial strength. Later this year NATO will turn over command of SFOR to the European Union, although some American troops will remain at our base in Tuzla, at the request of the Government of Bosnia and Herzegovina.

Let me repeat that for my colleagues: the Government of Bosnia and Herzegovina, with the representatives of all three major groups—the Bosnian Muslims, Serbs, and Croats—concurring, requested that American troops stay on in Bosnia after the EU takes command of the peacekeeping force. The fact is that the United States has stature unequaled in that part of the world perhaps even higher in Kosovo than in Bosnia.

As in SFOR, we have drastically reduced our troop strength in KFOR. Given the events of the past few weeks, we dare not reduce it further. KFOR troops played a key role in quelling the Kosovo violence. I am told that of the various national contingents, American KFOR troops especially distinguished themselves.

Further proof of the Bush administration's downgrading the importance of the region was its abolishing the position of Special Coordinator for the Balkans. This position should be reinstated and filled by a senior career diplomat with extensive experience in Balkan affairs.

This new Special Coordinator should immediately engage the political leadership in Pristina and Belgrade in serious dialogue. I do not want to prejudge what the final international legal status of Kosovo will be, although I cannot imagine that Kosovo will ever revert to direct control from Belgrade. Whatever the end result, direct negotiations between Pristina and Belgrade must be an integral part of the process. No other path would stand the test of time.

The United States was Serbia's ally in two world wars in the first half of the twentieth century. The United States is revered by Kosovar Albanians as their savior from the recent tyranny of Slobodan Milosevic. We have earned a credibility that no other country, or group of countries, possesses.

This administration should utilize this unique position, in coordination with other members of the contact group, to jumpstart the process of creating a safe, prosperous, democratic, multi-ethnic Kosovo.

GREY BERETS RISKED ALL IN IRAQ WAR

Mr. CHAMBLISS. Mr. President, we have all heard the expression that ''knowledge is power.'' At no time is this more true than when we are at war. Our military uses satellites, reconnaissance aircraft, remote sensing devices, and long-range patrols to learn where the enemy is, what he is doing, and how we can kill him.

But there is another type of knowledge which is just as essential if we are to be successful in combat. The side which knows and understands the weather the best has a large advantage.

Now, I know some may reply that we do not need to be concerned about the weather. We have smart bombs, stealth fighters and guided missiles. We have sensing devices which let us see in the darkness. But despite this high technology, we still have to give Mother Nature her due. Rain, clouds and low visibility can still ground aircraft or hamper operations. High temperatures affect men and equipment. Dust storms can rapidly render sophisticated machines and electronics unusable.

Our troops faced many weather extremes as we prepared for the start of Operation Iraqi Freedom a year ago. Extreme heat, thunderstorms, and dust storms all threatened operations. To learn more about Iraq's weather and to gather the data necessary to predict, if possible, weather patterns in that country, a group of brave meteorologists dropped behind enemy lines. They fed their information to the Air Force's 28th Operational Weather Squadron, known as ''The Hub.''

As detailed in a special being carried by the Weather Channel, the United States Air Force dropped its Special Operations Forces Weathermen, known as the ''Grey Berets,'' behind enemy lines weeks before the beginning of armed conflict. The Grey Berets took exceptional risks to gather the data necessary for our Army, Navy and Air Force to conduct operations. For example, 5 days before the land invasion started, Grey Beret Sgt Charles Rushing waded ashore to gather information on fog, surf, and currents to enable a helicopter assault team to successfully seize key Iraqi refineries on the Al-Faw peninsula before Iraqi troops blew them up.

After the war began, the Hub reported on the biggest dust storm to hit the region in 30 years. The storm, covering over 300 miles, shredded tents and clogged engines and lungs. To the north, the storm created other problems, by dumping snow and sleet on Bashur Airport, the target of the most ambitious combat paratroop assault since World War II. The 173d Airborne brigade was flying toward a mountainous drop zone while Cpt John Roberts, chief Grey Beret weather forecaster, had to make a call on whether the weather would lift long enough for 1,000 paratroopers to safely make their jump.

The actions and decisions of these two men are just two examples where our Grey Berets helped ensure the success of our troops. There are many, many more.

Mr. President, I commend the Grey Berets for their heroism and professionalism and their contributions to our armed services. I also thank the Weather Channel for bringing their achievements to wider public notice.

S. 275, THE PROFESSIONAL BOXING AMENDMENTS ACT

Mr. MCCAIN. Mr. President, I am pleased that the Senate has agreed by unanimous consent to pass S. 275, the Professional Boxing Amendments Act of 2004 (Act). I would like to thank the bill's cosponsors, Senators STEVENS, DORGAN, and REID for their commitment to professional boxing and the warriors who sustain the sport.

This amendment is designed to strengthen existing Federal boxing laws by making uniform certain health and safety standards, establishing a centralized medical registry to be used by local commissions to protect boxers, reducing arbitrary practices of sanctioning organizations, and providing uniformity in ranking criteria and contractual guidelines. It also would establish a Federal entity, the United States Boxing Commission—USBC—to promulgate minimum uniform standards for professional boxing and enforce Federal boxing laws.

Over the past 7 years, the Commerce Committee has taken action to address the problems that plague the sport of professional boxing. The committee has already developed two Federal boxing laws that have been enacted, the Professional Boxing Safety Act of 1996, and the Muhammad Ali Boxing Reform Act of 2000. These laws established minimum uniform standards to improve the health and safety of boxers, and to better protect them from the often coercive, exploitative, and unethical business practices of promoters, managers, and sanctioning organizations. While these laws have had a positive impact on professional boxing, the sport remains beset by a variety of problems, some beyond the scope of local regulation.

Promoters continue to steal fighters from each other, sanctioning organizations make unmerited ratings changes without offering adequate explanations, promoters refuse to pay fighters who have put their lives on the line, local boxing commissions fail to ensure the protection of boxers' health and safety, boxers are contractually and financially exploited, and the list continues. Most recently, we have learned of a federal law enforcement

investigation that reportedly may yield a dozen or more indictments for charges of fight fixing.

All too often my office receives a call from a parent whose child was killed in a match asking why proper medical or safety precautions were not taken by the local commission with jurisdiction, or from a boxer who has worked tirelessly to escape poverty, only to find themselves subject to the exploitation of the unscrupulous few who control the sport.

Professional boxing is the only major sport in the United States that does not have a strong, centralized association or league to establish and enforce uniform rules and practices. There is no widely established union of boxers, no collective body of promoters or managers, and no consistent level of regulation among state and tribal commissions. Due to the lack of uniform business practices or ethical standards, the sport of boxing has suffered from the physical and financial exploitation of its athletes.

The General Accounting Office confirmed in a July 2003 report on professional boxing regulation that, because professional boxing is regulated predominantly on a state-by-state basis, there is a varying degree of oversight depending on the resources and priorities of each state or tribal commission. The report also indicates that the lack of consistency in compliance with Federal boxing law among state and tribal commissions ''does not provide adequate assurance that professional boxers are receiving the minimum protections established in Federal law.''

The consequences of this vacuum of effective public or private oversight has led to decades of scandals, controversies, unethical practices, and far too many unnecessary deaths in professional boxing. Yet another tragic, but precise example, of poor local regulation occurred just last year in Utah where a 35-year-old boxer collapsed and died in a boxing ring. The young man should never have been allowed to participate in the bout given that he had suffered 25 consecutive losses over a three-year period leading up to the fight, including a loss only one month earlier to the same opponent against whom he was fighting when he died. While tragic in its own right, this is merely one in a seemingly endless series of incidents that continue to occur as a direct result of inadequate state regulation.

This measure would improve existing boxing law, and also establish the USBC. The primary functions of the commission would be to protect the health, safety, and general interests of boxers. More specifically, the USBC would, among other things: administer Federal boxing laws and coordinate with other federal agencies to ensure that these laws are enforced; oversee all professional boxing matches in the United States; and work with the boxing industry and local commissions to improve the status and standards of the sport. The USBC also would maintain a centralized database of medical and statistical information pertaining to boxers in the United States that would be used confidentially by local commissions in making licensing decisions.

There has been quite a bit of confusion among local boxing commissions regarding the effect that this bill would have on them. Let me be clear. The purpose of the USBC would not be intended to micro-manage boxing by interfering with the daily operations of local boxing commissions. Instead, the USBC would work in consultation with local commissions, and only exercise its authority should reasonable grounds exist for intervention.

The problems that plague the sport of professional boxing compromise the safety of boxers and undermine the credibility of the sport in the public's view. This bill is urgently needed to provide a realistic approach to curbing such problems.

Mr. DORGAN. I am pleased to support with my colleague, Senator MCCAIN, the Professional Boxing Amendments Act of 2003.

This is an issue that we have now been examining for some time, and I am pleased that the Senate is moving this legislation forward.

The Senate Commerce Committee had the opportunity over the past years to spend time with figures such as Roy Jones Junior, Muhammad Ali, Bert Sugar, Lou Dibella, and Bernard Hopkins, and we heard some things that caused great concern.

I grew up as a boxing fan who wants to see the sport succeed, but I have worried about how the sport is doing, and I believe this legislation will take an important step.

Professional boxing is the only major sport in the United States that does not have a strong, centralized association or league to establish and enforce uniform rules and practices for its participants. There is no union, no organization that polices promoters or managers, and unfortunately no consistent level of state regulation among the state athletic commissions.

Part of the problem is the alphabet soup of 29 sanctioning bodies—all with different titles and rankings—and another part is a lack of faith that anyone, not the state commissions, managers or promoters are on the up and up.

I believe that a system based on state commissions alone just takes us to the lowest common denominator. We are in desperate need of some basic national standards and uniform enforcement.

There continue to be stories about how some people are exploiting the patchwork of federal and state boxing regulations to the detriment of boxers and their fans.

This manipulation is often tolerated, or tacitly permitted by the state boxing commissions, and too often current laws are rarely enforced by the state attorneys general, or the U.S. Attorney's office who are too busy or just not interested.

This bill will create a United States Boxing Commission to oversee the sport. The federal Commission would have the responsibility to license promoters, managers, and sanctioning organizations. The Commission would be able to keep things in line by revoking or suspending licenses as situations warrant.

It is imperative that we establish this federal mechanism in order to protect not only the boxers, but also the overall integrity of the sport.

QUESTIONS ABOUT IRAQ AID REQUEST

Mr. LEAHY. Mr. President, I want to discuss an issue concerning U.S. efforts to rebuild Iraq. Before I begin, however, I want to again recognize the bravery and sacrifices that are being made every day by Americans and Iraqis, and especially those who have been killed or wounded. There have been, almost daily, horrific, cowardly acts of terrorism, increasingly aimed at citizens. The appalling attacks this week, where the bodies of Americans were dragged through the streets, disgust and deeply sadden us all. My deepest condolences go out to the families and friends of those who have died.

Yesterday, the Inspector General of the Coalition Provisional Authority, CPA–IG, issued his first report on the reconstruction efforts in Iraq. I want to remind people that it was Senator FEINGOLD, and later in the process, Senator STEVENS, not the Bush administration, who worked hard to establish the CPA–IG office during the debate on the Iraq supplemental. I had the privilege of working with Senator FEINGOLD to help draft some of the provisions of his amendment, and he, along with Senators STEVENS, are to be commended for their leadership on this issue.

Page 33 of the CPA–IG's report contains a table, and I ask unanimous consent that it be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, so ordered.

(See exhibit 1).

Mr. LEAHY. The information it contains concerns me, as it should every Senator. It shows that, as of February 29, 2004, nearly 4 months after President Bush signed the Iraq supplemental into law, only $900 million of the $18.4 billion appropriated for reconstruction programs has been obligated, less than 5 percent.

At a time when security is the most critical issue in Iraq, sadly demonstrated by this week's tragic attacks in which nine Americans were killed, the administration has obligated only $292 million of the $3.24 billion for ''security and law enforcement,'' less than 10 percent of the total appropriated. This is money that is supposed to go for training a new Iraqi army and police force to reduce the risks to American soldiers and civilians working in

Iraq. On top of this, only $25 million for ''justice, public safety, and civil society'' has been obligated. This is less than 3 percent of the $1 billion appropriated.

Not one dime of the $1.85 billion appropriated in the supplemental has been obligated for ''health care,'' ''private sector development,'' ''roads, bridges and construction,'' and ''transportation and telecommunications.''

It would be one thing if the administration had warned us they were going to have trouble spending the $18 billion, but they said the opposite. They told us these funds were urgent. It was ''an emergency.'' The money had to be appropriated immediately, and not one dime less than the amount requested. There was no time for Congress to carefully consider this legislation. It had to be rammed through as fast as possible.

The administration resisted accountability for how it would spend these billions and billions of dollars, and that fact was, and is, a major concern that many in the Senate have had about that supplemental appropriations bill.

In a letter to Congress on September 17, 2003, the President stated: ''This request reflects urgent and essential requirements. I ask the Congress to appropriate the funds as requested, and promptly return the bill to me for signature.''

Ambassador Bremer testified before the Senate Foreign Relations Committee on September 24, 2003: ''No one part of this $87 billion supplemental is dispensable, and no part is more important than the others . . . This is a carefully considered, integrated request. This request is urgent. The urgency of military operations is self-evident. The funds for nonmilitary action in Iraq are equally urgent. Unless this supplemental passes quickly, Iraqis face an indefinite period with blackouts eight hours a day. The link to the safety of our troops is indirect but no less real.''

I would point out to Ambassador Bremer, who I respect a great deal, that less than 8 percent of the funds for ''electricity'' have been obligated. That is $428 million out of $5.6 billion.

I could go on, but by now the point is clear: If every dime of the $18 billion was so necessary, as a lump sum, to pay for the reconstruction of Iraq this year, why then has so little been obligated nearly 4 months after the President signed the bill?

I did not vote for the $18 billion and at the time I discussed my reasons in detail. But one of the reasons was that it was obvious that the White House was asking for far more than they could effectively use this year because they did not want to revisit this issue in an election year. They did not want to have to defend this controversial program again in the court of public opinion. They did not want the accountability that should accompany the spending of such large sums.

This is one Senator who does not believe we should spend billions of dollars of the taxpayers' money without proper accountability. We all knew we would have to spend billions to help rebuild Iraq. But the issue was how many billions, over what period of time, and how to pay for it in a time of rising deficits. Back when we were asked to vote on the supplemental, I urged, as did others, that because the situation in Iraq was, and is, so unpredictable, that we appropriate only as much as could be effectively used. I said that we should then revisit the issue this year, see how the funds were being used, make any necessary adjustments to the reconstruction program, count what other nations were contributing, and then decide how much additional U.S. funding this year would be needed to fill gaps in resources.

But the White House would have none of that. The President insisted on getting every dime up front, paid for by increasing the deficit rather than reducing the President's tax cut for the wealthiest Americans, even though, as the CPA–IG and OMB reports clearly show, they cannot possibly spend it all this year. They probably will not be able to spend half of it. All that talk about how this had to be done in the blink of an eye and without adequate checks and balances was baloney.

Congress received some of the first indications that the administration was going to have trouble handling all of this money when the Office of Management and Budget published a plan, on January 5, 2004, that projected CPA spending at a modest $1.4 billion by the end of the first quarter. The CPA–IG report confirms that the administration is having difficulty handling all of this money, as many of us predicted.

We all want this money spent wisely, and no one wants any administration to spend money for the sake of spending money. Also, this is not to take anything away from the brave men and women who are working so hard, under extremely difficult conditions, to rebuild Iraq.

But the issue exposed by this report is not the administration's spending rate in Iraq. The issue it exposes is the administration's credibility. It seems self-evident that a large portion of the money was not as urgently needed as administration officials insisted at the time, or the CPA, as press reports have suggested, is tied up in bureaucratic knots and is not able to move fast enough to rebuild Iraq. I submit that the answer is both of the above, but I will let the numbers speak for themselves.

Perhaps we will see a large ramping up of spending in the second quarter, as the administration suggests it will do according to OMB's spending plan. Perhaps the administration can provide a good explanation for why these projects have proceeded so slowly. But regardless, it is clear that Congress could, and I believe should, have appropriated only a portion of the money last year. There is plenty of opportunity to act on another supplemental this year, instead of frittering away the Senate's time on hot-button political issues designed to score points in an election year.

I believe the Congress can encourage the administration to do better in Iraq, shaping a more effective strategy in the process. This Vermonter believes that more debate, more transparency, and even a dose of frugality, especially when it comes to spending $18 billion of the taxpayers' money would be a good thing.

I yield the floor.

EXHIBIT 1

The CPA has allocated $7.9 billion of the $18.4 billion. Additionally, the CPA has established a $4 billion reserve. Table 8 below contains more detail on program status.

TABLE 8.—PROGRAM STATUS [1] (IN MILLIONS) AS OF FEBRUARY 29, 2004

Sector 2207	Report [2] spending plan	Apportioned	Committed	Obligated
Security and law enforcement	$3,243.0	$2,232.7	$850.4	$292.0
Electricity	5,560.0	1,683.1	1,301.4	428.2
Oil infrastructure	1,701.0	1600.0	772.2	4.0
Justice, public safety, and civil society	1,018.0	560.9	130.3	25.0
Democracy	458.0	458.0	106.0	106.0
Education, refugees, human rights, governance	280.0	138.5	32.6	27.1
Roads, bridges and construction	370.0	119.3	0.0	0.0
Health care	793.0	330.0	0.0	0.0
Transportation and telecommunications	500.0	164.0	61.9	0.0
Water resources and sanitation	4,332.0	496.2	18.0	18.0
Private sector development	184.0	64.5	2.0	0.0
Total by sector	18,439.0	7,947.2	3,273.0	900.3
Construction	12,611.0	3,950.0	1,783.2	595.8
Nonconstruction	5,370.0	3,539.2	1,383.8	198.5
Democracy	458.0	458.0	106.0	106.0
Total by program	18,439.0	7,947.2	3,273.0	900.3

[1] Have not been formally reviewed or audited by the CPA–IG.
[2] Public Law 108–106 Section 2207 is the CPA quarterly progress report. As of the date of this report, CPA was revising the IRRF allocations.

INTERNATIONAL ATOMIC ENERGY AGENCY SAFEGUARDS AGREEMENT

Mrs. FEINSTEIN. Mr. President, I rise today to congratulate the Senate for ratifying the International Atomic Energy Agency—IAEA—Safeguards Agreement by unanimous consent last night.

The Additional Protocol will augment the IAEA's safeguards monitoring system and provide early warning about illicit nuclear weapons-related activities under the Nuclear Nonproliferation Treaty.

By acting swiftly to ratify the treaty, the United States Senate has sent a clear signal to the international community that the United States is committed to not only maintaining a leadership role in the effort to prevent the proliferation of nuclear weapons but also to work closely with other nations in that endeavor.

We know that we cannot go it alone and we will need the help of our friends and allies.

In addition, the Additional Protocol will strengthen the IAEA in its work in dealing with nuclear programs in Iran, Libya and elsewhere and encourage other countries to ratify their own additional protocols.

Clearly, there is much work to be done and the international community will face additional challenges in the near future. Nevertheless, I am pleased that the United States Senate has taken this important step to protect our citizens and our national security interests.

STOCK OPTION ACCOUNTING REFORM ACT

Mr. WARNER. Mr. President, I rise in support of S. 1890, the Stock Option Accounting Reform Act. I am pleased to cosponsor this important legislation, and I applaud the distinguished Senator from Wyoming, Senator ENZI, and the distinguished Democratic whip for their leadership.

I urge all my colleagues to pay close attention to this legislation, and to join those of us who believe that the mandatory expensing of stock options would harm American companies, and more importantly, harm American workers who benefit from the issuance of stock options from their employers.

The Financial Accounting Standards Board—FASB—may soon take action that would require public companies to record employee stock options as an expense. This will unequivocally impede economic growth and stifle the economic recovery of our high-tech sector as well as other industries.

As a result of FASB's proposal, companies will take a massive earnings charge based on stock option ''costs''. Just as we hope to turn the corner, the tech industry will be disproportionately hit with phantom costs that will undermine general investor confidence in the tech recovery.

Expensing will destroy our partnership culture of distributing stock options to our entire workforce. We know from empirical research that broad-based employee ownership delivers higher returns to shareholders, greater productivity, and increased returns on equity.

In addition, small companies and start-ups, which depend on employee stock options to attract the smartest and brightest, will be dealt a detrimental blow. The costs associated with the implementation of this new rule will inhibit small business growth. In a time when the United States is struggling to keep more jobs in America, this proposal undermines U.S. competitiveness.

Talented and skilled U.S. workers will be forced to look to our competitors, countries such as Taiwan and Singapore, for high paying technology based employment.

It is imperative that the United States retains its status as a global technology leader. Innovation and hard work are two basic fundamentals that founded our country. Broad based employee stock options provide incentives for workers to work harder, promote savings and serve as an incentive for creating new ideas, which ultimately promotes economic growth.

I commend my colleagues for introducing this important piece of legislation, and it is my hope that you will join me in voting in favor of S. 1980.

Mr. ENSIGN. Mr. President, our worse fears about FASB's seemingly predetermined crusade against stock options have unfortunately proven true. As expected, FASB has released a proposed expensing rule for stock options that is a lose-lose for individual investors and the American economy.

Trial lawyers are gearing up for the biggest windfall of the 21st Century. They will be the only winners in this misguided action. FASB's proposed rule would allow companies to either use Black Scholes or a Binomial method to expense options. Both are flawed models and will yield very different and certainly inaccurate results.

There is no question that market capital will be destroyed when these flawed numbers hit financial statements. Because companies have to choose the method they use to expense, and the inputs that feed into that flawed model, they will most certainly be barraged by class action lawsuits from greedy trial lawyers who will exploit the difficult decisions that FASB is going to force companies to make.

Ironically, despite FASB's stated goal of improving information for investors, individual investors will now have absolutely no ability to make meaningful comparisons between companies. Different companies using different flawed valuation models will confuse and mislead the very people FASB purports to help.

Our technology sector is on the cusp of recovery. We cannot afford to let bad accounting destroy jobs and cripple our global competitiveness. There are bigger picture issues here that FASB is neither tasked with examining, nor equipped to look at. That is the responsibility of the Congress and Administration.

This move represents a tremendous threat to our global competitiveness. Communist China has, as a part of their 5 year plan, the use of stock options. They are setting out to duplicate the success of our very own Silicon Valley and stock options are at the very heart of the Chinese government plan.

This is not about executive compensation. That is a separate and distinct issue. WorldCom and Enron had nothing to do with stock options. In fact, the Enzi-Baker bill says go ahead and expense for the top 5 executives. This is about small businesses and rank and file workers and preserving their ability to use this powerful tool for innovation and growth. This is about preserving broad-based employee stock ownership plans.

Make no mistake about it. If FASB's rule goes into effect, rank and file workers are the ones that will suffer. We need to support policies that create jobs and wealth for Americans, not destroy them.

Mr. ALLEN. Mr. President, yesterday the Financial Accounting Standards Board, FASB, released an exposure draft of a rule that will require companies to treat employee stock options as an accounting expense. I find this proposal fundamentally flawed for a number of reasons and urge my colleagues to support legislation to prevent this from becoming a reality.

During my time as Governor of Virginia, I witnessed unparalleled growth in the technology sector of my State's economy. Many new and exciting businesses brought their products, services, and, most importantly, jobs to Virginia.

Many of these technology companies that located to Virginia were small ''start-ups'' with little more than a good idea and the willingness to take a risk for the hope of reward later. These technology companies contributed greatly to the tremendous economic expansion witnessed during the 1990s.

However, technology companies were able to attract and retain top talent and key directors without having to raise large amounts of capital by granting employee stock options. In the end, shareholders and employees won. Employee stock options granted by many technology companies were awarded broadly to employees not only to give them an ownership interest in the company, but also to better align the interests of employees and shareholders.

I think employee ownership and incentives are great. It is desirable to have motivated employees caring abut the success of their company. Broad-based employee stock options give employees—from the newly graduated worker to the experienced CEO—ownership in the company. Indeed, a well-respected technology CEO has said that employees with stock options are like homeowners, whereas those without stock options are like renters—there is a difference in the attitude, commitment and level of entrepreneurial spirit. The proposed FASB action will destroy our partnership culture of distributing stock options to the entire workforce of a company. Broad-based employee ownership delivers higher returns to shareholders, greater productivity, increased return on equity, and higher returns on assets.

Unfortunately, the unelected officials of the Financial Accounting Standards Board want to bring this era to an end. In their effort to treat employee stock options as an accounting expense, they are disregarding three fundamental issues. First, employee options are not freely tradable. How do you value something that has no market? How do you put a price on something if it is not for sale? The answer is that you cannot. There is no accurate way to value these options without an open market.

Second, employee stock options are subject to lengthy vesting periods—typically between 4 or 5 years. If the employee changes jobs before the options vest, they are forfeited.

Finally, employee stock options will be exercised only if the stock price rises above the strike price. How does one predict future stock prices with any degree of certainty? There are entire industries dedicated to such a practice, yet I am unaware of anyone who is able to predict with absolute certainty what a stock price will be over a given length of time.

This news is sure to be greeted with joy by our competitors in the Pacific Rim. Entrepreneurs in Taiwan, Singapore and China will not just continue to focus on software development or gene sequencing there. They will create global competitors there which will be listed on those stock markets. They will be free to offer stock options without the burden of expensing and our most talented people will flock there, just as they flocked to the Silicon Valley and Virginia when our technology industries were built.

I find it distressing that a communist country, the People's Republic of China, has companies attracting entrepreneurial people and customers with stock options. Meanwhile, here in America an unelected, prejudicial board wishes to stop such employee ownership, motivation and success to Americans. This proposal will harm the ability of innovative American companies to successfully compete.

Despite the issues I have discussed, FASB is determined to make fundamentally flawed assumptions about future stock price and employment trends. What is more, according to a Bear Stearns report, there will be a 44-percent decline in NASDAQ 100 companies' profits if they would have been required to expense employee stock options in 2003.

I hope my colleagues are aware of the issues and risks posed by moving forward with this flawed proposal. At this time, we need to embrace efforts to keep people working and our economy growing. If FASB is allowed to proceed, the economic effects will be disastrous.

TRIBUTE TO THE HONORABLE JOHN R. LEWIS

Mr. SARBANES. Mr. President, 5 years ago Salisbury University, which is located in the town of Salisbury on Maryland's Eastern Shore, established PACE, the Institute for Public Affairs and Civic Engagement. PACE has a dual mission: to serve the communities of the Eastern Shore, using campus resources, faculty-student research teams and off-campus opportunities like internships and a voter registration drive to promote responsible citizenship and good government; and to promote the active engagement of students in civic affairs. For Salisbury Professors Harry Basehart, of the political science department, and Francis Kane, of the philosophy department, who together founded PACE and serve as its co-directors, this is a personal mission as well.

Among PACE's many programs is an annual lecture series that brings to the campus distinguished guests to speak on issues of public life, especially issues that most concern Salisbury's students. The speaker this year, on March 29, was Congressman JOHN R. LEWIS, who represents Georgia's 5th Congressional District and is serving his ninth term.

It is fair to say that in all his life from his childhood in rural Troy, AL, through his years as a student leader in the civil rights movement, to his dedicated service in the Congress Congressman LEWIS has never known a day of lassitude, apathy or indifference. He spoke to Salisbury's students from the perspective of his own student years, and I have rarely seen an audience listen with such focused intensity.

As it happens, I was born and raised in Salisbury. I was deeply honored to have the opportunity to introduce Congressman LEWIS to the Salisbury community, and I ask unanimous consent to print my introductory remarks in the CONGRESSIONAL RECORD.

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

INTRODUCTION FOR CONGRESSMAN JOHN R. LEWIS, PACE LECTURE, SALISBURY UNIVERSITY

(By Senator Paul S. Sarbanes)

It is pleasure to return to the campus of Salisbury University. As many of you know, coming to Salisbury is as always coming home. My parents had come to this country as immigrants from Greece and they settled in Salisbury. I grew up here and went to Wicomico County's public schools. Lifelong convictions and aspirations first took shape in Salisbury.

Today it is a special pleasure to be here, because I have the signal honor and privilege of introducing my congressional friend and colleague, John R. Lewis, as the third speaker in the annual lecture series sponsored by PACE, this University's Institute for Public Affairs and Civic Engagement.

The purpose of the lecture series is to bring distinguished public figures to the campus to speak on issues of public life. That certainly describes Congressman Lewis, who is serving his ninth term in the House of Representatives as the representative of Georgia's 5th congressional district, which includes the city of Atlanta. Congressman Lewis sits on the Ways and Means and Budget Committees, both with critically important jurisdictions. He is universally respected as a legislator. Most recently he guided to enactment legislation to establish a new National Museum of African American History and Culture. The Museum will take its rightful place among our nation's great Smithsonian Institutions on the Mall.

But as many of you surely know—as I hope all of you know—Congressman Lewis's distinguished record in the House of Representatives is but one part of what makes him so special as this year's PACE lecturer.

When PACE was established 5 years ago, its founders Professors Harry Baseheart and Fran Kane said their objective was ''to save the next generation from the enervating winds of political apathy and cynicism and to play a part in a revival of civil engagement among our students.'' Through its many programs, including this lectureship, that is precisely what PACE does.

I think it is fair to say that there has not been a single day in John Lewis's remarkable life which has been marked by cynicism, apathy or disengagement. For the full story, I commend to you his absolutely gripping memoir, Walking with the Wind. But I want to say a few words about it.

In his memoir, Congressman Lewis tells us that his engagement began as he watched the bus boycott in Montgomery, AL, 50 miles from his home in rural Troy. Martin Luther King put words into action, he says, ''in a way that set the course of my life from that point on. . . . With all that I have experienced in the past half century, I can still say without question that the Montgomery bus boycott changed my life more than any other event before or since.''

John Lewis was then 15 years old. He was setting out on a long and dangerous road with twists and turns, on a journey demanding inexhaustible supplies of moral and also physical courage.

Today we call that road the Civil Rights Movement. It is central to understanding the history of our country in the past 50 years.

Seen from another perspective, the Movement is the story of John Lewis's life, as he has lived it day by day.

In 1957, John Lewis managed to get to college in Nashville on a full scholarship. There he became a leader in the student sit-in movement, which challenged the laws that allowed African Americans to spend their money shopping in Nashville's stores but forbade them to sit at the lunch counters. David Halberstam has observed that the students had much in the way of ideals and convictions, but they had no protection—''no police force, no judges, no cops, no money.''

John Lewis went to jail for sitting down—the first of some 40 times he was to go to jail. Three months later, the lunch counters ''served food to black customers for the first time in the city's history.''

John Lewis went on the Freedom Rides, which tested the Supreme Court ruling that all vestiges of segregation in interstate travel had to end. As he observes in his memoir, ''Issuing the decision was one thing, of course. Carrying it out, as I would soon learn firsthand, was another.''

He rode the first bus, which traveled from Washington, DC, to Mississippi. He can recount for you better than I how many times he was beaten and jailed in the course of that ride. The violence that the Freedom Riders encountered was for most Americans unimaginable.

In the summer of 1961, when the ride ended, John Lewis was 21 years old.

There is not enough time today to do justice to that ride, or John Lewis's years as chairman of SNCC, the Student Non-Violent Coordinating Committee, or his speech on the Mall in Washington in 1963. But in this election year I want to comment on the events that took place in Selma, AL, on March 7, 1965. They have gone down in our history as ''Bloody Sunday.''

On that day several hundred Americans set out to march from Selma to Montgomery, Alabama's capital. Their purpose was to press for the right to vote, a right denied to African Americans. The unarmed marchers were brutally attacked by a ''human wave'' of ''troopers and possemen.'' John Lewis was among many beaten unconscious.

Bloody Sunday shocked the Nation. Five months later the historic Voting Rights Act of 1965 was signed into law—a direct consequence of the horrific attack at Selma. In the words of Taylor Branch, ''The powerful new law broke decades of impediment and heartache.''

On Bloody Sunday, every marcher's life was on the line—for the right to vote.

I ask you to reflect on the events at Selma and their meaning for our Nation, and on November 2—Election Day 2004—to exercise your priceless citizen's right vote.

From the beginning our Nation has lived by certain abiding principles. These were set out more than 60 years ago by the distinguished Swedish sociologist Gunnar Myrdal, in his landmark study of race and America democracy, An American Dilemma. He called this ''The American Creed.'' Here are his words: ''It is the current in the structure of this great and disparate nation . . . encompassing our 'ideals of the essential dignity of the individual human being, of the fundamental equality of all men (and women), and of certain inalienable rights to freedom, justice, and a fair opportunity.' These ideals are ''written into the Declaration of Independence, the Preamble of the Constitution, the Bill of Rights and into the constitutions of the several states.''

For much of its history our Nation failed to live up to the principles it espoused. It has been John Lewis's lifelong mission to end the terrible contradiction that once assured these rights to some of our people while cruely denying them to others. He has led and inspired generations of Americans to make our Nation a better place for all our people. He has an incredible story to tell. It is a privilege to have Congressman Lewis on the Salisbury campus today, and I am honored to introduce him.

CAPT JOHN LAWRENCE FROM, JR.

Mr. LEAHY. Mr. President, recently I heard about CAPT John Lawrence From, Jr. in McLean, VA, a retired Navy nuclear submarine captain, who lived next door to Jim Rosser and his wife, Nicki Watts. They told me that he had died of pneumonia at Arlington Hospital at the age of 82. Retired Air Force Colonel Watts sent me material about him, and I would like to include it in the RECORD. Sometimes obituaries are so cold and give so little about somebody's life that I wanted the Senate to pause and think of Captain From.

Captain From not only served in the Pacific during World War II, but also commanded the first Polaris missile nuclear submarine. The Pacific Theater tours were dangerous, extraordinarily uncomfortable, and extremely necessary to our efforts to win World War II.

People get mentioned on this floor for many things, but I agree with Colonel Watts that Captain From should receive recognition here.

I ask unanimous consent to have printed in the RECORD some material I have about him.

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

John Lawrence From, Jr. (Larry), 82, a retired Navy nuclear submarine captain, died March 19, 2004, of pneumonia at Arlington Hospital. He had lived in McLean, VA, since 1972.

Captain From, a native of Norfolk, VA, was a 1943 graduate (class of 1944) of the U.S. Naval Academy in Annapolis, MD.

He served in the Pacific Theater during WWII, making six submarine war patrols. After the war, he commanded a diesel-electric submarine, and in the 1960s commanded the first Polaris missile nuclear submarine, the USS George Washington III (SSBN 598), and later the Ulysses S. Grant. (Larry was pictured on the cover of LIFE magazine's March 22, 1963 issue as the first Polaris captain.) He retired in late 1972 at the conclusion of his last assignment as Commanding Officer, Naval Submarine Base, Pearl Harbor.

Captain From was a graduate of the Naval War College in Newport, RI, and the National War College in Washington, DC. He received a master's degree in international affairs from George Washington University.

His service awards included the Legion of Merit with Gold Star (second award), the Joint Service Commendation Medal, and the Navy Commendation Medal with Combat ''V''. Submarines, while he served in them, were awarded the Presidential Unit Citation and Navy Unit Commendation.

In the late 1960s, he was instrumental in establishing, developing, and maintaining a Boy Scout Troop in the Chesterbrook Woods community of McLean.

After retiring from the Navy, Larry worked for nearly 12 years at Science Applications International Corporation as Vice President of research and development, and provided the Navy with state-of-the-art underwater tracking systems based on advanced signal processing techniques.

Larry was a parishioner of St. John's Catholic Church in McLean, and his faith was like the submarines he served: silent but deep. He was committed to serving the Lord and his lovely wife, Mary Jane, whom he loved so devoutly and cared for for so many years. Through it all, he remained a tower of strength, always to be commended and remembered.

Survivors include his wife of 58 years, Mary Jane; three children, Deborah J. Fletcher of Mill Valley, CA, Tina L. Egge of Fredericksburg, VA, and Michael E. From of Seattle, WA; and three grandsons, Kyle Egge, and Christopher and Patrick From. He is also survived by his brother, William From, and sister, Mary Elizabeth Troxell.

Larry was interred at Arlington Cemetery on March 30th.

TRIBUTE TO COLONEL DEBORAH A. GUSTKE

Mr. INOUYE. Mr. President, I would like to recognize a great American and a true military hero who has honorably served our country for 32 years in the Army and Army Nurse Corps: Colonel Deborah A. Gustke. Colonel Gustke has a true passion for nursing and served in a variety of clinical nursing and leadership positions at various Army medical facilities including Fort Benning, GA, Tripler Army Medical Center, Hawaii, and Fort Hood, TX. Her tremendous leadership skills led to her selection as a nurse recruiter and subsequent selection for long-term civilian schooling to obtain an advanced degree as an oncology clinical nurse specialist. Colonel Gustke served with distinction in a series of senior leadership positions as chief nurse at Fort Knox, KY, Fort Rucker, AL, and at Fort Bliss, TX, and as the Army Nurse Corps personnel proponent staff officer. In every circumstance, Colonel Gustke was recognized for her clinical excellence and stellar leadership.

In 2000, Colonel Gustke was appointed the Assistant Chief of the Army Nurse Corps. As assistant chief, Colonel Gustke developed and implemented policies and procedures that affected nearly 35,000 nursing personnel throughout the Army. Collaborating with senior Army and Department of Defense organizations, she worked to successfully obtain direct hire authority, thereby dramatically reducing the hiring time for civilian nurses. She spearheaded several recruitment and retention initiatives, including the $18 million Health Professional Loan Repayment Program, the critical skills retention bonus, and increased capacity for the Army Enlisted Commissioning Program. Her efforts decreased the impact of the national nursing shortage on the Army. In addition, she implemented the recognition of the advanced practice nurse role for the Army Medical Department. As chair of the Federal Nursing Service Council, she sponsored the development of a Federal nursing research model that focused on improving soldier readiness and patient-care outcomes.

Colonel Gustke's accomplishments are eloquent testimony to her talent, dedication, loyalty, and determination in ensuring that the best possible nursing care is always available to our soldiers, their family members and our deserving retirees. Colonel Gustke has established a legacy of superior performance to be emulated by all, which reflects greatly on herself, the United States Army, the Department of Defense, and the United States of America. I extend my deepest appreciation on behalf of a grateful Nation for her dedicated service. Congratulations to Colonel Gustke. I wish her Godspeed.

ADDITIONAL STATEMENTS

AMERICAN LEGACY FOUNDATION

● Mr. HARKIN. Mr. President, I wanted to take a moment today to speak about the American Legacy Foundation. This foundation celebrated its 5th anniversary this past month, and I wanted to express my continued support for the foundation in the future.

This foundation, formed under the master settlement agreement reached with big tobacco, has worked tirelessly over the last 5 years on its mission to build a world where young people reject tobacco and anyone can quit.

We know that tobacco is still the leading cause of preventable death in this country. Forty-seven million Americans smoke, and 400,000 people a year die because of it. Smokers have a one in three chance of dying from smoking-related conditions.

Even more alarming, every day, 3,000 children under age 18 start smoking, of which 1,000 will ultimately die of smoking related diseases. Almost 90 percent of adult smokers started using tobacco at or before age 18; the average youth smoker begins at age 13 and becomes a daily smoker by age 14½.

The American Legacy Foundation, through its highly effective public

awareness campaign truth® alone, has helped reduce youth smoking rates to a 28-year historic low. I have heard from young people in my home state of Iowa who say that seeing the truth® television and magazine advertisements have affected their decisions about tobacco. The foundation also has a number of successful cessation programs in operation across the country.

The American Legacy Foundation clearly still has work to do. Educating American young people about the harmful effects of smoking is not merely a 5-year long task. Yet this year, the foundation received its last payment from the master settlement agreement. Without increased resources, the important work of the American Legacy Foundation cannot continue.

I ask that my colleagues to join with me in recognizing the achievements of the American Legacy Foundation and in pledging our support for the important work they do educating our nation about the dangers of tobacco use.●

DANA CORPORATION'S 100TH ANNIVERSARY

● Mr. DEWINE. Mr. President, I rise today to recognize the Dana Corporation, a fine Ohio company celebrating a very important milestone—100 years of quality service as one of the world's chief automotive suppliers. The Dana Corporation, headquartered in Toledo, OH, develops automotive parts and systems that have truly revolutionized the automotive industry.

I would like to take just a few moments to tell my colleagues in the Senate about this Ohio company and how much of an impact it has made in my home State. Back in early 1904, a young engineering student named Clarence Spicer received a patent for developing the first feasible universal joint to power an automobile. With this one invention, Clarence Spicer forever changed the way automobiles operated by changing the drive mechanism from chain to joint operated. It was from these early insights and humble circumstances that the Dana Corporation was born.

The company gained standing and financial prosperity under the leadership of businessman, attorney, politician, and financier, Charles Dana. Under his leadership, the company began to grow in technology, production, and geographic reach. Today, the Dana Corporation employs at least 28,000 Americans. In Ohio, alone, the company employs 3,151 people in 22 different facilities. They are world renowned for their research and production of drive shafts and axles; engine cradles, full-body frames, brake and chassis products, including suspensions and steering products; heat exchangers, valves, and coolers; and bearings and sealing products. Their dedication and insight have helped move some of history's greatest vehicles—from the Model T and World War II-era Jeep to London taxicabs, 18-wheel rigs, giant earth-moving machines, and every car on the NASCAR racing circuit.

I commend the Dana Corporation for its century of success and wish the company and all of its employees continued success in producing and manufacturing high-quality automotive supplies.●

IN MEMORY OF REVEREND JIMMY WATERS

● Mr. CHAMBLISS. Mr. President, for most of his 83 years, the Reverend Jimmy Waters made a significant impact on the lives of many Georgians. The former pastor of Macon's Mabel White Memorial Baptist Church and Tattnall Square Baptist Church has spent, as he said, a great deal of time battling fires. For more than 55 years, he was chaplain of the Macon-Bibb County Fire Department assisting the men who fought physical fires. For nearly 60 years, he was also an ordained minister, fighting, as he said, the hell fire that threatens men's souls.

In addition to presiding over the growth of Mabel White from 800 members to over 3,900, he served as chaplain to the Macon Police Department, the Bibb County Sheriff's Office, the Georgia State Patrol, and the Georgia bureau of Investigation. He was also named lifetime chaplain of the Georgia Peace Officers Association, which awarded the first Jimmy Waters Scholarship in his honor to a University of Georgia criminal justice student.

Reverend Waters was a graduate of Mercer University, where he entered the ministry while he was still a freshman and earned both his bachelor's and doctorate degrees. As a loving father and husband, he raised three daughters with his wife, the former Annette Burton of Crawfordville. His family often sang with him as he conducted religious services in churches located as far away as Israel and Italy.

Reverend Waters was not the type of Christian who kept his lamp under a bushel. He and his siblings sang gospel music on Atlanta's WSB radio station in the 1930s. In addition to his duties as pastor, he initiated televised services from Mabel White, and later began broadcasts of ''The Victory Hour.'' After he retired from Mabel White in 1977, he devoted his efforts to Jimmy Waters Ministries, which spread the Gospel through radio, television, and evangelism. As religious director for WMAZ radio and television in Macon, he recorded over 25,000 broadcasts at home and abroad until he stopped in 2003. He also served as co-host for many fundraising telethons for Macon's WMAZ–TV in support of the Muscular Dystrophy Association, the Children's Miracle Network and Cerebral Palsy.

Dr. Waters was often recognized for his work, serving as President of the Georgia Baptist Convention from 1974–1976 and as Chairman of the Southern Baptist Convention's Radio and Television Commission from 1977–1978. In all of the many positions he accepted, he brought energy and integrity to the job.

That inner fire that he brought to his work is the reason why so many of us will miss Reverend Jimmy Waters. He was a great American and my good friend.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE—March 31, 2004

At 12.16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 386. Concurrent resolution congratulating the United States Air Force Academy on its 50th Anniversary and recognizing its contributions to the Nation.

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed on today, April 1, 2004, by the President pro tempore (Mr. STEVENS.)

H.R. 2584. An act to provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes.

S. 2057. An act to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel.

MEASURES REFERRED

The following concurrent resolution was read the first and second times by unanimous consent, and referred as indicated:

H. Con. Res. 386. Concurrent resolution congratulating the United States Air Force Academy on its 50th Anniversary and recognizing its contributions to the Nation; to the Committee on Armed Services.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on March 31, 2004, she had presented to the President of the United States the following enrolled bills:

S. 2231. An act to reauthorize the Temporary Assistance for Needy Families block grant program through June 30, 2004, and for other purposes.

S. 2241. An act to reauthorize certain shcool lunch and child nutrition programs thfough June 30, 2004.

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–6963. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Delaware and Maryland: Adequacy of State Solid Waste Landfill Permit Programs Under RCRA Subtitle D'' (FRL#7642–8) received on March 31, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6964. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; North Dakota; State Implementation Plan Corrections'' (FRL#7641–8) received on March 31, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6965. A communication from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation relative to appropriations to the Administration; to the Committee on Commerce, Science, and Transportation.

EC–6966. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, a draft of proposed legislation entitled the ''National Heritage Partnership Act''; to the Committee on Energy and Natural Resources.

EC–6967. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation to amend Part D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA); to the Committee on Energy and Natural Resources.

EC–6968. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''6-Benzyladenine; Exemption from the Requirement of a Tolerance'' (FRL#7347–6) received on March 31, 2004; to the Committee on Environment and Public Works.

EC–6969. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Bacillus Thuringiensis Cry2AB2; Amended Exemption from Requirement of a Tolerance'' (FRL#7345–4) received on March 31, 2004; to the Committee on Environment and Public Works.

EC–6970. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Bacillus Thuringiensis CryIF Protein in Cotton; Extension of Temporary Exemption from the Requirement of a Tolerance'' (FRL#7242–3) received on March 31, 2004; to the Committee on Environment and Public Works.

EC–6971. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Flumioxazin; Pesticide Tolerance'' (FRL#7351–2) received on March 31, 2004; to the Committee on Environment and Public Works.

EC–6972. A communication from the Federal Register Certifying Officer, Fiscal Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Endorsement and Payment of Checks Drawn on the United States Treasury'' (RIN1510–AA45) received on March 31, 2004; to the Committee on Finance.

EC–6973. A communication from the Regulations Coordinator, Administration for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Tribal Child Support Enforcement Programs; Final Rule'' (RIN0970–AB73) received on March 31, 2004; to the Committee on Finance.

EC–6974. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Frivolous Agreement to Avoid Concerning Statutory and Nonstatutory Stock Options'' (Notice 2004–28) received on March 31, 2004; to the Committee on Finance.

EC–6975. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Loss Deductions for Diminution in Value of Stock Attributable to Corporate Misconduct'' (Notice 2004–27) received on March 31, 2004; to the Committee on Finance.

EC–6976. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Announcement and Report Concerning Advance Pricing Agreements'' (Ann. 2004–26) received on March 31, 2004; to the Committee on Finance.

EC–6977. A communication from the Assistant Secretary, Legislative Affairs, transmitting, pursuant to the Emergency Wartime Supplemental Appropriations Act, the report of the export of defense articles or defense services to Iraq; to the Committee on Foreign Relations.

EC–6978. A communication from the Assistant Secretary, Legislative Affairs, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Russia, Ukraine, and Norway; to the Committee on Foreign Relations.

EC–6979. A communication from the Assistant Secretary, Legislative Affairs, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Japan and Russia; to the Committee on Foreign Relations.

EC–6980. A communication from the Assistant Secretary, Legislative Affairs, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Russia and Kazahkstan to the Committee on Foreign Relations.

EC–6981. A communication from the Deputy Assistant Secretary for Labor-Management Programs, Employment Standards Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Obligations of Federal Contractors and Subcontractors; Notice of Employee Rights Concerning Payment of Union Dues or Fees'' (RIN1215–AB33) received on March 31, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6982. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Grants to States for Operation of Qualified High Risk Pools'' (RIN0938–AM42) received on March 31, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6983. A communication from the Inspector General, Department of Defense, transmitting, pursuant to law, a report relative to the Department of Defense voting assistance program; to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH for the Committee on the Judiciary.

William Gerry Myers III, of Idaho, to be United States Circuit Judge for the Ninth Circuit.

Peter W. Hall, of Vermont, to be United States Circuit Judge for the Second Circuit.

Roger T. Benitez, of California, to be United States District Judge for the Southern District of California.

Marcia G. Cooke, of Florida, to be United States District Judge for the Southern District of Florida.

Paul S. Diamond, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Jane J. Boyle, of Texas, to be United States District Judge for the Northern District of Texas.

Walter D. Kelley, Jr., of Virginia, to be United States District Judge for the Eastern District of Virginia.

Matthew G. Whitaker, of Iowa, to be United States Attorney for the Southern District of Iowa for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. BUNNING (for himself, Mrs. BOXER, and Mr. BURNS):

S. 2268. A bill to provide for recruiting, training, and deputizing persons for the Federal flight desk officer program; to the Committee on Commerce, Science, and Transportation.

By Mr. BOND (for himself and Ms. MIKULSKI):

S. 2269. A bill to improve environmental enforcement and security; to the Committee on Environment and Public Works.

By Mr. DEWINE (for himself, Mr. KOHL, Mr. GRASSLEY, Mr. SCHUMER, Mr. SPECTER, Mr. FEINGOLD, Mr. LEAHY, and Mr. COLEMAN):

S. 2270. A bill to amend the Sherman Act to make oil-producing and exporting cartels illegal; to the Committee on the Judiciary.

By Mr. DURBIN (for himself, Mr. LAUTENBERG, Mr. CORZINE, Mrs. FEINSTEIN, Mr. KENNEDY, and Mrs. BOXER):

S. 2271. A bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself and Mr. SMITH):

S. 2272. A bill to amend title XIX of the Social Security Act to expand the pediatric vaccine distribution program to include coverage for children administered a vaccine at a public health clinic or Indian clinic, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Ms. SNOWE, Mr. KENNEDY, Mrs. CLINTON, Mr. ROCKEFELLER, Mr. BIDEN, Mr. CARPER, and Mr. LAUTENBERG):

S. 2273. A bill to provide increased rail transportation security; to the Committee on Commerce, Science, and Transportation.

By Ms. LANDRIEU:

S. 2274. A bill to expand and improve retired pay, burial, education, and other mobilization benefits for members of the National Guard and Reserves who are called or ordered to active duty, and for other purposes; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Mr. SPECTER, Mrs. MURRAY, Mrs. CLINTON, Ms. LANDRIEU, Mr. SCHUMER, Mr. LIEBERMAN, Mr. DASCHLE, and Mr. DAYTON):

S. 2275. A bill to amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to provide for homeland security assistance for high-risk nonprofit organizations, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. BOXER:

S. 2276. A bill to allow the Secretary of Homeland Security to make grants to Amtrak, other rail carriers, and providers of mass transportation for improvements to the security of our Nation's rail and mass transportation system; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN:

S. 2277. A bill to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation; to the Committee on Indian Affairs.

By Mr. ENSIGN (for himself and Mr. CRAIG):

S. 2278. A bill to amend title 28, United States Code, to provide for the appointment of additional Federal circuit judges, to divide the Ninth Judicial Circuit of the United States into 3 circuits, and for other purposes; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. MCCAIN, and Mr. BREAUX):

S. 2279. A bill to amend title 46, United States Code, with respect to maritime transportation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. SPECTER:

S. Res. 327. A resolution providing for a protocol for nonpartisan confirmation of judicial nominees; to the Committee on Rules and Administration.

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

S. Res. 328. A resolution expressing the sense of the Senate regarding the continued human rights violations committed by Fidel Castro and the Government of Cuba; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 726

At the request of Ms. STABENOW, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 726, a bill to treat the Tuesday next after the first Monday in November as a legal public holiday for purposes of Federal employment, and for other purposes.

S. 847

At the request of Mr. SMITH, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 973

At the request of Mr. NICKLES, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 973, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain restaurant buildings.

S. 1123

At the request of Mrs. BOXER, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1123, a bill to provide enhanced Federal enforcement and assistance in preventing and prosecuting crimes of violence against children.

S. 1223

At the request of Mr. BINGAMAN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1223, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 1369

At the request of Mr. AKAKA, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1369, a bill to ensure that prescription drug benefits offered to medicare eligible enrollees in the Federal Employees Health Benefits Program are at least equal to the actuarial value of the prescription drug benefits offered to enrollees under the plan generally.

S. 1381

At the request of Ms. SNOWE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1381, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 1447

At the request of Mr. BINGAMAN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1447, a bill to establish grant programs to improve the health of border area residents and for bioterrorism preparedness in the border area, and for other purposes.

S. 1808

At the request of Mr. SESSIONS, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1808, a bill to provide for the preservation and restoration of historic buildings at historically women's public colleges or universities.

S. 1980

At the request of Mr. GRAHAM of Florida, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1980, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S. 2020

At the request of Mrs. BOXER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2020, a bill to prohibit, consistent with Roe v. Wade, the interference by the government with a woman's right to choose to bear a child or terminate a pregnancy, and for other purposes.

S. 2039

At the request of Mr. WYDEN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2039, a bill to waive time limitations specified by law in order to allow the Medal of Honor to be awarded posthumously to Rex T. Barber of Terrebonne, Oregon, for acts of valor during World War II in attacking and shooting down the enemy aircraft transporting Japanese Admiral Isoroku Yamamoto.

S. 2059

At the request of Mr. FITZGERALD, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2059, a bill to improve the governance and regulation of mutual funds under the securities laws, and for other purposes.

S. 2099

At the request of Mr. MILLER, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2099, a bill to amend title 38, United States Code, to provide entitlement to educational assistance under the Montgomery GI Bill for members of the Selected Reserve who aggregate more than 2 years of active duty service in any five year period, and for other purposes.

S. 2175

At the request of Mr. DODD, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 2175, a bill to amend the Public Health Service Act to support the planning, implementation, and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, and for other purposes.

S. 2227

At the request of Mr. BIDEN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2227, a bill to prevent and punish counterfeiting and copyright piracy, and for other purposes.

S. 2242

At the request of Mr. BIDEN, the name of the Senator from Nebraska (Mr. NELSON) was withdrawn as a cosponsor of S. 2242, a bill to prevent and punish counterfeiting and copyright piracy, and for other purposes.

S. 2258

At the request of Mr. HATCH, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2258, a bill to revise certain requirements for H–2B employers for fiscal year 2004, and for other purposes.

S. 2261

At the request of Mr. DEWINE, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 2261, a bill to expand certain preferential trade treatment for Haiti.

S. 2266

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. 2266, a bill to amend the Small Business Act to provide adequate funding for Women's Business Centers.

At the request of Mr. EDWARDS, his name was added as a cosponsor of S. 2266, supra.

At the request of Mr. JEFFORDS, his name was added as a cosponsor of S. 2266, supra.

S. 2267

At the request of Ms. SNOWE, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2267, a bill to amend section 29(k) of the Small Business Act to establish funding priorities for women's business centers.

At the request of Mr. PRYOR, his name was added as a cosponsor of S. 2267, supra.

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2267, supra.

S.J. RES. 19

At the request of Mr. SPECTER, the names of the Senator from Maine (Ms. SNOWE) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S.J. Res. 19, a joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy.

S.J. RES. 28

At the request of Mr. CAMPBELL, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S.J. Res. 28, a joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

At the request of Mr. FEINGOLD, his name was added as a cosponsor of S.J. Res. 28, supra.

S. CON. RES. 81

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. CON. RES. 90

At the request of Mr. LEVIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Con. Res. 90, a concurrent resolution expressing the sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. RES. 313

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Res. 313, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to coordinate with implementing partners in creating an online database of international exchange programs and related opportunities.

S. RES. 317

At the request of Mr. HAGEL, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Res. 317, a resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism.

S. RES. 326

At the request of Mr. VOINOVICH, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. Res. 326, a resolution condemning ethnic violence in Kosovo.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND (for himself and Ms. MIKULSKI):

S. 2269. A bill to improve environmental enforcement and security; to the Committee on Environment and Public Works.

Mr. BOND. Mr. President, I am delighted to join with my friend and colleague Senator MIKULSKI to introduce today the Environmental Enforcement and Security Act (EESA) of 2004. This bill will increase substantially enforcement of our Nation's environmental laws, increase environmentally related homeland security, and further protect our Nation's water supply from terrorist attack.

Our families and environment deserve communities free from intentional violators of environmental laws and terrorists who would attack our drinking water supplies.

With this dramatic new commitment to environmental enforcement and drinking water security, we will tell those who would intentionally harm us that we are coming after them.

The environment and health of our communities need vigorous prosecution of intentional violations of our Nation's environmental laws. The U.S. Environmental Protection Agency (EPA) Criminal Enforcement program investigates the most significant and egregious violators of environmental laws that pose a significant threat to human health and the environment. However, the number of EPA Criminal Enforcement Special Agents has remained constant for the last several years.

In addition, in our post-9/11 world, EPA Special Agents are needed for homeland security duties to detect, investigate and respond to terrorist threats involving chemical or biological hazards.

EPA Special Agents support the Department of Homeland Security, Federal Bureau of Investigation and the Department of Justice. EPA Special Agents are members of FBI Counter-Terrorism Response Teams and Evidence Response Teams.

However, with this new post-9/11 need to respond to the threat of terrorism, some are concerned that environmental violations may not be receiving the attention they deserve. A recent report by the EPA Inspector General, an internal review by the EPA Enforcement and Compliance Assurance program, and various media accounts tell how EPA needs more resources to meet both its environmental and homeland security duties.

Our bill responds to these calls with a dramatic new commitment to EPA's enforcement program. My bill will put 50 new EPA Criminal Enforcement Special Agents on the environmental beat. EESA will also provide for 80 Special Agents to support homeland security duties.

With our bill, we will no longer need to make a choice between protecting our homeland and protecting our environment.

With out bill, those who would intentionally hurt our families and communities through environmental harm will know that we are sending the manpower and resources needed to come after them.

We are also sending local communities new funding to protect our drinking water supplies. Every family and every business needs clean and safe drinking water. Every mother needs to know that when she turns on the tap in her kitchen sink, clean and safe water will come out.

That is why our bill devotes $100 million for additional drinking water security protections. EESA will send grant funds directly to water systems to protect against terrorist attack with fencing, intruder detection, access control and water monitoring. The need is great, but the federal government will attempt to do its share.

Our bill will also enhance EPA's ability to protect the environment and human health in several other ways. EESA will double the number of enforcement trainers and triple EPA's enforcement training budget. EESA funds will train Federal, State and local inspectors, law enforcement agents and prosecutors with the training they need to pursue environmental violations.

Our bill will also improve the environment by doubling compliance assistance funds to fill gaps in enforcement coverage, reach regulated facilities not visited by inspectors, and help the regulated community, especially small businesses, to understand EPA's complex and extensive regulatory requirements.

Our bill will also make EPA's enforcement actions more efficient and targeted by fully funding a strategic enforcement targeting program. EESA will enhance EPA's ability to target its enforcement actions to where the environment needs them most. Strategic targeting will also improve EPA's ability to identify and respond to increased noncompliance with environmental laws.

Our Nation's environmental laws exist to protect our families, our communities and our natural resources. Those who would intentionally violate our environmental laws deserve the full force of the government to stop them.

Our families and communities also deserve our most vigorous efforts to protect them from the specter of terror. Chemical and biological threats represent one of the most sinister means for men to terrorize each other.

We will send our homeland security agencies the environmental expertise and personnel they need to confront these threats.

We will also send our local communities new help for additional drinking water security protections.

Our environment deserves no less, our families deserve no less. I urge my colleagues to support passage and funding of the Environmental Enforcement and Security Act of 2004.

By Mr. DEWINE (for himself, Mr. KOHL, Mr. GRASSLEY, Mr. SCHUMER, Mr. SPECTER, Mr. FEINGOLD, Mr. LEAHY, and Mr. COLEMAN):

S. 2270. A bill to amend the Sherman Act to make oil-producing and exporting cartels illegal; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I wish to talk this afternoon about a bill that my colleagues, Senator KOHL, Senator GRASSLEY, Senator FEINGOLD, Senator SPECTER, Senator SCHUMER, Senator LEAHY, Senator COLEMAN, and I are introducing, which is called the No Oil Producing and Exporting Cartels Act of 2004. We are introducing this bill to address the longstanding problem of foreign governments acting in the commercial arena to fix, allocate, and establish production and price levels of petroleum products.

Every consumer in America knows that gasoline prices have reached record highs over the last couple of weeks. The national average has reached a new record high for self-serve unleaded gas. That is approximately $1.80 per gallon. But over the last week in my home State of Ohio gas prices have been even higher. In Marietta, gas was $1.84; in Cleveland, $1.86; in Columbus, it topped out at $1.88 in some stations. Many analysts predict that prices could get as high as $2 per gallon, or higher, by the summer.

This is of particular interest to me because Ohio and the Midwestern States always seem to be hit especially hard by gas prices spikes. These spikes are acutely painful to persons who commute long distances and to those who live on fixed incomes such as the elderly.

What is the cause? Certainly there are many causes, but as we might expect, there are a number of factors at play. But there is surprising agreement among industry experts about the primary cause of high gas prices and that is the increase in imported crude oil prices.

We also know the biggest factor in setting crude oil prices is OPEC. The unacceptably high price of imported crude oil is a direct result of collusive agreements among OPEC nations to maintain the price of oil.

Despite the fact that gasoline prices are going through the roof, OPEC members met yesterday in Austria and decided to cut the output of oil even further. We have been through this process more than enough to know what that means for the American consumer. When demand is high and supplies are cut, that obviously means higher prices. That is exactly what OPEC did to us yesterday. It ripped off American consumers by raising gas prices even more.

this is an outrage. In fact, OPEC is probably the most notorious example of an illegal cartel in the world today, even at a time when it is widely understood that such conduct is counterproductive and ill-suited for our global economy. Supreme Court Justice Scalia in a recent case described collusion among competitors as ''the supreme evil of antitrust.'' Nation after nation has adopted antitrust enforcement principles that recognize the illegality of price fixing and output restrictions among competitors. In 1998, the Organization for Economic Cooperation and Development, then composed of twenty-nine member nations, issued a formal recommendation denouncing price fixing. OPEC's continued actions, in ongoing defiance of American and international antitrust principles, should not be tolerated.

Until now, however, OPEC has effectively received special treatment under U.S. antitrust laws—despite the fact that oil is a commodity that touches the lives of nearly every American consumer. It is time that we take steps to assure that oil is subject to the principles of the free market. The bill that we are introducing today would do just that and help in the fight to lower gas prices.

Senator KOHL and I have introduced this bill twice before—in 2000 and 2001. It is an idea whose time has come. The purpose of our NOPEC bill is simple—it would treat OPEC like any other cartel. If OPEC were a group of private companies colluding on prices, the executives could be prosecuted and sent to jail, and the firms would pay millions of dollars in fines or maybe even billions in fines. Unfortunately, however, for years enforcement has been constrained by two related court opinions.

In 1979, a Federal District Court found that OPEC's price-setting decisions were ''governmental'' acts and accordingly that they were given sovereignty status and protected by the Foreign Sovereign Immunities Act. Subsequently, in 1981, a Federal Court of Appeals declined to consider the appeal of that antitrust case based on the so-called ''act of state'' doctrine.

NOPEC would effectively reverse these decisions by making it clear that OPEC's activities are not protected by sovereign immunity and that the Federal courts should not decline to hear such a case based on the ''act of state'' doctrine. As a result, under NOPEC, the Department of Justice and the Federal Trade Commission could bring a legal antitrust enforcement action against foreign states engaging in the restraint of trade regarding oil and other petroleum products. Simply put, NOPEC assures that our U.S. antitrust agencies have jurisdiction and authority to bring such cases.

We don't intend to give up the fight for lower gasoline prices. Today, I want the members of OPEC to hear a message loud and clear—we won't quit fighting for American consumers. When OPEC wants to do business with America, it must abide by our antitrust laws.

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. 2270

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 ''No Oil Producing and Exporting Cartels Act of 2004 '' or ''NOPEC''.

SEC. 2. SHERMAN ACT.

The Sherman Act (15 U.S.C. 1 et seq.) is amended by adding after section 7 the following:

''SEC. 7A. OIL PRODUCING CARTELS.

''(a) IN GENERAL.—It shall be illegal and a violation of this Act for any foreign state, or any instrumentality or agent of any foreign state, to act collectively or in combination with any other foreign state, any instrumentality or agent of any other foreign state, or

any other person, whether by cartel or any other association or form of cooperation or joint action—

''(1) to limit the production or distribution of oil, natural gas, or any other petroleum product;

''(2) to set or maintain the price of oil, natural gas, or any petroleum product; or

''(3) to otherwise take any action in restraint of trade for oil, natural gas, or any petroleum product;

when such action, combination, or collective action has a direct, substantial, and reasonably foreseeable effect on the market, supply, price, or distribution of oil, natural gas, or other petroleum product in the United States.

''(b) SOVEREIGN IMMUNITY.—A foreign state engaged in conduct in violation of subsection (a) shall not be immune under the doctrine of sovereign immunity from the jurisdiction or judgments of the courts of the United States in any action brought to enforce this section.

''(c) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based on the act of state doctrine, to make a determination on the merits in an action brought under this section.

''(d) ENFORCEMENT.—The Attorney General of the United States and the Federal Trade Commission may bring an action to enforce this section in any district court of the United States as provided under the antitrust laws.''.

SEC. 3. SOVEREIGN IMMUNITY.

Section 1605(a) of title 28, United States Code, is amended—

(1) in paragraph (6), by striking ''or'' after the semicolon;

(2) in paragraph (7), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(8) in which the action is brought under section 7A of the Sherman Act.''.

Mr. KOHL. Mr. President, in recent weeks, consumers all across the Nation have watched gas prices rise, seemingly without any end in sight. On March 24, U.S. gasoline prices reached a record high average of $ 1.74 a gallon. And, if consumers weren't paying enough already, just yesterday the OPEC nations decided to cut production by a million barrels a day, an action sure to drive prices even higher. Such blatantly anti-competitive action by the oil cartel violates the most basic principles of fair competition and free markets and should not be tolerated. It is for this reason that I rise today, with my colleagues Senators DEWINE, SPECTER, LEAHY, FEINGOLD, SCHUMER, COLEMAN and GRASSLEY, to reintroduce the ''No Oil Producing and Exporting Cartels Act'' (''NOPEC''). This legislation is identical to our NOPEC bill introduced in the last two Congresses, a bill which passed the Judiciary Committee unanimously in 2000.

Real people suffer real consequences every day in our nation because of OPEC's actions. Rising gas prices are a silent tax that takes hard-earned money away from Americans every time they visit the gas pump. Higher oil prices drive up the cost of transportation, harming thousands of companies throughout the economy from trucking to aviation. And those costs are passed on to consumers in the form of higher prices for manufactured goods. Higher oil prices mean higher heating oil and electricity costs. Anyone who has gone through a Midwest winter or a deep South summer can tell you about the tremendous personal costs associated with higher home heating or cooling bills.

We have all heard many explanations offered for rising energy prices. Some say that the oil companies are gouging consumers. Some blame disruptions in supply. Others point to the EPA requirement mandating use of a new and more expensive type of ''reformulated'' gas in the Midwest or other ''boutique'' fuels around the country. Some even claim that refiners and distributors have illegally fixed prices. On this issue, Senator DEWINE and I have asked the Federal Trade Commission to investigate these allegations. As a result of our inquiries, the FTC has put a task force in place to find out if those allegations were true. While we continue to urge the FTC to be vigilant, the FTC has to date found no evidence of illegal domestic price fixing as a cause of higher gas prices.

But one cause of these escalating prices is indisputable: the price fixing conspiracy of the OPEC nations. For years, this conspiracy has unfairly driven up the cost of imported crude oil to satisfy the greed of the oil exporters. We have long decried OPEC, but, sadly, no one in government has yet tried to take any action. NOPEC will, for the first time, establish clearly and plainly that when a group of competing oil producers like the OPEC nations act together to restrict supply or set prices, they are violating U.S. law. It will authorize the Attorney General or FTC to file suit under the antitrust laws for redress. Our bill will also make plain that the nations of OPEC cannot hide behind the doctrines of ''Sovereign Immunity'' or ''Act of State'' to escape the reach of American justice.

The most fundamental principle of a free market is that competitors cannot be permitted to conspire to limit supply or fix price. There can be no free market without this foundation. And we should not permit any nation to flout this fundamental principle.

Some critics of this legislation have argued that suing OPEC will not work or that threatening suit will hurt more than help. I disagree. Our NOPEC legislation will, for the first time, enable our authorities to take legal action to combat the illegitimate price-fixing conspiracy of the oil cartel. It will, at a minimum, have a real deterrent effect on nations that seek to join forces to fix oil prices to the detriment of consumers. This legislation will be the first real weapon the U.S. government has ever had to deter OPEC from its seemingly endless cycle of price increases.

There is nothing remarkable about applying U.S. antitrust law overseas. Our government has not hesitated to do so when faced with clear evidence of anti-competitive conduct that harms American consumers. A few years ago, for example, the Justice Department secured record fines totaling $725 million against German and Swiss companies engaged in a price fixing conspiracy to raise and fix the price of vitamins sold in the United States and elsewhere. Their behavior harmed consumers by raising the prices consumers paid for vitamins every day and plainly needed to be addressed. As this and other cases show, the mere fact that the conspirators are foreign nations is no basis to shield them from violating these most basic standards of fair economic behavior.

Even under current law, there is no doubt that the actions of the international oil cartel would be in gross violation of antitrust law if engaged in by private companies. If OPEC were a group of international private companies rather than foreign governments, their actions would be nothing more than an illegal price fixing scheme. But OPEC members have used the shield of ''sovereign immunity'' to escape accountability for their price-fixing. The Foreign Sovereign Immunities Act, though, already recognizes that the ''commercial'' activity of nations is not protected by sovereign immunity. And it is hard to imagine an activity that is more obviously commercial than selling oil for profit, as the OPEC nations do. Our legislation will correct one erroneous twenty-year-old lower federal court decision and establish that sovereign immunity doctrine will not divest a U.S. court from jurisdiction to hear a lawsuit alleging that members of the oil cartel are violating antitrust law.

In the last few weeks, I have grown more certain than ever that this legislation is necessary. Between OPEC's decision yesterday to cut oil production and the FTC's conclusion for the last several years that there is no illegal conduct by domestic companies responsible for rising gas prices, I am convinced that we need to take action, and take action now, before the damage spreads too far.

For these reasons, I urge that my colleagues support this bill so that our nation will finally have an effective means to combat this selfish conspiracy of oil-rich nations.

By Mr. DURBIN (for himself, Mr. LAUTENBERG, Mr. CORZINE, Mrs. FEINSTEIN, Mr. KENNEDY, and Mrs. BOXER):

S. 2271. A bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, today I am introducing the Clean Cruise Ship Act of 2004. I am proud to be joined by Senators LAUTENBERG, CORZINE, FEINSTEIN, KENNEDY and BOXER in offering this legislation. I also am honored to be working with Congressman FARR, who is leading companion legislation

in the House and is a co-chair of the House Oceans Caucus.

America's oceans span nearly 4.5 million square miles, an area 23 percent larger than the nation's land area. They are a resource for travel, commerce, recreation and the global ecosystem. They comprise 70 percent of our planet.

We cannot continue to take this vast resource for granted. The Pew Commission found in June 2003 that our oceans are in crisis. The report cites five priorities: implementing a sustainable national ocean policy; coordinating the governance of ocean resources; reorienting our fisheries policy to emphasize sustainability; protecting ocean habitat and managing coastal development; and controlling the sources of pollution threatening our marine ecosystems. Today I want to concentrate on the fifth priority: controlling pollution.

With growing amounts of pollution caused by human activity, we are significantly degrading the marine environment. According to the EPA, pollution has rendered 44 percent of tested estuaries and 12 percent of ocean shoreline miles unfit for swimming, fishing or supporting aquatic life. The Coast Guard estimates that marine debris is responsible for the deaths of more than 1 million birds and 100,000 marine mammals each year. About 90 percent of Florida's coral reefs are believed to be dead or dying.

We have taken some actions to protect our oceans, but we still have a long way to go. We need to improve enforcement of our existing environmental protection laws, but we also need to update them to accommodate for the changing times.

Specifically, we need to address pollution from passenger cruise ships. The cruise line industry has grown significantly over the past 34 years. In 1970, cruise ships carried 500,000 passengers in the United States. In 2002, the cruise line industry carried 6.5 million passengers in about 150 ships in the United States, and that number has continued to grow.

In addition to a tremendous increase in the number of passengers, cruise ships themselves have grown. Today the average cruise vessel accommodates 3,100 passengers and crew. Carnival recently built the largest passenger ship in the world, the Queen Mary 2: it's 1,132 feet long, which is more than twice as long as the Washington Monument is tall; it is 236 feet high, about the height of a 23-story building; and it weights about 151,400 long tons, the rough equivalent of 390 fully loaded 747 jets.

According to the EPA, a typical 3,000 passenger cruise ship each week generates 210,000 gallons of sewage; 1 million gallons of gray water, including runoff from baths, laundry machines and dishwashers; and 37,000 gallons of oily bilge water. Ships of the size of cruise vessels today, which generate the amount of waste of today, did not exist when the Clean Water Act and other environmental laws were written in the 1970s. Therefore, our laws regarding cruise ships are grossly inadequate.

My colleagues may be shocked to learn that it is legal to dump raw sewage 3 miles from shore; and it is legal to dump sewage within 3 miles so long as it is run through a machine, which complies with a standard that is over 20 years old and which is never rigorously tested once installed. Also it is legal to dump gray water—which can contain harmful toxins and nutrients—anywhere in the ocean. Only Alaskan waters are protected by strong federal legislation enacted in 2000 that regulates sewage and graywater.

The legislation I am introducing today,the Clean Cruise Ship Act of 2004, would draw from key provisions of the federal law in place in Alaska and the Clean Water Act. This bill would: first, create a no discharge zone that would prevent dumping of sewage, graywater and oily bilge water within 12 miles of shore—to protect our coasts and estuaries; second, apply the current Alaskan standards to sewage and graywater discharges outside of 12 miles from shore; third, allow the Coast Guard and EPA to jointly issue discharge requirements based on the best available technology, with the goal of zero pollutants by 2015; and finally, strengthen enforcement.

Studies show that the Alaskan standards, which our bills applies to the rest of the country, can be achieved. Indeed, ships that have been upgraded to treat sewage and graywater with modern technology are easily meeting or exceeding standards for such constituents as fecal coliform and chlorine.

Not only is this bill technologically feasible: it is affordable. The cost to upgrade each ship will be more than $3 million. To put this into context, Carnival Cruise Lines just spent $800 million to build the new Queen Mary 2, and earned $6.7 billion in revenues last year.,

The Clean Cruise Ship Act of 2004 is a reasonable approach to an urgent problem. I urge my colleagues to support this important legislation.

By Mr. BINGAMAN (for himself and Mr. SMITH):

S. 2272. A bill to amend title XIX of the Social Security Act to expand the pediatric vaccine distribution program to include coverage for children administered a vaccine at a public health clinic or Indian clinic, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, in conjunction with Senator SMITH, I am introducing the ''Children's Vaccine Access Act of 2004.'' This legislation makes three changes to the Vaccines for Children program with the intent of expanding access and the delivery of vaccines to our Nation's children. This legislation is supported by the Administration and included in the Administration's budget as recommended by the Centers for Disease Control and Prevention, or CDC.

First, the legislation expands access to the Vaccines for Children, or VFC, program for children whose private health insurance does not cover immunizations by allowing children to receive their VFC vaccines at State and local public health clinics. Currently, underinsured children must go to specially designated Federal Qualified Health Centers or rural health centers to receive VFC vaccines. Consequently, our bill expands the number of access points at which children can get the vaccines they need.

According to the CDC, there are approximately 3,000 Federally Qualified Health Centers enrolled in VFC, compared with approximately 7,000 health department clinics. As the CDC notes, ''Increasing access points for VFC eligible underinsured children will allow those who may have been previously denied immunizations at public health clinics to be vaccinated with the full series of routinely administered vaccines.''

Second, the bill seeks to restore the tetanus and diphtheria vaccines to the VFC program by lifting the 1993 price caps that were in use prior to enactment of the VFC program. The price caps are so low that, for example, the tetanus booster vaccine was unfortunately dropped from VFC coverage when no vaccine manufacturer would bid on the contract at the 1993-imposed price cap levels.

CDC estimates that over 200,000 additional children would be served through VFC with these two changes.

And finally, the bill includes new authorizing language to allow the CDC to sell the VFC purchased stockpile vaccines to its grantees or back to manufacturers for use in the private sector in the event that the stockpiled vaccines are needed by non VFC-eligible children.

Immunizations are critical to both children's health and the public health care system. The VFC program began on October 1, 1994, to improve vaccine availability to children nationwide by providing vaccines free-of-charge to Medicaid-eligible, uninsured, underinsured, American Indian, or Alaska Native children through both public and private providers. The VFC program automatically covers vaccines recommended by the Advisory Committee on Immunization Practices, or ACIP, and approved by the CDC.

VFC has had an enormous impact on improving the immunization rates among our Nation's children. According to the Children's Defense Fund, ''Between 1993 and 1999, there was nearly a 20 percent increase in the number of fully immunized two year-olds.''

However, the goal of achieving a 90 percent immunization coverage rate, with the complete series of recommended vaccines, has still not been achieved. According to the National Immunization Survey (NIS), the nationwide vaccination coverage levels

among children 19–35 months of age for the 4:3:1:3:3 series of childhood immunizations was 74.8 percent in 2002. Unfortunately, the immunization rate in New Mexico was just 64.6 percent in 2002 and second worst in the Nation to only Colorado. To address that problem, in December 2001, I requested the CDC to work with the State of New Mexico on improving its immunization rate and a number of positive developments have taken place, including the creation of an Immunization Task Force at the state level and the passage of legislation to create an immunization registry by the New Mexico Legislature this past month.

It is my belief that the strides the Nation and New Mexico continue to make to further improve the childhood immunization rate is assisted by this legislation. I would like to thank the CDC for their fine work on the VFC program and their assistance with this legislation and in its assistance directly to the State of New Mexico. I would also like to thank Senator SMITH for his dedication and support for this initiative to improve the health of our Nation's children.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2272

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 ''Children's Vaccine Access Act of 2004''.

SEC. 2. EXPANSION OF DEFINITION OF FEDERALLY VACCINE-ELIGIBLE CHILD.

(a) IN GENERAL.—Section 1928(b)(2)(A)(iii)(I) of the Social Security Act (42 U.S.C. 1396s(b)(2)(A)(iii)(I)) is amended by striking ''or a rural health clinic (as defined in section 1905(l)(1))'' and inserting '', a rural health clinic (as defined in section 1905(l)(1)), or a State or local public health clinic''.

(b) CONFORMING AMENDMENT.—Section 1928(h)(3) of the Social Security Act (42 U.S.C. 1396s(h)(3)) is amended by striking ''and 'tribal organization' '' and inserting '', 'tribal organization', and 'urban Indian organization' ''.

SEC. 3. REPEAL OF PRICE CAP FOR PRE-1993 VACCINES.

(a) IN GENERAL.—Section 1928(d)(3)(B) of the Social Security Act (42 U.S.C. 1396s(d)(3)(B)) is repealed.

(b) CONFORMING AMENDMENT.—Section 1928(d)(3) of such Act (42 U.S.C. 1396s(d)(3)) is amended by striking subparagraph (C) and inserting the following:

''(B) NEGOTIATION OF DISCOUNTED PRICE.—With respect to contracts entered into for a pediatric vaccine described in this section, the price for the purchase of such vaccine shall be a discounted price negotiated by the Secretary.''.

SEC. 4. SIMPLIFIED ADMINISTRATION OF VACCINE SUPPLY.

Section 1928(d)(6) of the Social Security Act (42 U.S.C. 1396s(d)(6)) is amended by inserting after the second sentence the following: ''The Secretary may sell such quantities of vaccines from such supply to public health departments or back to the vaccine manufacturer as the Secretary determines appropriate. Proceeds received from such sales shall be available to the Secretary only for the purpose of procuring pediatric vaccines stockpiles under this section and shall remain available until expended.''.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act take effect on October 1, 2004.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Ms. SNOWE, Mr. KENNEDY, Mrs. CLINTON, Mr. ROCKEFELLER, Mr. BIDEN, Mr. CARPER, and Mr. LAUTENBERG):

S. 2273. A bill to provide increased rail transportation security; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I am joined by Senator HOLLINGS and other members of the Senate Commerce Committee in introducing the Rail Security Act of 2004.

The recent attacks on Madrid's commuter rail system demonstrated all too vividly that our own transit system, Amtrak, and the freight railroads could be vulnerable to terrorist attack. Only modest resources have been dedicated to rail security since the September 11, 2001 terrorist attacks on the United States, and efforts to address rail security remain fragmented. The Department of Homeland Security (DHS) has not completed a vulnerability assessment for the rail system, nor is there an integrated security plan that reflects the unique characteristics of passenger and freight rail operations.

The legislation we are introducing today would authorize resources to ensure rail transportation security receives a high priority in our efforts to secure our country from terrorism. The legislation directs DHS to complete a vulnerability assessment for the rail system and make recommendations for addressing security weaknesses within 180 days of enactment. It also authorizes funding to address long-standing fire and life safety needs for several tunnels along the Northeast Corridor, and authorizes appropriations to meet immediate security needs for intercity and freight rail transportation. Further, as recommended by the General Accounting Office, the proposal requires DHS to sign a memorandum of agreement with the Department of Transportation to make clear each department's roles and responsibilities with respect to rail security.

The freight railroads, individual commuter authorities, and Amtrak have, on their own initiative, completed risk assessments and taken steps to safeguard passengers, facilities, and cargo. These efforts, accomplished at a very small cost to the federal government, have helped make our rail system safer. The legislation introduced today will augment these efforts and bring these individual initiatives together in a coordinated rail security program.

More than 2 years ago, in the aftermath of the September 11th attacks, the Commerce Committee reported rail security legislation but unfortunately that proposal was not adopted by the full Senate. The Commerce Committee will meet in the coming weeks to consider this legislation and it is my hope that the proposal will be acted upon quickly by the full Senate.

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. 2273

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Rail Security Act of 2004''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY ASSESSMENT.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Secretary of Transportation, shall complete a vulnerability assessment of freight and passenger rail transportation (encompassing rail carriers, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Under Secretary, in consultation with the

Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Under Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching areas, other rail infrastructure and facilities, information systems, and other areas identified by the Under Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying weapon detection equipment;

(C) training employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term economic impact of measures that may be required to address those risks.

(4) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the government to provide increased security support at high or severe threat levels of alert; and

(B) a plan for coordinating rail security initiatives undertaken by the public and private sectors.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Under Secretary of Homeland Security for Border and Transportation Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, shippers of hazardous materials, public safety officials (including those within other agencies and offices within the Department of Homeland Security) and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Under Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report containing the assessment and prioritized recommendations required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Under Secretary may submit the report in both classified and redacted formats if the Under Secretary determines that such action is appropriate or necessary.

(d) 2-YEAR UPDATES.—The Under Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations every 2 years and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $5,000,000 for fiscal year 2005 for the purpose of carrying out this section.

SEC. 3. RAIL SECURITY.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended by striking ''the rail carrier'' each place it appears and inserting ''any rail carrier''.

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. 4. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) REQUIREMENT FOR STUDY.—Within one year after the date of enactment of the Rail Security Act of 2004, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. 5. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Under Secretary of Homeland Security for Border and Transportation Security, in cooperation with the Secretary of Transportation, shall—

(1) analyze the cost and feasibility of requiring security screening for passengers, baggage, and mail on passenger trains; and

(2) report the results of the study, together with any recommendations that the Under Secretary may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) PILOT PROGRAM.—As part of the study under subsection (a), the Under Secretary shall complete a pilot program of random security screening of passengers and baggage at 5 passenger rail stations served by Amtrak selected by the Under Secretary. In conducting the pilot program, the Under Secretary shall—

(1) test a wide range of explosives detection technologies, devices and methods;

(2) require that intercity rail passengers produce government-issued photographic identification which matches the name on the passenger's tickets prior to boarding trains; and

(3) attempt to achieve a distribution of participating train stations in terms of geographic location, size, passenger volume, and whether the station is used by commuter rail passengers as well as Amtrak passengers.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security to carry out this section $5,000,000 for fiscal year 2005.

SEC. 6. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this Act.

SEC. 7. FIRE AND LIFE SAFETY IMPROVEMENTS.

(a) LIFE SAFETY NEEDS.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to tunnels on the Northeast Corridor in New York, N.Y., Baltimore, Md., and Washington, D.C.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2005;

(B) $100,000,000 for fiscal year 2006;

(C) $100,000,000 for fiscal year 2007;

(D) $100,000,000 for fiscal year 2008; and

(E) $170,000,000 for fiscal year 2009.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2005;

(B) $10,000,000 for fiscal year 2006;

(C) $10,000,000 for fiscal year 2007;

(D) $10,000,000 for fiscal year 2008; and

(E) $17,000,000 for fiscal year 2009.

(3) For the Washington, D.C. Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2005;

(B) $8,000,000 for fiscal year 2006;

(C) $8,000,000 for fiscal year 2007;

(D) $8,000,000 for fiscal year 2008; and

(E) $8,000,000 for fiscal year 2009.

(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for fiscal year 2005 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

(e) PLAN REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, periodic status reports, and such other matter the Secretary deems appropriate;

(f) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) seek financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use of the tunnels.

SEC. 8. TRANSPORTATION SECURITY.

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation and the Under Secretary of Homeland Security for Border and Transportation Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking ''safety'' the first place it appears, and inserting ''safety, including security,''.

SEC. 9. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2004, Amtrak shall submit to the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

''(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

''(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

''(c) USE OF INFORMATION.—The National Transportation Safety Board and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

''(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2005 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''Sec.
''24316. Plan to assist families of passengers involved in rail passenger accidents''.

SEC. 10. SYSTEM-WIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL—Subject to subsection (c), the Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants, through the Secretary of Transportation, to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, D.C.;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Under Secretary;

(5) to obtain train tracking and communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units; and

(7) to expand emergency preparedness efforts.

(b) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless the projects are contained in a systemwide security plan approved by the Under Secretary, in consultation with the Secretary of Transportation, and meet the requirements of section 7(e)(2).

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $62,500,000 for fiscal year 2005 for the purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 11. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of pressurized tank cars to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations; and

(8) other improvements recommended by the report required by section 2, including infrastructure, facilities, and equipment upgrades.

(b) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(c) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 10(b) of this Act.

(d) TANK CAR REPLACEMENT INCENTIVE.—A grant under subsection (a)(5) may be for up to 15 percent of the cost of the modification or replacement of a pressurized tank car.

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section 2 the Under Secretary of Homeland Security for Border and Transportation Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (4) of subsection (a).

(f) PROCEDURES FOR GRANT AWARD.—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $250,000,000 for fiscal year 2005 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 12. DEPARTMENT OF TRANSPORTATION OVERSIGHT.

(a) SECRETARIAL OVERSIGHT.—The Secretary of Transportation may use up to 0.5 percent of amounts made available to Amtrak for capital projects under the Rail Security Act of 2004 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) USE OF FUNDS.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under subsection (a).

SEC. 13. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Under Secretary of Homeland Security for Border and Transportation Security, in conjunction with the Secretary of Transportation, shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security, including research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment; and

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity, with a focus on tank cars that carry toxic-inhalation chemicals; and

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Under Secretary of Homeland Security for Border and Transportation Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department and the Department of Transportation.

(c) ACCOUNTABILITY.—The Under Secretary of Homeland Security for Border and Transportation Security shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability the would be useful in carrying out the project.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $50,000,000 in each of fiscal years 2005 and 2006 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 14. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) TRACK STANDARDS.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) require each railroad using continuous welded rail track to include procedures (in its program filed with the Administration) that improve the identification of cracks in rail joint bars;

(2) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(3) establish a program to periodically review continuous welded rail joint bar inspection data from railroads and Administration track inspectors and, whenever the Administration determines that it is necessary or appropriate, require railroads to increase the frequency or improve the methods of inspection of joint bars in continuous welded rail.

(b) TANK CAR STANDARDS.—The Federal Railroad Administration shall—

(1) within 1 year after the date of enactment of this Act, validate the predictive model it is developing to quantify the maximum dynamic forces acting on railroad tank cars under accident conditions; and

(2) within 18 months after the date of enactment of this Act, initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars.

(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 2 years after the date of enactment of this Act, the Federal Railroad Administration, in coordination with the National Transportation Safety Board, shall—

(1) conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989; and

(2) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with recommendations for measures to eliminate or mitigate the risk of catastrophic failure.

SEC. 15. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the heads of other appropriate Federal departments and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in ''The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America'', dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the ''Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States'', dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing pre-screened passenger lists for rail passengers travelling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers; and

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing pre-screened passenger lists to the Department of Homeland Security.

By Ms. LANDRIEU:

S. 2274. A bill to expand and improve retired pay, burial, education, and other mobilization benefits for members of the National Guard and Reserves who are called or ordered to active duty, and for other purposes; to the Committee on Finance.

Ms. LANDRIEU. Mr. President, I rise to introduce and send to the desk the 21st Century Citizen Soldier Benefits Act which I introduce on behalf of myself.

I thought I would take a moment this afternoon to outline the framework and the context of this bill because it has to do with our Armed Forces. It has to do with a very important component of our Armed Forces, which is our Guard and Reserve units, part of our total force, a very important part of that total force as I hope to outline.

This is an attempt to put before the Senate and the Congress a comprehensive bill—one that I find and I know people in Louisiana across party lines and in very energetic and enthusiastic ways support because the need is so great—to support our men and women in uniform, particularly our Guard and Reserve components.

If the war on terror is teaching us anything—and we are learning some tough lessons each and every day as we move forward through this war—we all know we cannot defend this Nation adequately without the strength provided by our National Guard and Reserves.

Since 9/11 when this country was attacked, the first time in this large measure since the attack on Pearl Harbor many years ago, over 355,000 guardsmen and reservists have been mobilized.

To give a grasp of that number, our Navy today, arguably the most powerful in the world, has 375,000 sailors. So in 2½ years, we have called up almost enough guardsmen and reservists to man every ship in the United States Navy. That is a lot of manpower and a lot of womanpower, and they deserve our very best effort. They are not just backfilling for Active Forces. They are serving on the front lines, as we have seen today how brutal those front lines can be. They are being wounded and killed just like our Active Forces. In fact, 97 of the 600 deaths in Iraq have been Guard and Reserve deaths.

Today 176,000 citizen soldiers wear the uniform full time, and that number, as I will show, is growing exponentially. By May 1, 40 percent of the

troops in Iraq will be members of the National Guard and Reserve. These are men and women who have full-time jobs, who are coaches, small business owners, policemen, firemen, State workers, and waiters and waitresses in our restaurants. They hold many jobs, but they are then called up. They take off their daily dress clothes and put on the uniform and go to the front lines to protect us.

In Louisiana, and I know this is true in Texas, thousands of men and women have been called up.

We have 3,051 reservists on active duty right now. Over 6,000 Louisiana reservists have been activated since 9/11. For many, their activation periods have unfortunately lasted, because of the demand on our troops, sometimes in excess of 18 months to 24 months. The 528th Engineering Battalion from Monroe, LA, recently deployed to Afghanistan, 500 Louisianans on their way serving already. Marine Reserve Company B of Bossier City, 150 Marines have just been put on alert for mobilization. Company B has already been mobilized before.

Last month, the Department of Defense put another 18,000 National Guardsmen on alert status, including 3,800 members from Louisiana's 256th Separate Infantry Brigade. I will be visiting their leaders on Monday, in Lafayette, LA, and be visiting with their families to talk about the separation that is going to occur and how we are doing as a nation, as a State, and as a community, to help them through this difficult time as they help, protect, and give us their very best in this war effort.

The National Guard and Reserve, as I said, make up now 45 percent of our forces. We simply cannot fight without them. Yet as I am going to explain, the benefits, their pensions, their compensation, their GI benefits, their retirement benefits, and even their burial benefits do not match with their level of service and do not match with the contribution they are, in fact, making.

I understand why because when the framework for the Guard and Reserves was initially put together, they were thought of as sort of a backup, as a filler.

They do other things as well other than, of course, fighting wars. They help our States mobilize at times of national and natural disasters. So I am clear, as are many of us, about why initially, as the Guard and Reserve was created and the framework developed, those rules and regulations were put into place back in the 1940s, in the 1960s, and in the 1970s.

In 2004, the times are different. The demands are great and they are meeting this challenge. As a Congress we need to meet them more than halfway.

Nearly 35,000 have been mobilized more than once. Imagine returning from Afghanistan, reuniting with your family, getting your business restarted, getting back into the desk you left before you went to serve, only to be told to get ready because you are leaving in another few months, get ready to ship out again.

We have a retention and recruiting crisis looming on the horizon. I would like to show the number of troops, reservists, who have been called up from 1953 through 1989, through the Berlin crisis of 1961, through the Cuban missile crisis, and the Vietnam war, we called up a total of 199,877, about 200,000, through all of this, three times in 40 years. Since 1990, in the last 14 years, we have called up 634,984—the Persian Gulf war, the intervention in Haiti, Bosnian peacekeeping, Operation Southern Watch, the Kosovo conflict, now our ongoing war on terrorism, which has many fronts, primarily in Afghanistan and in Iraq. That is unprecedented in terms of our recent history.

The question to us should be: Are we doing what we should as we are increasing our military budget substantially? I, for one, have supported each and every increase and almost argued in many instances for more money going to our military. What portion of that increase is going to the Guard and Reserve to make sure their pensions are intact, that when they retire their compensation is fair, that their families are cared for at least at a decent and adequate level while they serve us so magnificently and so beautifully? So we can see we are calling more and more on our Guard and Reserve.

I ask unanimous consent to have printed in the RECORD an excellent article that appeared in the Washington Post in January of this year by Mr. Vernon Loeb, a very excellent staff writer.

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

[From the Washington Post, Jan. 21, 2004]

ARMY RESERVE CHIEF FEARS RETENTION CRISIS

(By Vernon Loeb)

The head of the Army Reserve said yesterday that the 205,000-soldier force must guard against a potential crisis in its ability to retain troops, saying serious problems are being ''masked'' temporarily because reservists are barred from leaving the military while their units are mobilized in Iraq.

Lt. Gen. James R. Helmly said his staff is working on an overhaul of the reserve aimed in part at treating soldiers better and being more honest with them about how long they're likely to be deployed. Helmly said the reserve force bureaucracy bungled the mobilization of soldiers for the war in Iraq, and gave them a ''pipe dream'' instead of honest information about how long they might have to remain there.

''This is the first extended-duration war our Nation has fought with an all-volunteer force,'' said Helmly. ''We must be sensitive to that. And we must apply proactive, preventive measures to prevent a recruiting-retention crisis.''

Helmly said his staff is engaged in an overhaul of the reserve aimed at turning the Army's part-time soldiers into a top-flight fighting force that can handle the strains of the global war on terrorism. In a Pentagon briefing for defense reporters, Helmly outlined an array of planned changes and bluntly described the force he took over in May 2002 as being dominated by bureaucrats who often ignored soldiers' needs.

In a recent memo, Helmly said, he told his subordinates that he was ''really tired of going to see our reserve soldiers [and finding] they're short such simple things as goggles. It's about damn time you listen to your lawyers less and your conscience more. That will probably get me in trouble. But I told them, I want this stuff fixed.''

Reservists in Iraq have long complained about having to spend a year there with inadequate equipment, including a lack of body armor.

Most reservists went to Iraq last year on year-long mobilizations, with a belief that they would be required to spend only 6 months in the country. But they were abruptly informed in September that they would have to spend 12 months in Iraq, pushing the total length of many reservists' mobilizations to 16 months or longer.

Analysts inside and outside the military say these long overseas mobilizations could have the effect of driving reservists out of the military in droves once they begin returning from Iraq over the next several months. After that, the service will lift the ''stop-loss'' provisions that prohibit soldiers from quitting the reserve when their hitches are up.

Helmly said he has not been surprised by such criticism. ''The [Iraq] mobilization was so fraught with friction that it really put a bad taste in a lot of people's mouths,'' he said. ''We had about 10,000 who had less than 5 days' notice that they were going to be mobilized. Then we had about 8,000 who were mobilized, got trained up, and never deployed.''

''No sooner do the statues of Saddam Hussein start tumbling down, then the guidance was, start planning to demobilize everybody,'' Helmly said, only to find in July that a growing insurgency required remobilizing 4,000 to 5,000 of the 8,000 that were initially mobilized but never deployed.

''One lesson I have certainly learned . . . it is imperative that we communicate with our soldiers and their families in advance, and that we not set false expectations,'' Helmly said.

To that end, Helmly said, a ''major order culture change'' is taking place in the reserve so that reservists know, upon joining, that they will be called up to active duty for between 9 and 12 months every 4 to 5 years.

As part of that change, he said, the current total of 2,091 reserve units will be reduced significantly so that every unit—typically a support company of about 150 soldiers—is manned, equipped and ready to go to war, if necessary.

Currently, 226,000 soldiers would be necessary to man all those units. But the Army Reserve is only authorized by Congress to have 205,000 soldiers, Helmly said, and at any given time, only between 160,000 and 175,000 of them are available for mobilization.

''We will in fact inactivate units beginning next year specifically to harvest the strength so we can man fully our remaining units,'' Helmly said, adding that maintenance and ''water support'' units will be reduced in favor of more military police, civil affairs and heavy truck transport detachments.

''I'm often asked by families, how do you know you'll be able to recruit for this force?'' Helmly said. ''There are no knowns; we're treading new virgin territory here. But most of our people will respond well to the initiatives we're putting forward. They don't wish to be part of a second-class team.''

Ms. LANDRIEU. According to this reporter:

The head of the Army Reserve said yesterday that the 205,000-soldier force must guard against a potential crisis in its ability to retain troops, saying serious problems are being ''masked'' temporarily because reservists are barred from leaving the military while their units are mobilized in Iraq.

He goes on to say:

Lieutenant General Helmly told his subordinates that he was ''really tired of going to see our reserve soldiers [and finding] they're short such simple things as goggles. It's about damn time you listen to your lawyers less and your conscience more. They will probably get me in trouble. But I told them, I want this stuff fixed.''

Not only are these men and women being called up in unprecedented numbers, not only are they being prevented from leaving, which is masking a potential readiness crisis, but they are also not being provided with some of the basic tools, equipment, and body armor that they need to protect themselves; therefore, contributing to a state of unease.

Not that these guardsmen and reservists are not patriotic, not that they would not walk across hot coals, and in many instances they do every day to protect us, but we should at least be able to take these modest steps to make sure we are strengthening them and honoring their service to us.

The operations in Iraq, Afghanistan, and Kosovo are ongoing, with no end in sight. We do not know if emergent threats around the world will become real and embroil us in yet other military operations, partially because our Active Forces are stretched so thin we need to call up our Guard and Reserve, and yet because of this we could face a retention crisis.

As I said, the deployments are lengthy, the benefits and legal protections are not sufficient in many instances, and the equipment is lacking. So let us hope we can take steps through this legislation and others to fix this situation.

I hope the bill I offer today and sponsor today—and I look forward to many cosponsors joining on this bill—will improve the Guard and Reserve benefits, and legal protections. As I said, we are calling it the 21st Century Citizen Soldier Benefit Act.

We have had two major changes or improvements to the Guard and Reserve framework, one in 1940 and one in 1994. It is time, 10 years later, this year, 2004, with the unprecedented nature of their service, to step up this framework of support for our Guard and Reserve. It is time for Congress, in my opinion, to take a comprehensive look at the benefits and protections afforded to the members of the Guard and Reserve.

We have not done so since 1994. It is time that we do this. My bill does it in several ways.

First, we call for equal benefits for equal service in the area of burial benefits, for activated Guard and Reserve should be the same as Active Duty. Guardsmen and Reservists cannot be buried in national cemeteries unless they are killed in action. Think about that. A man or a woman serves not just for 6 months, but maybe 2 years, comes home, is called back to go again, dodges the bullets, gets past the landmines, perhaps is seriously injured but escapes unscathed and comes home after serving valiantly, and then is denied burial benefits because they were not ''killed in action.'' I think because of what they have done, it is time for us to give them the right opportunities for burial in our national cemeteries if they are serving the time that our Active Duty serve, with all the dignity that they would deserve in such a situation.

The bill does not authorize every member of the Guard and Reserve to these burial rights, but it is inconceivable why someone who fought overseas for our Nation cannot be buried with his or her comrades simply because one soldier was in the Reserve and one soldier was active—fighting side by side, same foxhole, same patrol, same landmine but yet not the same burial ground.

No. 2, we hope in this bill that guardsmen and reservists activated for 2 years should have active duty GI bill benefits—the GI bill, which is probably one of the best pieces of legislation this Congress has ever passed, it is referred to hundreds of time in speeches on and off the floor, and is one of the bills Americans generally know about, quote, and can say what it does. It has enabled millions of American troops to enroll in college when they returned from World War II. The GI bill created a bedrock of middle-class Americans. It was one of the cornerstones that helped us build the middle class, and it ushered in 50 years of unprecedented economic growth. Why? Because when people get good training and good education, their earning potential goes up and the contribution they can make to their community rises in a significant way.

Today, members of the Active-Duty Forces receive more in GI benefits than the Guard and Reserve personnel, and if the Guard and Reserve personnel weren't contributing in equal ways to our active duty, I would not be here arguing for them, but they are contributing in equal ways, putting their lives in danger. Our bill will allow them to participate more equally in the GI benefits.

The third part of this bill would seek to create parity between Reserve components and Active Duty in terms of their retirement age. Right now, Active Duty can leave the military once they serve 20 years. We think that is a great benefit. It is one of the attractions to the military service. Many of our military men and women serve honorably for 20 years and then retire to go off and have yet a second and third career, as lifespans continue to increase. We are proud of that. We believe and know they contribute in many ways even past their service.

But Guard and Reserve today cannot collect retirement until 60 years of age. This bill would reduce it to 55 years and end what is an unjust situation and help them. Hopefully it will address part of this retention issue by making these benefits more generous.

The fourth and I think one of the most important issues this bill seeks to address is ending the pay gap faced by guardsmen and reservists. Mr. President, I don't know if in Texas you have had a lot of people complain to you about this, but I sure have had people in Louisiana come up and say to me, Senator, I can't possibly understand how we would ask someone to put on their uniform, go to Iraq, and take a 40-percent, 30-percent, or 20-percent cut in pay, to put their life on the line while we enjoy all the benefits staying home here in a safe place here on the homefront. It is not that we have not had challenges right here on the homefront, but not to the same degree and intensity as we are finding on the front lines of the battlefield.

Yet the fact is, because there is no tax credit in our law right now and because it is not mandatory for employers—or the Federal Government, I might add, which is something Senator DURBIN and I have worked very hard on together—to maintain their salaries at the level before they leave, some of these guardsmen and reservists are actually taking a 30-percent or 40-percent cut in pay to serve us and to keep us safe. That means while they are making the sacrifice on the battlefield, which many of these men and women are willing to make, we are asking their spouses and their children to give up the car, sell the house, give up their college fund, and it is simply not fair in a country that has the resources we have. In this Congress we want to give tax credits to everybody in the world for everything under the sun. I don't know how we can't find the few hundreds of millions of dollars that it would take to give this tax credit to allow people to serve in the Guard and Reserve and just maintain their salary level while they serve so it doesn't put their families in jeopardy.

I am going to go visit our troops in Lafayette on Monday. I know the community comes together. I know the women, many of them, join together for bake sales and help out and pay each other's car payments. Sometimes the community pulls together to pay the mortgage on the house. I think that is wonderful and it is the good old American spirit. But I don't know if it is necessary, not when we are giving out tax credits to companies that are taking jobs overseas, not when we are giving out tax credits to people who make millions and are not putting on the uniform. The least we can do is help our businesses to write off what they would have as a voluntary compensation package to maintain this salary level for the men and women serving overseas to minimize the sacrifice made by their families here at home. It would also require the Federal Government to step up to the plate

and, as one of the largest employers in the Nation, to make sure those salaries are compensated.

Let me share stories, one or two, from these families. There was an April 22, 2003 article from USA Today that I will ask unanimous consent to have printed in the RECORD.

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

[From USA Today, Apr. 22, 2003]

RESERVISTS UNDER ECONOMIC FIRE

WASHINGTON.—Drastic pay cuts. Bankruptcy. Foreclosed homes. They aren't exactly the kind of challenges that members of America's military reserves signed up for when they volunteered to serve their country.

But for many, the biggest threat to the home front isn't Saddam Hussein or Osama bin Laden. It's the bill collector.

Four in 10 members of the National Guard or reserves lose money when they leave their civilian jobs for active duty, according to a Pentagon survey taken in 2000. Of 1.2 million members, 223,000 are on active duty around the world.

Concern is growing in Congress, and several lawmakers in both parties have introduced legislation to ease the families' burden.

Janet Wright says she ''sat down and cried'' when she realized how little money she and her children, Adelia, 5, and Carolyn, 2, would have to live on when her husband was sent to the Middle East. In his civilian job with an environmental cleanup company, Russell Wright makes $60,000 a year—twice what he'll be paid as a sergeant in the Marine Forces Reserve. Back in Hammond, La., his wife, who doesn't have a paying job, is pouring the kids more water and less milk. She is trying to accelerate Carolyn's potty training schedule to save on diapers.

She doesn't know how long she'll have to pinch pennies. Like his fellow reservists, Russell Wright has been called up for one year. He could be sent home sooner, or the military could exercise its option to extend his tour of duty for a second year. Even so, Janet Wright considers her family lucky: She can still pay the mortgage, and the children's pediatrician accepts Tricare, the military health plan.

Ray Korizon, a 23-year veteran with the Air Force Reserve and an employee of the Federal Aviation Administration, says his income will also be cut in half if his unit ships out. Korizon, who lives in Schaumburg, Ill., knows the financial costs of doing his patriotic duty from bitter experience. Before the Persian Gulf War in 1991, he owned a Chicago construction company with 26 employees. He was sent overseas for six months and lost the business.

Still, he never considered leaving the reserve. Korizon says he enjoys the work and the camaraderie. But he worries about whether his two kids can continue to see the same doctor when he shifts to military health coverage. ''It's hard to go out and do the job you want to do when you're worried about things back home,'' he says.

Once regarded as ''weekend warriors,'' they have become an integral part of U.S. battle plans. Call-ups have been longer and more frequent.

''The last time you'd see this type of mobilization activity was during World War II,'' says Maj. Charles Kohler of the Maryland National Guard. Of the Maryland Guard's 8,000 members, 3,500 are on active duty. Kohler knows several who are in serious financial trouble. One had to file for bankruptcy after a yearlong deployment, during which his take-home pay fell by two-thirds.

Stories like that are the result of a shift in military policy. Since the end of the Cold War, the ranks of the full-time military have been reduced by one-third. The Pentagon has increasingly relied on the nation's part-time soldiers. More than 525,000 members of the Guards and reserves have been mobilized in the 12 years since the Persian Gulf War. For the previous 36 years, the figure was 199,877.

The end of fighting in Iraq isn't likely to lessen the pressure on the Guard and reserves. They'll stay on with the regular military in a peacekeeping role. Nobody knows how long, but in Bosnia, Guard members and reservists are on duty seven years after the mission began.

Korizon, who maintains avionics systems on C–130 cargo planes, has been told his Milwaukee-based reserve unit may be called up for humanitarian missions.

Some of the specialists who are in the greatest demand—physicians and experts in biological and chemical agents—command six-figure salaries in civilian life. The average pay for a midlevel officer is $50,000 to $55,000.

''They were prepared to be called up. They were prepared to serve their country,'' Sen. Barbara Mikulski, D-Md., says. ''They were not prepared to be part of a regular force and be away from home 200 to 300 days a year.''

Concerns are growing on Capitol Hill. As the nation's reliance on the Guard and reserves has increased, ''funding for training and benefits simply have not kept up,'' says Republican Sen. Saxby Chambliss of Georgia, a member of the Armed Services Committee.

The General Accounting Office, Congress' auditing arm, is studying pay and benefits for Guard members and reservists. A report is due in September. Meanwhile, members of Congress are pushing several bills to ease the burden:

Closing the pay gap. Some employers make up the difference in salary for reservists on active duty. But many, including the federal government, do not. A bill sponsored by Democratic Sens. Mikulski, Dick Durbin of Illinois and Mary Landrieu of Louisiana would require the federal government to make up lost pay. Landrieu is doing that for one legislative aide who has been called up for active duty.

She has also introduced a bill to give private employers a 50% tax credit if they subsidize reservists' salaries.

Closing the health gap. Once on active duty, reservists, Guard members and their families are covered by Tricare.

But for the 75% of reserve and Guard families living more than 50 miles from military treatment facilities, finding physicians who participate in Tricare can be difficult.

A measure sponsored by Sen. Mike DeWine, a Republican from Ohio, would give reservists and Guard members the option of making Tricare their regular insurer or having the federal government pay premiums for their civilian health insurance while they are on active duty. Several senior Democrats, including Senate Minority Leader Tom Daschle of South Dakota and Sen. Edward Kennedy of Massachusetts, support the idea.

Keeping creditors at bay. The Soldiers and Sailors Relief Act caps interest rates on mortgages, car payments and other debts owed by military personnel at 6% while they are on active duty. But Sen. Lindsey Graham, a South Carolina Republican who is the Senate's only reservist, says the act doesn't apply to debts that are held in the name of a spouse who is not a member of the military. He plans to introduce legislation to cover spouses.

Despite a groundswell of support for troops, none of the bills is assured of passage. There's concern among some administration officials about the cost of some of the proposals. In addition, some at the Pentagon think morale would be hurt if some reservists end up with higher incomes than their counterparts in the regular ranks.

Ms. LANDRIEU. It starts:

Drastic pay cuts. Bankruptcy. Foreclosed homes. They aren't exactly the kind of challenges that members of America's military reserves signed up for when they volunteered to serve their country. But for many, the biggest threat to the home front isn't Saddam Hussein or Osama bin Laden. It's the bill collector.

And that is a shame. I think the two enemies mentioned before the bill collector are people we need to actually be focusing our attention on, bringing them to justice in one case and finding them in the other. I don't think our troops need to be worried about bill collectors back home, but that is the position we have them in because we have not acted, will not act, refuse to act in the face of giving everybody else tax credits, but we can't seem to find room in the budget for these 634,000 of our bravest.

I want to say for the record, in Louisiana, Janet Wright's husband Russell is in the Marine Reserves. He made $60,000 a year. Russell was activated. He will only make $30,000. Mrs. Wright says she started putting water in her children's cereal and hopes her daughter can be quickly potty trained to save on diapers. Mrs. Wright has to count every penny.

This family is from Hammond, LA. I just don't think this is right. I think we can do something about it, and this bill attempts to do that. A 50-percent tax credit to those employers to continue to pay their salaries to fill this pay gap is part of this bill.

One other point of the bill, and then a short conclusion. We put a cap on interest rates. Many of us have loans out for a variety of different purposes—automobiles, perhaps some business loans that have been made for our businesses, obviously mortgages. We put in an interest rate cap so when you are deployed, you don't have to pay more than a 6-percent rate. When rates were 20 percent and 25 percent, that made a lot of sense and it was a great benefit. But as rates are relatively low today, this bill would make a modest change to either have it at 6 percent or prime plus 1. Again, it is not a huge amount of money, but it could potentially save a family a few hundred dollars a year. It is the least we can do as part of trying to help them make ends meet while their primary breadwinner in most cases is the one deployed.

As Congress works to best give our military the tools they need to succeed in the 21st century, we must reinforce and increase the benefits and protections for our Reserves. We have asked so much of them, and they have met every challenge with excellence. As we saw unfolding on our television screens yesterday and today, we couldn't ask them to do more. The least we can do is to look at the package of benefits,

upgrade it where we can, make sacrifices in other areas of our budget, and fund them first. They are the ones who are protecting us at this time. When we can provide greater legal protections to ease the stress on the homefront, we must, when and where we can. Failure to act will just exacerbate retention challenges. It will undermine our efforts to succeed in our war on terror.

I introduce this bill today. I hope we can have a speedy hearing.

I ask my colleagues to join me in sponsoring this bill so we can have a great bipartisan effort. There are many other things we can so the Guard and Reserve really know we appreciate them, because we just do not take pictures with them but we actually put them in our budget.

I yield the floor.

By Ms. MIKULSKI (for herself, Mr. SPECTER, Mrs. MURRAY, Mrs. CLINTON, Ms. LANDRIEU, Mr. SCHUMER, Mr. LIEBERMAN, Mr. DASCHLE, and Mr. DAYTON):

S. 2275. A bill to amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to provide for homeland security assistance for high-risk nonprofit organizations, and for other purposes; to the Committee on Governmental Affairs.

Ms. MIKULSKI. Mr. President, today I rise on behalf of myself and Senators SPECTER, MURRAY, CLINTON, LANDRIEU, DAYTON, SCHUMER, DASCHLE and LIEBERMAN, to introduce the High-Risk Non-Profit Security and Safety Enhancement Act of 2004. This bill provides homeland security assistance for high-risk non-profits to protect them against foreign terrorist attacks. This legislation is critical to help protect the ''soft targets'' of terrorism all over the United States.

We are all aware of recent terrorist attacks in the United States, Spain, Germany, Iraq, Tunisia, Kenya, Morocco and Turkey. These attacks by Al Qaeda on an international Red Cross building, synagogues, train stations, hotels, airports, restaurants, night clubs, and cultural centers, show its willingness to attack ''soft targets'' of all types in order to conduct its campaign of terror.

I want to make sure that our communities are protected and the buildings where citizens live, learn and work are as secure as possible to safeguard American lives from a potential terrorist attack. Local communities are on the front lines in our war against terrorism. This Congress must do its share to make sure that they do not have to bear the full cost of this war. This bill helps us do that by providing funds for security enhancements in buildings that Americans visit everyday and by providing local law enforcement with added support for the costs they incur in helping to guard these local buildings and community centers.

Specifically, this legislation will provide up to $100 million in assistance to 501(c)(3) organizations demonstrating a high risk of terrorist attack based upon very specific standards. Organizations wishing to receive security enhancements under this Act must demonstrate that they have experienced specific threats by international terrorist organizations, there were prior attacks against similarly situated organizations, there is vulnerability of the specific site, the symbolic value of the site as a highly recognized American Institution, or that they have a specific role in responding to terrorist attacks.

This bill allows the Department of Homeland Security to contract for security enhancements to help these high-risk non-profit organizations. These funds can only be used for security enhancements, such as concrete barriers, and ''hardening'' of windows and doors, as well as technical assistance to assess needs, develop plans, and train personnel. Funding under this Act can never be used for enhancements that would only be reasonably necessary to protect from neighborhood crime.

This bill also helps our vital first responders, those who are on the frontline everyday helping to protect these ''soft targets.'' These men and women have the responsibility for protecting institutions against the possibility of terrorist attack, while they are also responding to the public safety needs of the entire community. By authorizing $50 million in grant funds for local police departments, this bill provides real relief to local law enforcement who bear the growing costs associated with providing heightened security to high-risk non-profits.

As a Nation our priority in fighting the war on terror is to be able to better detect, prevent and respond to acts of terrorism. This bill gets us one step closer to meeting those goals by helping vulnerable targets better detect and prevent terrorist attacks and by making sure that if terror strikes one of these facilities, security and safety measures are in place to protect the lives of those inside and around these buildings.

Nothing the Senate does is more important than providing America security and Americans safety. I urge my colleagues to support this legislation because it does exactly that. It makes sure that there is added security for these ''soft targets'' that Americans visit everyday and it adds funding to support the local police, fire and rescue workers who are the first responders when there is a threat to one of these organizations. In the battle to protect our Nation from terrorist attacks, we must be sure to provide assistance to these high-risk non-profit organizations that provide vital health, social, cultural, and educational services to the American people.

I know others share my concerns about protecting these ''soft targets'' in our war against terrorism and that is why the United Jewish Communities, the American Red Cross, United Way, the American Hospital Association, the American Association of Museums, the National Association of Independent Colleges and Universities (NAICU), American Jewish Congress, the Theatre Communications Group, and the YMCA of the USA are all united in supporting this legislation.

This bill not only supports homeland security, it supports hometown security, making our communities stronger and safer, and I encourage my colleagues to join me in supporting this legislation and ask unanimous consent to print in the RECORD a letter from organizations supporting this effort and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

COALITION FOR THE HIGH-RISK NON-PROFIT SECURITY ENHANCEMENT ACT OF 2004, MARCH 29, 2004.

DEAR MEMBER OF CONGRESS: Before the recess—We are requesting that you sign-on as a co-sponsor of the High-Risk Non-Profit Security Enhancement Act of 2004, legislation to provide for homeland security assistance for high-risk non-profits to protect them against foreign terrorist attacks. The legislative language is attached to this e-mail.

As leaders of our nation's non-profit sector, we firmly believe there is a compelling public interest in protecting high-risk nonprofit institutions from terrorist attacks that would disrupt the vital health, social, educational and spiritual services they provide to the American people, and threaten the lives and well-being of American citizens who operate, utilize, and live or work in proximity to such institutions.

The risk to such institutions since 9/11 is clear. Al Qaeda's willingness to attack targets of all types has been made readily apparent with attacks in the United States, Spain, Germany, Iraq, Tunisia, Kenya, Morocco, and Turkey, including an international Red Cross building, synagogues, train stations, hotels, airports, restaurants, night clubs, and cultural centers.

This legislation would authorize the Secretary of Homeland Security to make available in FY 2005 up to $100 million in assistance to 501(c)(3) organizations demonstrating a high risk of terrorist attack based upon: specific threats of international terrorist organizations, prior attacks against similarly situated organizations; the vulnerability of the specific site; the symbolic value of the site as a highly recognized American institution; or the role of the institution in responding to terrorist attacks. Federal loan guarantees would also be available to make loans accessible on favorable terms. Funds would be allocated by a new office in the Department of Homeland Security dedicated to working with high-risk non-profits nationwide.

The authorized amount of grants—$100 million—is a fraction of the assessed needs of high-risk non-profits, which is well in excess of $1 billion. However, in view of current budgetary constraints, supporters of this legislation have proposed a modest level of Federal assistance.

Applicant organizations would submit requests to state homeland security authorities that would identify and prioritize high-risk institutions. Qualifying requests would be forwarded to the Secretary of Homeland Security who would allocate resources based on risk—maximizing the number of institutions receiving security enhancements and technical assistance. Payments would be made directly to contractors.

Security enhancements would include items directly related to the international terrorist threat, such as concrete barriers, and ''hardening'' of windows and doors, as well as technical assistance to assess needs, develop plans, and train personnel. Funds could not be used for security equipment that would reasonably be necessary for protection from neighborhood crime.

The bill also authorizes $50 million for local police departments to provide additional security in areas where there is a high concentration of high-risk non-profits.

Sincerely,

American Association of Museums.
American Association of Homes and Services for the aging.
American Hospital Association.
American Jewish Congress.
American Red Cross.
American Society of Association Executives.
American Symphony Orchestra League.
Association of Art Museum Directors.
Jewish United Fund/Jewish Federation of Metropolitan Chicago.
National Assembly of Health and Human Services Organizations.
National Association of Independent Colleges and Universities.
Theatre Communications Group.
UJA Federation of New York.
Union of Orthodox Jewish Congregations.
United Synagogue of Conservative Judaism.
United Way of America.
YMCA of the USA.

S. 2275

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 ''High Risk Nonprofit Security Enhancement Act of 2004''.

SEC. 2. FINDING.

Congress finds that there is a public interest in protecting high-risk nonprofit organizations from international terrorist attacks that would disrupt the vital services such organizations provide to the people of the United States and threaten the lives and well-being of United States citizens who operate, utilize, and live or work in proximity to such organizations.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) establish within the Department of Homeland Security a program to protect United States citizens at or near high-risk nonprofit organizations from international terrorist attacks through loan guarantees and Federal contracts for security enhancements and technical assistance;

(2) establish a program within the Department of Homeland Security to provide grants to local governments to assist with incremental costs associated with law enforcement in areas in which there are a high concentration of high-risk nonprofit organizations vulnerable to international terrorist attacks; and

(3) establish an Office of Community Relations and Civic Affairs within the Department of Homeland Security to focus on security needs of high-risk nonprofit organizations with respect to international terrorist threats.

SEC. 4. AUTHORITY TO ENTER INTO CONTRACTS AND ISSUE FEDERAL LOAN GUARANTEES.

The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

''TITLE XVIII—PROTECTION OF CITIZENS AT HIGH-RISK NONPROFIT ORGANIZATIONS

''SEC. 1801. DEFINITIONS.

''In this title:

''(1) CONTRACT.—The term 'contract' means a contract between the Federal Government and a contractor selected from the list of certified contractors to perform security enhancements or provide technical assistance approved by the Secretary under this title.

''(2) FAVORABLE REPAYMENT TERMS.—The term 'favorable repayment terms' means the repayment terms of loans offered to nonprofit organizations under this title that—

''(A) are determined by the Secretary, in consultation with the Secretary of the Treasury, to be favorable under current market conditions;

''(B) have interest rates at least 1 full percentage point below the market rate; and

''(C) provide for repayment over a term not less than 25 years.

''(3) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means an organization that—

''(A) is described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; and

''(B) is designated by the Secretary under section 1803(a).

''(4) SECURITY ENHANCEMENTS.—The term 'security enhancements'—

''(A) means the purchase and installation of security equipment in real property (including buildings and improvements), owned or leased by a nonprofit organization, specifically in response to the risk of attack at a nonprofit organization by an international terrorist organization;

''(B) includes software security measures; and

''(C) does not include enhancements that would otherwise have been reasonably necessary due to nonterrorist threats.

''(5) TECHNICAL ASSISTANCE.—The term 'technical assistance'—

''(A) means guidance, assessment, recommendations, and any other provision of information or expertise which assists nonprofit organizations in—

''(i) identifying security needs;

''(ii) purchasing and installing security enhancements;

''(iii) training employees to use and maintain security enhancements; or

''(iv) training employees to recognize and respond to international terrorist threats; and

''(B) does not include technical assistance that would otherwise have been reasonably necessary due to nonterrorist threats.

''SEC. 1802. AUTHORITY TO ENTER INTO CONTRACTS AND ISSUE FEDERAL LOAN GUARANTEES.

''(a) IN GENERAL.—The Secretary may—

''(1) enter into contracts with certified contractors for security enhancements and technical assistance for nonprofit organizations; and

''(2) issue Federal loan guarantees to financial institutions in connection with loans made by such institutions to nonprofit organizations for security enhancements and technical assistance.

''(b) LOANS.—The Secretary may guarantee loans under this title—

''(1) only to the extent provided for in advance by appropriations Acts; and

''(2) only to the extent such loans have favorable repayment terms.

''SEC. 1803. ELIGIBILITY CRITERIA.

''(a) IN GENERAL.—The Secretary shall designate nonprofit organizations as high-risk nonprofit organizations eligible for contracts or loans under this title based on the vulnerability of the specific site of the nonprofit organization to international terrorist attacks.

''(b) VULNERABILITY DETERMINATION.—In determining vulnerability to international terrorist attacks and eligibility for security enhancements or technical assistance under this title, the Secretary shall consider—

''(1) threats of international terrorist organizations (as designated by the State Department) against any group of United States citizens who operate or are the principal beneficiaries or users of the nonprofit organization;

''(2) prior attacks, within or outside the United States, by international terrorist organizations against the nonprofit organization or entities associated with or similarly situated as the nonprofit organization;

''(3) the symbolic value of the site as a highly recognized United States cultural or historical institution that renders the site a possible target of international terrorism;

''(4) the role of the nonprofit organization in responding to international terrorist attacks; and

''(5) any recommendations of the applicable State Homeland Security Authority established under section 1806 or Federal, State, and local law enforcement authorities.

''(c) DOCUMENTATION.—In order to be eligible for security enhancements, technical assistance or loan guarantees under this title, the nonprofit organization shall provide the Secretary with documentation that—

''(1) the nonprofit organization hosted a gathering of at least 100 or more persons at least once each month at the nonprofit organization site during the preceding 12 months; or

''(2) the nonprofit organization provides services to at least 500 persons each year at the nonprofit organization site.

''(d) TECHNICAL ASSISTANCE ORGANIZATIONS.—If 2 or more nonprofit organizations establish another nonprofit organization to provide technical assistance, that established organization shall be eligible to receive security enhancements and technical assistance under this title based upon the collective risk of the nonprofit organizations it serves.

''SEC. 1804. USE OF LOAN GUARANTEES.

''Funds borrowed from lending institutions, which are guaranteed by the Federal Government under this title, may be used for technical assistance and security enhancements.

''SEC. 1805. NONPROFIT ORGANIZATION APPLICATIONS.

''(a) IN GENERAL.—A nonprofit organization desiring assistance under this title shall submit a separate application for each specific site needing security enhancements or technical assistance.

''(b) CONTENT.—Each application shall include—

''(1) a detailed request for security enhancements and technical assistance, from a list of approved enhancements and assistance issued by the Secretary under this title;

''(2) a description of the intended uses of funds to be borrowed under Federal loan guarantees; and

''(3) such other information as the Secretary shall require.

''(c) JOINT APPLICATION.—Two or more nonprofit organizations located on contiguous sites may submit a joint application.

''SEC. 1806. REVIEW BY STATE HOMELAND SECURITY AUTHORITIES.

''(a) ESTABLISHMENT OF STATE HOMELAND SECURITY AUTHORITIES.—In accordance with regulations prescribed by the Secretary, each State may establish a State Homeland Security Authority to carry out this title.

''(b) APPLICATIONS.—

''(1) SUBMISSION.—Applications shall be submitted to the applicable State Homeland Security Authority.

''(2) EVALUATION.—After consultation with Federal, State, and local law enforcement

authorities, the State Homeland Security Authority shall evaluate all applications using the criteria under section 1803 and transmit all qualifying applications to the Secretary ranked by severity of risk of international terrorist attack.

''(3) APPEAL.—An applicant may appeal the finding that an application is not a qualifying application to the Secretary under procedures that the Secretary shall issue by regulation not later than 90 days after the date of enactment of this title.

''SEC. 1807. SECURITY ENHANCEMENT AND TECHNICAL ASSISTANCE CONTRACTS AND LOAN GUARANTEES.

''(a) IN GENERAL.—Upon receipt of the applications, the Secretary shall select applications for execution of security enhancement and technical assistance contracts, or issuance of loan guarantees, giving preference to the nonprofit organizations determined to be at greatest risk of international terrorist attack based on criteria under section 1803.

''(b) SECURITY ENHANCEMENTS AND TECHNICAL ASSISTANCE; FOLLOWED BY LOAN GUARANTEES.—The Secretary shall execute security enhancement and technical assistance contracts for the highest priority applicants until available funds are expended, after which loan guarantees shall be made available for additional applicants determined to be at high risk, up to the authorized amount of loan guarantees. The Secretary may provide with respect to a single application a combination of such contracts and loan guarantees.

''(c) JOINT APPLICATIONS.—Special preference shall be given to joint applications submitted on behalf of multiple nonprofit organizations located in contiguous settings.

''(d) MAXIMIZING AVAILABLE FUNDS.—Subject to subsection (b), the Secretary shall execute security enhancement and technical assistance contracts in such amounts as to maximize the number of high-risk applicants nationwide receiving assistance under this title.

''(e) APPLICANT NOTIFICATION.—Upon selecting a nonprofit organization for assistance under this title, the Secretary shall notify the nonprofit organization that the Federal Government is prepared to enter into a contract with certified contractors to install specified security enhancements or provide specified technical assistance at the site of the nonprofit organization.

''(f) CERTIFIED CONTRACTORS.—

''(1) IN GENERAL.—Upon receiving a notification under subsection (e), the nonprofit organization shall select a certified contractor to perform the specified security enhancements, from a list of certified contractors issued and maintained by the Secretary under subsection (j).

''(2) LIST.—The list referred to in paragraph (1) shall be comprised of contractors selected on the basis of—

''(A) technical expertise;

''(B) performance record including quality and timeliness of work performed;

''(C) adequacy of employee criminal background checks; and

''(D) price competitiveness.

''(3) OTHER CERTIFIED CONTRACTORS.—The Secretary shall include on the list of certified contractors additional contractors selected by senior officials at State Homeland Security Authorities and the chief executives of county and other local jurisdictions. Such additional certified contractors shall be selected on the basis of the criteria under paragraph (2).

''(g) ENSURING THE AVAILABILITY OF CONTRACTORS.—If the list of certified contractors under this section does not include any contractors who can begin work on the security enhancements or technical assistance within 60 days after applicant notification, the nonprofit organization may submit a contractor not currently on the list to the Secretary for the Secretary's review. If the Secretary does not include the submitted contractor on the list of certified contractors within 60 days after the submission and does not place an alternative contractor on the list within the same time period (who would be available to begin the specified work within that 60-day period), the Secretary shall immediately place the submitted contractor on the list of certified contractors and such contractor shall remain on such list until—

''(1) the specified work is completed; or

''(2) the Secretary can show cause why such contractor may not retain certification, with such determinations subject to review by the Comptroller General of the United States.

''(h) CONTRACTS.—Upon selecting a certified contractor to provide security enhancements and technical assistance approved by the Secretary under this title, the nonprofit organization shall notify the Secretary of such selection. The Secretary shall deliver a contract to such contractor within 10 business days after such notification.

''(i) CONTRACTS FOR ADDITIONAL WORK OR UPGRADES.—A nonprofit organization, using its own funds, may enter into an additional contract with the certified contractor, for additional or upgraded security enhancements or technical assistance. Such additional contracts shall be separate contracts between the nonprofit organization and the contractor.

''(j) EXPEDITING ASSISTANCE.—In order to expedite assistance to nonprofit organizations, the Secretary shall—

''(1) compile a list of approved technical assistance and security enhancement activities within 45 days after the date of enactment of this title;

''(2) publish in the Federal Register within 60 days after such date of enactment a request for contractors to submit applications to be placed on the list of certified contractors under this section;

''(3) after consultation with the Secretary of the Treasury, publish in the Federal Register within 60 days after such date of enactment, prescribe regulations setting forth the conditions under which loan guarantees shall be issued under this title, including application procedures, expeditious review of applications, underwriting criteria, assignment of loan guarantees, modifications, commercial validity, defaults, and fees; and

''(4) publish in the Federal Register within 120 days after such date of enactment (and every 30 days thereafter) a list of certified contractors, including those selected by State Homeland Security Authorities, county, and local officials, with coverage of all 50 States, the District of Columbia, and the territories.

''SEC. 1808. LOCAL LAW ENFORCEMENT ASSISTANCE GRANTS.

''(a) IN GENERAL.—The Secretary may provide grants to units of local government to offset incremental costs associated with law enforcement in areas where there is a high concentration of nonprofit organizations.

''(b) USE.—Grant funds received under this section may be used only for personnel costs or for equipment needs specifically related to such incremental costs.

''(c) MAXIMIZATION OF IMPACT.—The Secretary shall award grants in such amounts as to maximize the impact of available funds in protecting nonprofit organizations nationwide from international terrorist attacks.

''SEC. 1809. OFFICE OF COMMUNITY RELATIONS AND CIVIC AFFAIRS.

''(a) IN GENERAL.—There is established within the Department, the Office of Community Relations and Civic Affairs to administer grant programs for nonprofit organizations and local law enforcement assistance.

''(b) ADDITIONAL RESPONSIBILITIES.—The Office of Community Relations and Civic Affairs shall—

''(1) coordinate community relations efforts of the Department;

''(2) serve as the official liaison of the Secretary to the nonprofit, human and social services, and faith-based communities; and

''(3) assist in coordinating the needs of those communities with the Citizen Corps program.

''SEC. 1810. AUTHORIZATION OF APPROPRIATIONS AND LOAN GUARANTEES.

''(a) NONPROFIT ORGANIZATIONS PROGRAM.—There are authorized to be appropriated to the Department to carry out the nonprofit organization program under this title, $100,000,000 for fiscal year 2005 and such sums as may be necessary for fiscal years 2006 and 2007.

''(b) LOCAL LAW ENFORCEMENT ASSISTANCE GRANTS.—There are authorized to be appropriated to the Department for local law enforcement assistance grants under section 1808, $50,000,000 for fiscal year 2005 and such sums as may be necessary for fiscal years 2006 and 2007.

''(c) OFFICE OF COMMUNITY RELATIONS AND CIVIC AFFAIRS.—There are authorized to be appropriated to the Department for the Office of Community Relations and Civic Affairs under section 1809, $5,000,000 for fiscal year 2005 and such sums as may be necessary for fiscal years 2006 and 2007.

''(d) LOAN GUARANTEES.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in each of fiscal years 2005, 2006, and 2007, such amounts as may be required under the Federal Credit Act with respect to Federal loan guarantees authorized by this title, which shall remain available until expended.

''(2) LIMITATION.—The aggregate value of all loans for which loan guarantees are issued under this title by the Secretary may not exceed $250,000,000 in each of fiscal years 2005, 2006, and 2007.''.

SEC. 5. TECHNICAL AND CONFORMING AMENDMENT.

The table of contents under section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101(b)) is amended by adding at the end the following:

''TITLE XVIII—PROTECTION OF CITIZENS AT HIGH-RISK NONPROFIT ORGANIZATIONS

''Sec. 1801. Definitions.
''Sec. 1802. Authority to enter into contracts and issue Federal loan guarantees.
''Sec. 1803. Eligibility criteria.
''Sec. 1804. Use of loan guarantees.
''Sec. 1805. Nonprofit organization applications.
''Sec. 1806. Review by State Homeland Security Authorities.
''Sec. 1807. Security enhancement and technical assistance contracts and loan guarantees.
''Sec. 1808. Local law enforcement assistance grants.
''Sec. 1809. Office of Community Relations and Civic Affairs.
''Sec. 1810. Authorization of appropriations and loan guarantees.''.

Mr. SPECTER. Mr. President, I seek recognition today to introduce the High-Risk Non-Profit Security Enhancement Act of 2004 together with my colleague Senator MIKULSKI. Since 9/11, al-Qaida has attacked a series of so-called ''soft targets'' around the globe including hotels, synagogues, social centers and facilities of the Red

Cross. This grim reality is forcing such soft targets here in the United States to confront the need for very expensive security enhancements to their facilities. This legislation will help non-profit organizations—those soft targets least able to afford these security enhancements—to do the work that they need to do such as the building of concrete barriers and the ''hardening'' of windows and doors.

On February 11, 2003, CIA Director George Tenet provided the following testimony to the Senate Select Committee on Intelligence:

Until al-Qaida finds an opportunity for the big attack, it will try to maintain its operational tempo by striking ''softer'' targets. And what I mean by ''softer,'' Mr. Chairman, are simply targets al-Qaida planners may view as less well protected. . . . Al-Qaida has also sharpened its focus on our Allies in Europe and on operations against Israeli and Jewish targets.

Also on February 11, 2003, FBI Director Robert S. Mueller testified as follows before the Senate Select Committee on Intelligence:

Multiple small-scale attacks against soft targets—such as banks, shopping malls, supermarkets, apartment buildings, schools and universities, houses of worship and places of recreation and entertainment—would be easier to execute and would minimize the need to communicate with the central leadership, lowering the risks of detection.

The record has sadly confirmed the words of Directors Tenet and Mueller. Al-Qaida has been responsible for a series of attacks against soft targets including numerous synagogues, A Red Cross building, train stations, hotels airports, restaurants and night clubs. These targets have been in countries throughout the world including Spain, Germany, Iraq, Tunisia, Kenya, Morocco and Turkey.

In the face of this very real terrorist threat, these soft targets have an obligation to take the necessary steps to better protect themselves and all who visit their facilities. These additional security measures place an especially heavy burden upon non-profit corporations with limited resources. Effective security measures do not come cheap.

This legislation would authorize the Secretary of Homeland Security to make available in FY 2005 up to $100 million in assistance to non profits which demonstrate a high risk of terrorist attack. In choosing which projects to fund, the secretary will give preference to those non profit organizations he determines to be at the greatest risk of international terrorist attack based upon the following criteria:

(1) Specific threats of international terrorist organizations; (2) Prior attacks against similarly situated organizations; (3) The vulnerability of the specific site; (4) The symbolic value of the site as a highly recognized American institution; or (5) The role of the institution in responding to terrorist attacks.

Applicant organizations would submit request to state homeland security authorities that would identify and prioritize high-risk institutions. Qualifying requests would be forwarded to the Secretary of Homeland Security who would allocate resources based on his assessment of the risk. Payments would be made from the Department of Homeland security directly to the contractors who will do the work.

For those programs that do not get their security projects funded, Federal loan guarantees would also be available so that they can take out loans on favorable terms. The bill also authorizes $50 million for local police departments to provide additional security in areas where there is a high concentration of high-risk non-profits.

Mr. President, the threat of terrorism is placing an enormous burden on non-profit organizations that face a higher risk of terror attack due to their affiliation of function. This bill is an important step towards helping these non-profits meet these new and expensive security needs. It is my hope that my colleagues will join me in addressing this overlooked front in the war on terror.

By Mrs. BOXER:

S. 2276. A bill to allow the Secretary of Homeland Security to make grants to Amtrak, other rail carriers, and providers of mass transportation for improvements to the security of our Nation's rail and mass transportation system; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, two and a half years ago, the United States was caught unprepared when it came to aviation security. The results were devastating.

Since then, we have greatly improved our aviation security, and we have begun to improve our port security. We have a long way to go in both of these areas.

But, we have a longer way to go to secure our rail system—both passenger, freight, and local transit.

In October 2001, the Commerce Committee passed a rail security bill to authorize $1.77 billion over two years for Amtrak. We knew that the United States must not be caught off-guard when it comes to our passenger and freight rail systems.

Unfortunately, the bill never became law.

And, now, we have received another warning. In March, terrorists blew up commuter trains in Madrid killing nearly 200 people and injuring 1,400. We must heed this warning and address the vulnerability of America's rail systems. We must act now.

Today, I am introducing legislation that will authorize funding for more police, canine dogs, and surveillance equipment on Amtrak and local transit systems. The bill will authorize $500 million per year for five years. One-third of the funding will be spent on Amtrak based on passenger ridership and the remainder of the funding will be spent on securing rail and transit.

This is important for the entire nation, but it is especially important for California. California has the second highest Amtrak ridership in the country. Almost 9 million passenger trips began or ended in California during fiscal year 2003. Amtrak operates an average of 68 intercity and 300 commuter trains per day in California.

The freight rail system is also important for goods movement. California's ports receive over 40 percent of all of the goods that are shipped into the United States. Many of the imports are shipped by rail through California and to the rest of the nation. If there were a terrorist attack, the impact on our economy would be devastating.

Finally, local communities throughout California have mass transit systems. For example, Muni, in San Francisco, is the 7th largest transit system in the nation. There is light rail in Los Angeles, Sacramento, and San Diego. Livermore Amador Valley Transit Authority has buses that go directly to Lawrence Livermore National Laboratory, which has weapons research.

It is vitally important to ensure that our nation's entire transportation system is secure. It is time we stopped ignoring our rail systems.

By Mr. MCCAIN:

S. 2277. A bill to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, today I am introducing legislation to provide a technical correction that would once again allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Mariposa Indian Community (SRPMIC). A companion bill is being introduced today by Congressman HAYWORTH.

The SRPMIC located in Scottsdale, AZ, one of the most diversified economic development portfolios in Indian country. Blessed with a prime location in metropolitan Phoenix, the Tribe has nearly a dozen business enterprises including a sand and gravel operation, a cement company, two golf courses, and a shopping center. The tribe wants to continue diversifying their economy in the hopes of becoming economically self-sufficient. This legislation is intended to help them achieve this goal.

This bill would make technical corrections to title 215, U.S. Code, Section 416a(c) relating to ''binding arbitration of disputes.'' Recently, in an effort to consolidate and streamline various rules, regulations, and laws, some sections of Title 25, U.S. Code, Section 81 were repealed that affected the Bureau of Indian Affairs. An unintended consequence of this consolidation was that the definition for leases, which included sublease, substitute lease, and master lease, was altered. Simply put, this legislation would reinstate the

prior definition for leases on the reservation to include subleases, substitute leases, and master leases. Without this clarification, the tribe fears that potential tenants may be leery to invest on tribal land.

This legislation may seem minor, but it would go a long way toward helping the SRPMIC achieve the economic self-sufficiency it is working toward. Therefore, I urge my colleagues to support this legislation and work for its speedy passage.

By Mr. HOLLINGS (for himself, Mr. MCCAIN, and Mr. BREAUX):

S. 2279. A bill to amend title 46, United States Code, with respect to maritime transportation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, less than 1 year ago, we wrapped up work on the port security bill that was signed into law as the Maritime Security Act of 2002, MTSA. That act mandated and outlined changes that are needed to shore up security in our ports, and established for the first time a system to coordinate, plan and implement port security at U.S. seaports. While this was landmark legislation, much still needs to be done with respect to the implementation of the requirements mandated by this law.

I am very dissatisfied with the current Administration's disinterest in paying for port security, and would point out that we are approaching a crisis, as Federal mandates are being rolled out for security without Federal support. I have tried over and over to focus the attention of the Administration on this crucial need and pushed to no avail in the Senate to get the resources necessary to address this problem. But to date, I have gotten little support. In addition to appropriating much needed funds for port security, it has become apparent that keeping up with security needs at our ports is an ever evolving task, and that we may have to refocus our efforts and push harder to ensure that we coordinate our policies and maximize the limited resources that we have in this area.

Today, in order to keep up with these needs, I am introducing the ''Maritime Transportation Security Act of 2004'', along with Senator MCCAIN, and Senator BREAUX. I am pleased to have worked on this with Senator MCCAIN, the Chairman of our Committee, as I often remark, while he has no coastline, he has worked with those of us who do have ports to work on these crucial port security issues. I am also pleased to introduce this legislation with Senator BREAUX, for he has truly been one of the leading advocates of the importance of maritime shipping and the merchant marine in the U.S. Senate. He has done invaluable work for us on the Commerce Committee, and is a true expert in the field. He will be sorely missed for his expertise on all maritime issues, although I am sure, that in the future, he will still be the Captain of some small boat, yacht, or maybe even a ship.

Even though the Coast Guard, Customs and other agencies charged with the implementation of these measures have aggressively taken initial steps necessary to set up our future structure for seaport security there is still much to do, and effective action needs to occur to help coordinate and crystallize security policies and objectives. The Maritime Transportation Security Act of 2004 would attempt to mandate a coordinated Federal approach to several areas of concern in port security. It would also attempt to set performance standards for certain areas in port security and add a few enhancements to last year's legislation. Most importantly the bill would require a user fee to be established to help pay for the port security mandates.

Specifically, this bill would impose in rem liability to secure payment of penalties and fines under the Act and to help ensure compliance with the security requirements imposed by the MTSA. The bill would also include provisions to increase security in waterside cargo areas, and ensure that cargo contents of imported marine cargo containers would be required to be cleared within 5 days of entering a U.S. port, or alternatively removed after 5 days without being cleared, to a regulated warehouse where it would be opened and reviewed to verify its contents. This would in no way change any claim to possession of the goods. Importantly, the bill would require DHS to evaluate the policies and practices of sealing empty containers. According to the Federal Maritime Commission, over 4 million containers were imported into the United States empty. At a recent hearing, a representative from the ILWU longshoremen's union pointed out that treatment of empties and the sealing practices of these containers varied from locale to locale. This bill would require an analysis of current practices at U.S. ports in order to determine what steps need to occur in order to make sure that the transport of empty containers does not present a threat of terrorism, and whether a Federal policy is justified in this area.

The bill would require the Administration to produce a coordinated plan for collecting, analyzing, and disseminating maritime intelligence information collected by Federal agencies on ships, cargo, crew members and passengers. This intelligence is used to determine which ships, cargo, or crew warrant further inspection. This section of the bill requires further development of a maritime intelligence system to collect and analyze information concerning the crew, passengers and cargoes carried on vessels operating in waters under the jurisdiction of the United States. This mandate essentially restates existing law since it appears that the agencies have actually grown further apart since the passage of the Maritime Transportation Security Act. The provision in this bill would require a plan on how the Administration will coordinate collection and analysis of maritime information, and how agency personnel might be colocated to maximize resources and coordinate analysis. This plan must also indicate when long range vessel tracking will be integrated into this intelligence information. Additionally, the plan would require the government to analyze private sector resources to evaluate how they could be used to help monitor and differentiate legitimate moves of trade from those actions and players that are more suppositious. The Federal Government does not have a lot of experience monitoring commercial maritime activity, and I believe they will have to employ private sector expertise to assist in this endeavor.

The report shall also consider the abilities of the Department of Navy to collect and analyze commercial maritime information. The U.S. Navy probably has the most resources dedicated to the evaluation of commercial shipping activities, but are precluded from sharing this information. In light of our need for better information on commercial shipping, this policy has to be reevaluated. A maritime intelligence system needs to be set up to work together so that Federal agencies, State, local and the private sector can coordinate their law enforcement activities. Maritime intelligence on commercial ocean shipping is currently gathered by the Coast Guard, Customs, INS, and other agencies such as the Federal Maritime Commission under separate systems. Only the Coast Guard and the Navy currently work together. We lag far behind in this area, and each agency is operating independent of others. We are not getting the full picture of what is happening out there. It is crucial that we have the best information available so that we can target our relatively limited resources with maximum efficiency. Further, the information has to be disseminated in a fashion to maximize its utility, while still protecting that information which needs to be kept confidential. Collection and analysis of commercial maritime information is a key element of our port security that needs more focus and has to be addressed if we are to adequately protect our Nation.

Importantly, the bill will require the Administration to come up with cargo security plans to evaluate targeting systems to determine whether they are effective in deterring and protecting against potential acts of terrorism from cargo. In the event that targeting is inadequate protection, DHS would be required to increase the amount of cargo being non-intrusively inspected or x-rayed by two over the next year. The bill would also require the consolidation of intermodal cargo security programs that have the same security goals while establishing criteria and

performance goals for these security programs, which are currently operating completely independent of each other, and require certain other cargo security program enhancements. Voluntary cargo security programs are not the answer to the important problem of securing our Nation from terrorist attacks. Firm standards and goals must be in place to ensure that items that we know we don't want in marine containers are not actually in marine containers. The legislation will also require a report on the amount of actual inspections that are being done at foreign seaports.

While the Container Security Initiative was rolled out with great fanfare to work with foreign ports to inspect cargo before they get to U.S. ports, the question remains whether we are actually getting much bang for the buck. The fundamental question that needs to be addressed is whether foreign nations have been willing to use their security screening equipment for our benefit, and to what degree have they been willing to screen cargo for the benefit of our Nation. The legislation will require a report to determine whether this program needs adjustment, or is a cost-effective measure to ensure safe cargo movements into the U.S., and to update us on the progress in the installation of a system of radiation detection at U.S. ports.

Additionally, this legislation will redirect our efforts to help ensure that we can verify that security is in place to prevent an act of terrorism, and not place us in a position of having to rely on documentation and the attestations or documentation of third parties in order to determine whether we need to take actions to protect the public. The Administration has not even started to implement the certification program required to certify ''secure systems of transportation,'' 46 U.S.C. 70116, and they must get going on this vital initiative. Otherwise, it would only take one good liar to breach our system of defense. Although I understand we cannot inspect every piece of cargo, we have a credible system in place to actively increase cargo inspections, and implement a system that would ultimately allow us to reopen U.S. ports to commerce, in the event of an attack.

Additionally, the bill also would require a report from the Coast Guard on the benefits of utilizing joint operational centers at United States seaports to implement area security plans. This report should incorporate lessons learned from the three centers that have already been established, such as ''Operation SeaHawk'' in Charleston, SC, and consider which security programs could be effectively fused into these joint operational centers. The Commandant of the Coast Guard would be required by this bill to report on the effectiveness of these centers for port security and determine if it would be beneficial and cost effective to establish centers in additional areas that pose a significant security risk, and to utilize them to implement area security plans.

The bill will also make sure that port security grants are reviewed and approved, as was mandated under the terms of the MTSA, and all grants are subject to the review of the Coast Guard Captain of the Port, the regional Maritime Administration representative, and other Transportation Security Administration security officials as well as other DHS security experts, before the grants are approved. This grant program is not open-ended, it is intended to help the private sector and State and municipal governments achieve compliance with Federally approved facility plans and area maritime security plans, and the changes to the statute will ensure that the grant program operates the way we intended it to operate.

The bill also requires the Maritime Administration and the State Department to evaluate existing foreign assistance programs to determine whether the existing aid programs can be utilized to help foreign nations achieve compliance with the international standard set for port security. The MTSA requires the Coast Guard to set up a mechanism to review the practices of foreign ports to ensure that they have implemented adequate security measures, and ultimately, they can take steps that would result in the closure of commerce from ports in noncompliance with international security standards. It is in the best interests of everyone potentially impacted by such a policy implication, if we review our foreign aid programs to determine whether aid can be used to implement the necessary security measures.

The bill also requires the Maritime Administration to work with the Federal Law Enforcement Training Center, FLETC, and other DHS port security agencies such as TSA, Coast Guard and Customs to determine how to supplement their training programs to include a greater familiarization with commercial maritime practices. Port security law enforcement is much different in the aftermath of September 11, and officials involved in regulation and policing shipping will now have to approach it from a different perspective, and to be able to identify anomalies and irregularities, in order to best focus our limited police resources over an immense volume of trade. It is my understanding that the Maritime Administration has been utilizing resources at the U.S. Merchant Marine Academy and working with FLETC to formalize port security training. I think that this change will help our Federal agencies bolster their existing training programs, and achieve a greater understanding of potential security issues that could arise, and will be a healthy addition to work already done by the Maritime Administration and FLETC.

The bill rewrites the DHS mandate to conduct research and development, and would require the Science Directorate within DHS to be more accountable to Congress for those actions they are taking to develop the types of technology necessary to address security at our seaports. Importantly, the bill also requires the Coast Guard to evaluate the security risks and policies very carefully of nuclear facilities on or adjacent to navigable waterways to ensure that we have security policies in place to prevent acts of terrorism from occurring from on or under navigable waterways. Most nuclear facilities are on or adjacent to navigable waterways, and I want the Coast Guard to exercise the highest degree of security in their treatment of these facilities and the threat posed as a result of maritime commerce or the proximity to navigable waterways.

Most importantly, this bill attempts to address the fundamental issue that will face the nation as we implement the MTSA—will sufficient funding be in place to assure that our ports and agencies will robustly pursue security, or we will have to rely on sham security programs, or efforts severely restricted by funding that result in de minimus or desultory security efforts. When the Senate and House conferenced on the port security bill in the fall of 2002, the Senate conferees insisted on establishing direct funding for port security programs through a user fee, identical to the airline security fee, which would help defray the significant costs for the new port security mandates. The Administration declined to dedicate any resources for port security, and they declined to support the Senate's user fee. Unable to reach agreement with the House conferees and the Administration, I agreed to authorize just the necessary funds, but the President was required by law to report to Congress within 6 months on a funding proposal to assist States and their ports in complying with security mandates for Federal security plans. That report has never been prepared and is 9 months overdue.

When the President's budget for FY 2004 came out, after the U.S. Coast Guard had estimated that it would take $7.4 billion of funding in order to comply with the port security requirements, there was no funding for port authority compliance in that year's budget resolution. I offered an amendment to the FY 2004 Budget Resolution which was unanimously accepted to add $1 billion to help defray the first year costs of port security—ultimately it was dropped from Conference. Two weeks later, the President was presented with a direct opportunity to fund port security programs: Congressional consideration of his emergency supplemental appropriations bill to pay for the war in Iraq and bolster homeland security. Again, the Administration funding request included no funding for port authorities to help them comply with the Federal mandate, so I offered an amendment to add $1 billion to the supplemental specifically to help ports meet the new security mandates. Despite unanimous approval in

the Senate 3 weeks earlier, the amendment was opposed by the Administration and defeated on the Senate floor on a straight party line vote.

Last year, I made another effort to address the port security funding inadequacies during consideration of the FY 2004 Homeland Security Appropriations bill. Again, the Administration proposed no funding for port security grants in their 2004 request, so I offered an amendment to the bill to direct $300 million specifically to port security grants without increasing the overall cost of the bill. The Administration opposed the funding increase, and the amendment was defeated largely along party lines with only three Republicans supporting the amendment.

Until this year's budget the President has not requested one dime specifically for port security. He has opposed efforts to mandate the funds be raised from the users of the system, and this year's budget request is for only $46 million. Despite opposition from the White House, Congress has directed appropriations that have resulted in grants of $450 million to ports to help ensure compliance with the Federal security mandates, and so I know that this issue is an area of major concern. Ultimately, the funding issues must be addressed, and this bill proposes a user fee to pay for the costs of compliance of port security. I had considered the possibility of authorizing the Administration to either generate funds for port security via a user fee, or alternatively mandate that funds be directly transferred from funds collected by Customs duties, but because of jurisdictional issues determined not to do so. The maritime industry supports this approach, and I am not opposed to this approach, but want only to ensure, that one way or another, we have the necessary funding in place to set up the system of port security that this nation deserves. Simply put, there is just too much at stake to hope that security emerges.

This bill seeks to continue the work to correct the security and terrorism prevention needs at our maritime borders. There is much to be done and there is a continued need for government and industry cooperation. This bill works on some of that need, yet the major need is funding for port security, which I hope that we will be able to address in the Senate very soon.

I ask unanimous consent the text of the bill to be printed in the RECORD.

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

S. 2279

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Maritime Transportation Security Act of 2004''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. IN REM LIABILITY; ENFORCEMENT; PIER AND WHARF SECURITY COSTS.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating section 70117 as 70120; and

(2) by inserting after section 70116 the following:

''§ 70117. In rem liability for civil penalties and certain costs

''(a) IN GENERAL.—Any vessel subject to the provisions of this chapter, which is used in violation of this chapter or any regulations issued hereunder shall be liable in rem for any civil penalty assessed pursuant to section 70120 and may be proceeded against in the United States district court for any district in which such vessel may be found.

''(b) REIMBURSABLE COSTS.—

''(1) IN GENERAL.—Any vessel subject to the provisions of this chapter shall be liable in rem for the reimbursable costs incurred by any valid claimant related to implementation and enforcement of this chapter with respect to the vessel, including port authorities, facility or terminal operators, shipping agents, Federal, State, or local government agencies, and other persons to whom the management of the vessel at the port of supply is entrusted, and any fine or penalty relating to reporting requirements of the vessel or its cargo, crew, or passengers, and may be proceeded against in the United States district court for any district in which such vessel may be found.

''(2) REIMBURSABLE COSTS DEFINED.—In this subsection the term 'reimbursable costs' means costs incurred by any service provider, including port authorities, facility or terminal operators, shipping agents, Federal, State, or local government agencies, or other person to whom the management of the vessel at the port of supply is entrusted, for—

''(A) vessel crew on board, or in transit to or from, the vessel under lawful order, including accommodation, detention, transportation, and medical expenses; and

''(B) required handling under lawful order of cargo or other items on board the vessel.

''§ 70118. Enforcement by injunction or withholding of clearance

''(a) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this chapter or of regulations issued hereunder, for cause shown.

''(b) WITHHOLDING OF CLEARANCE.—

''(1) If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under section 70120, or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty under section 70120, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

''(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

''§ 70119. Security of piers and wharfs

''(a) IN GENERAL.—Notwithstanding any provision of law, the Secretary shall require any uncleared, imported merchandise remaining on the wharf or pier onto which it was unladen for more than 5 calendar days to be removed from the wharf or pier and deposited in the public stores or a general order warehouse, where it shall be inspected for determination of contents, and thereafter a permit for its delivery may be granted.

''(b) PENALTY.—The Secretary may impose an administrative penalty of $5,000 for each bill of lading for general order merchandise remaining on a wharf or pier in violation of subsection (a).''.

(b) CONFORMING AMENDMENT FOR IN REM LIABILITY PROVISION IN CHAPTER 701.—Section 2 of the Act of June 15, 1917 (50 U.S.C. 192) is amended—

(1) by striking ''Act,'' each place it appears and inserting ''title,''; and

(2) by adding at the end the following:

''(d) IN REM LIABILITY.—Any vessel subject to the provisions of this title, which is used in violation of this title, or any regulations issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to subsection (c) and may be proceeded against in the United States district court for any district in which such vessel may be found.

''(e) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this title or of regulations issued hereunder, for cause shown.

''(f) WITHHOLDING OF CLEARANCE.—

''(1) If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under subsection (c), or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty or fine under subsection (c), the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

''(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary of the Department in which the Coast Guard is operating.''.

(c) EMPTY CONTAINERS.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall review United States ports and transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the practices and policies in place to secure shipment of empty containers. The Secretary shall include in the report recommendations with respect to whether additional regulations or legislation is necessary to ensure the safe and secure delivery of cargo and to prevent potential acts of terrorism involving such containers.

(d) CLERICAL AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the last item and inserting the following:

SEC. 3. MARITIME INFORMATION.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that provides a preliminary

plan for the implementation of section 70113 of title 46, United States Code. The plan shall—

(1) provide the identification of Federal agencies with maritime information relating to vessels, crew, passengers, cargo, and cargo shippers;

(2) establish a timeline for coordinating the efforts of those Federal agencies in the collection of maritime information;

(3) establish a timeline for the incorporation of information on vessel movements derived through the implementation of sections 70114 and 70115 of title 46, United States Code;

(4) include recommendations on co-locating agency personnel in order to maximize expertise, minimize cost, and avoid redundancy;

(5) include recommendations on how to leverage information on commercial maritime information collected by the Department of the Navy, and identify any legal impediments that would prevent or reduce the utilization of such information outside the Department of the Navy;

(6) include recommendations on educating Federal officials on commercial maritime operations in order to facilitate the identification of security risks posed through commercial maritime transportation operations;

(7) include recommendations on how private sector resources could be utilized to collect or analyze information, along with a preliminary assessment of the availability and expertise of private sector resources;

(8) include recommendations on how to disseminate information collected and analyzed through Federal maritime security coordinator while considering the need for nondisclosure of sensitive security information and the maximizing of security through the utilization of State, local, and private security personnel; and

(9) include recommendations on how the Department could help support a maritime information sharing and analysis center for the purpose of collecting information from public and private entities, along with recommendations on the appropriate levels of funding to help disseminate maritime security information to the private sector.

SEC. 4. INTERMODAL CARGO SECURITY PLAN.

(a) IN GENERAL.—In addition to the plan submitted under section 3, within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing the following:

(1) SECURE SYSTEMS OF TRANSPORTATION (46 U.S.C. 70116).—A plan, along with timelines, for the implementation of section 70116 of title 46, United States Code. The plan shall—

(A) provide an update on current efforts by the Department of Homeland Security could be incorporated into the certification process outlined in section 70116 to ensure the physical screening or inspection of imported cargo;

(B) provide a preliminary assessment of resources necessary to evaluate and certify ''Secure Systems of Transportation'', and the resources necessary to validate that ''Secure Systems of Transportation'' are operating in compliance with the certification requirements; and

(C) contain an analysis of the feasibility of establishing a user fee in order to be able to evaluate, certify, and validate ''Secure Systems of Transportation''.

(2) RADIATION DETECTORS.—A report on progress in the installation of a system of radiation detection at all major United States seaports, along with a timeline and expected completion date for the system. In the report, the Secretary shall include a preliminary analysis of any issues related to the installation of the radiation detection equipment, as well as a cost estimate for completing installation of the system.

(3) NON-INTRUSIVE INSPECTION AT FOREIGN PORTS.—A report—

(A) on whether and to what extent foreign seaports have been willing to utilize screening equipment at their ports to screen cargo, including the number of cargo containers that have been screened at foreign seaports, and the ports where they were screened;

(B) indicating which foreign ports may be willing to utilize their screening equipment for cargo exported for import into the United States, and a recommendation as to whether, and to what extent, United States cargo screening equipment will be required to be purchased and stationed at foreign seaports for inspection; and

(C) indicating to what extent additional resources and program changes will be necessary to maximize scrutiny of cargo in foreign seaports.

(4) COMPLIANCE WITH SECURITY STANDARD PROGRAMS.—A plan to establish, validate, and ensure compliance with security standards that would require ports, terminals, vessel operators, and shippers to adhere to security standards established by or consistent with the National Transportation System Security Plan. The plan shall indicate what resources will be utilized, and how they would be utilized, to ensure that companies operate in compliance with security standards.

(b) EVALUATION OF CARGO INSPECTION TARGETING SYSTEM FOR INTERNATIONAL INTERMODAL CARGO CONTAINERS.—

(1) IN GENERAL.—Within 6 months after the date of enactment of this Act, and annually thereafter, the Inspector General of the Department of Homeland Security shall evaluate the system used by the Department to target international intermodal containers for inspection and report the results of the evaluation to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. In conducting the evaluation, the Inspector General shall assess—

(A) the effectiveness of the current tracking system to determine whether it is adequate to prevent international intermodal containers from being used for purposes of terrorism;

(B) the sources of information used by the system to determine whether targeting information is collected from the best and most credible sources and evaluate data sources to determine information gaps and weaknesses;

(C) the targeting system for reporting and analyzing inspection statistics, as well as testing effectiveness;

(D) the competence and training of employees operating the system to determine whether they are sufficiently capable to detect potential terrorist threats; and

(E) whether the system is an effective system to detect potential acts of terrorism and whether additional steps need to be taken in order to remedy deficiencies in targeting international intermodal containers for inspection.

(2) INCREASE IN INSPECTIONS.—If the Inspector General determines in any of the reports required by paragraph (1) that the targeting system is insufficiently effective as a means of detecting potential acts of terrorism utilizing international intermodal containers, then within 12 months after that report, the Secretary of Homeland Security shall double the number of containers subjected to intrusive or non-intrusive inspection at United States ports or to be shipped to the United States at foreign seaports.

(c) REPORT AND PLAN FORMATS.—The Secretary and the Inspector General may submit any plan or report required by this section in both classified and redacted formats if the Secretary determines that it is appropriate or necessary.

SEC. 5. JOINT OPERATIONS CENTER FOR PORT SECURITY.

The Commandant of the United States Coast Guard shall report to Congress, within 180 days after the date of enactment of this Act, on the potential benefits of establishing joint operational centers for port security at certain United States seaports. The report shall consider the 3 Joint Operational Centers that have been established at Norfolk, Charleston, San Diego, and elsewhere and compare and contrast their composition and operational characteristics. The report shall consider—

(1) whether it would be beneficial to establish linkages to Federal maritime information systems established pursuant to section 70113 of title 46, United States Code;

(2) whether the operational centers could be beneficially utilized to track vessel movements under sections 70114 and 70115 of title 46, United States Code;

(3) whether the operational centers could be beneficial in the facilitation of intermodal cargo security programs such as the ''Secure Systems of Transportation Program'';

(4) the extent to which such operational centers could be beneficial in the operation of maritime area security plans and maritime area contingency response plans and in coordinating the port security activities of Federal, State, and local officials; and

(5) include recommendations for the number of centers and their possible location, as well as preliminary cost estimates for the operation of the centers.

SEC. 6. MARITIME TRANSPORTATION SECURITY PLAN GRANTS.

Section 70107(a) of title 46, United States Code, is amended to read as follows:

''(a) IN GENERAL.—The Under Secretary of Homeland Security for Border and Transportation Security shall establish a grant program for making a fair and equitable allocation of funds to implement Area Maritime Transportation Security Plans and to help fund compliance with Federal security plans among port authorities, facility operators, and State and local agencies required to provide security services. Grants shall be made on the basis of the need to address vulnerabilities in security subject to review and comment by the appropriate Federal Maritime Security Coordinators and the Maritime Administration. The grant program shall take into account national economic and strategic defense concerns and shall be coordinated with the Director of the Office of Domestic Preparedness to ensure that the grant process is consistent with other Department of Homeland Security grant programs.''.

SEC. 7. ASSISTANCE FOR FOREIGN PORTS.

Section 70109 of title 46, United States Code, is amended—

(1) by striking ''The Secretary'' in subsection (b) and inserting ''The Administrator of the Maritime Administration''; and

(2) by adding at the end the following:

''(c) FOREIGN ASSISTANCE PROGRAMS.—The Administrator of the Maritime Administration, in coordination with the Secretary of State, shall identify foreign assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries. The Administrator and the Secretary shall establish a program to utilize those programs that are capable of implementing port security antiterrorism

measures at ports in foreign countries that the Secretary finds, under section 70108, to lack effective antiterrorism measures.''.

SEC. 8. FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.

Section 109 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following:

''(c) FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.—The Secretary of Transportation shall establish a curriculum, to be incorporated into the curriculum developed under subsection (a)(1), to educate and instruct Federal and State officials on commercial maritime and intermodal transportation. The curriculum shall be designed to familiarize those officials with commercial maritime transportation in order to facilitate performance of their commercial maritime and intermodal transportation security responsibilities. In developing the standards for the curriculum, the Secretary shall consult with each agency in the Department of Homeland Security with maritime security responsibilities to determine areas of educational need. The Secretary shall also coordinate with the Federal Law Enforcement Training Center in the development of the curriculum and the provision of training opportunities for Federal and State law enforcement officials at appropriate law enforcement training facilities.

SEC. 9. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Section 70107 of title 46, United States Code, is amended by striking subsection (i) and inserting the following:

''(i) RESEARCH AND DEVELOPMENT.—

''(1) IN GENERAL.—As part of the research and development program within the Science and Technology directorate, the Secretary of Homeland Security shall conduct investigations, fund pilot programs, award grants, and otherwise conduct research and development across the various portfolios focused on making United States ports safer and more secure. Research conducted under this subsection may include—

''(A) methods or programs to increase the ability to target for inspection vessels, cargo, crewmembers, or passengers that will arrive or have arrived at any port or place in the United States;

''(B) equipment to detect accurately explosives, chemical, or biological agents that could be used to commit terrorist acts against the United States;

''(C) equipment to detect accurately nuclear or radiological materials, including scintillation-based detection equipment capable of signalling the presence of nuclear or radiological materials;

''(D) improved tags and seal designed for use on shipping containers to track the transportation of the merchandise in such containers, including 'smart sensors' that are able to track a container throughout its entire supply chain, detect hazardous and radioactive materials within that container, and transmit that information to the appropriate law enforcement authorities;

''(E) tools, including the use of satellite tracking systems, to increase the awareness of maritime areas and to identify potential terrorist threats that could have an impact on facilities, vessels, and infrastructure on or adjacent to navigable waterways, including underwater access;

''(F) tools to mitigate the consequences of a terrorist act on, adjacent to, or under navigable waters of the United States, including sensor equipment, and other tools to help coordinate effective response to a terrorist action; and

''(G) applications to apply existing technologies from other areas or industries to increase overall port security.

''(2) IMPLEMENTATION OF TECHNOLOGY.—

''(A) IN GENERAL.—In conjunction with ongoing efforts to improve security at United States ports, the Director of the Science and Technology Directorate, in consultation with other Department of Homeland Security agencies with responsibility for port security, may conduct pilot projects at United States ports to test the effectiveness and applicability of new port security projects, including—

''(i) testing of new detection and screening technologies;

''(ii) projects to protect United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access; and

''(iii) tools for responding to a terrorist threat or incident at United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access.

''(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security $35,000,000 for each of fiscal years 2005 through 2009 to carry out pilot projects under subparagraph (A).

''(3) ADMINISTRATIVE PROVISIONS.—

''(A) NO DUPLICATION OF EFFORT.—Before making any grant, the Secretary of Homeland Security shall coordinate with other Federal agencies to ensure the grant will not be used for research and development that is already being conducted with Federal funding.

''(B) ACCOUNTING.—The Secretary of Homeland Security shall by regulation establish accounting, reporting, and review procedures to ensure that funds made available under paragraph (1) are used for the purpose for which they were made available, that all expenditures are properly accounted for, and that amounts not used for such purposes and amounts not expended are recovered.

''(C) RECORDKEEPING.—Recipients of grants shall keep all records related to expenditures and obligations of funds provided under paragraph (1) and make them available upon request to the Inspector General of the Department of Homeland Security and the Secretary of Homeland Security for audit and examination.''.

(b) ANNUAL REPORT.—Within 30 days after the beginning of each fiscal year from fiscal year 2005 through fiscal year 2009, the Director of the Science and Technology Directorate shall submit a report describing its research that can be applied to port security to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security. The report shall—

(1) describe any port security-related research, including grants and pilot projects, that were conducted in the preceding fiscal year;

(2) describe the amount of Department of Homeland Security resources dedicated to research that can be applied to port security;

(3) describe the steps taken to coordinate with other agencies within the Department to ensure that research efforts are coordinated with port security efforts;

(4) describe how the results of the Department's research, as well as port security related research of the Department of Defense, will be implemented in the field, including predicted timetables;

(5) lay out the plans for research in the current fiscal year; and

(6) include a description of the funding levels for the research in the preceding, current, and next fiscal years.

SEC. 10. NUCLEAR FACILITIES IN MARITIME AREAS.

(a) WATERWAYS.—Section 70103(b) is amended by adding at the end thereof the following:

''(5) WATERWAYS LOCATED NEAR NUCLEAR FACILITIES.—

''(A) IDENTIFICATION AND SECURITY EVALUATION.—The Secretary shall—

''(i) identify all nuclear facilities on, adjacent to, or in close proximity to navigable waterways that might be damaged by a transportation security incident;

''(ii) in coordination with the Secretary of Energy, evaluate the security plans of each such nuclear facility for its adequacy to protect the facility from damage or disruption from a transportation security incident originating in the navigable waterway, including threats posed by navigation, underwater access, and the introduction of harmful substances into water coolant systems.

''(B) RECTIFICATION OF DEFICIENCIES.—The Secretary, in coordination with the Secretary of Energy, shall take such steps as may be necessary or appropriate to correct any deficiencies in security identified in the evaluations conducted under subparagraph (A).

''(C) REPORT.—As soon as practicable after completion of the evaluation under subparagraph (A), the Secretary shall transmit a report, in both classified and redacted format, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Select Committee on Homeland Security—

''(i) describing the results of the identification and evaluation required by subparagraph (A);

''(ii) describing the actions taken under subparagraph (B); and

''(iii) evaluating the technology utilized in the protection of nuclear facilities (including any such technology under development).''.

(b) VESSELS.—Section 70103(c)(3) of title 46, United States Code, is amended—

(1) by striking ''and'' after the semicolon in subparagraph (F);

(2) by striking ''facility.'' in subparagraph (G) and inserting ''facility; and''; and

(3) by adding at the end the following:

''(H) establish a requirement, coordinated with the Department of Energy, for criminal background checks of all United States and foreign seamen employed on vessels transporting nuclear materials in the navigable waters of the United States.''.

SEC. 11. TRANSPORTATION WORKER BACKGROUND INVESTIGATION PROGRAMS.

Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Secretary of Transportation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure—

(1) making recommendations (including legislative recommendations, if appropriate or necessary) for harmonizing, combining, or coordinating requirements, procedures, and programs for conducting background checks under section 70105 of title 46, United States Code, section 5103a(c) of title 49, United States Code, section 44936 of title 49, United States Code, and other provisions of Federal law or regulations requiring background checks for individuals engaged in transportation or transportation-related activities; and

(2) setting forth a detailed timeline for implementation of such harmonization, combination, or coordination.

SEC. 12. SECURITY SERVICE FEE.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, as amended by section 2, is further amended by adding at the end the following:

''§ 70121. Security service fee

''(a) IN GENERAL.—

''(1) SECURITY FEE.—Within 90 days after the date of enactment of the Maritime Transportation Security Act of 2004, the Secretary of Homeland Security shall assess and collect an international port security service fee on commercial maritime transportation entities that benefit from a secure system of international maritime transportation to pay for the costs of providing port security services. The amount of the fees assessed and collected under this paragraph and paragraph (2) shall, in the aggregate, be sufficient to provide the services and levels of funding described in section 70122(c).

''(2) INTERNATIONAL TRANSSHIPMENT SECURITY FEE.—The Secretary shall also assess and collect an international maritime transshipment security user fee for providing security services for shipments of cargo and transportation of passengers entering the United States as part of an international transportation movement by water through Canadian or Mexican ports at the same rates as the fee imposed under paragraph (1). The fee authorized by this paragraph shall not be assessed or collected on transshipments from—

(A) Canada after the date on which the Secretary determines that an agreement between the United States and Canada, or

(B) Mexico after the date on which the Secretary determines that an agreement between the United States and Mexico,

has entered into force that will provide equivalent security regimes and international maritime security user fees of the United States and that country for transshipments between the countries.

''(b) SCHEDULE OF FEES.—In imposing fees under subsection (a), the Secretary shall ensure that the fees are reasonably related to the costs of providing services rendered and the value of the benefit derived from the continuation of secure international maritime transportation.

''(c) IMPOSITION OF FEE.—

''(1) IN GENERAL.—Notwithstanding section 9701 of title 31 and the procedural requirements of section 553 of title 5, the Secretary shall impose the fees under subsection (a) through the publication of notice in the Federal Register and begin collection of the fee within 60 days of the date of enactment of the Maritime Transportation Security Act of 2004, or as soon as possible thereafter. No fee shall be assessed more than once, and no fee shall be assessed for international ferry voyages.

''(2) MEANS OF COLLECTION.—The Secretary shall prescribe procedures to collect fees under this section. The Secretary may use a department, agency, or instrumentality of the United States Government or of a State or local government to collect the fee and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

''(3) SUBSEQUENT MODIFICATION OF FEE.—After imposing a fee under subsection (a), the Secretary may modify, from time to time through publication of notice in the Federal Register, the imposition or collection of such fee, or both. The Secretary shall evaluate the fee annually to determine whether it is necessary and appropriate to pay the cost of activities and services, and shall adjust the amount of the fee accordingly.

''(4) LIMITATION ON COLLECTION.—No fee may be collected under this section except to the extent that the expenditure of the fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act.

''(d) ADMINISTRATION OF FEES.—

''(1) FEES PAYABLE TO SECRETARY.—All fees imposed and amounts collected under this section are payable to the Secretary.

''(2) INFORMATION.—The Secretary may require the provision of such information as the Secretary decides is necessary to verify that fees have been collected and remitted at the proper times and in the proper amounts.

''(e) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee collected under this section—

''(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

''(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

''(3) shall remain available until expended.

''(f) REFUNDS.—The Secretary may refund any fee paid by mistake or any amount paid in excess of that required.

''(g) SUNSET.—The fees authorized by subsection (a) may not be assessed after September 31, 2009.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, as amended by section 2, is amended by adding at the end the following:

''70121. Security service fee''.

SEC. 13. PORT SECURITY CAPITAL FUND.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, as amended by section 11, is further amended by adding at the end the following:

''§ 70122. Port security capital fund.

''(a) IN GENERAL.—There is established within the Department of Homeland Security a fund to be known as the Port Security Capital Fund. There are appropriated to the Fund such sums as may be derived from the fees authorized by section 70121(a).

''(b) PURPOSE.—Amounts in the Fund shall be available to the Secretary of Homeland Security—

''(1) to provide financial assistance to port authorities, facility operators, and State and local agencies required to provide security services to defray capital investment in transportation security at port facilities in accordance with the provisions of this chapter;

''(2) to provide financial assistance to those entities required to provide security services to help ensure compliance with Federal area maritime security plans; and

''(3) to help defray the costs of Federal port security programs.

''(c) ALLOCATION OF FUNDS.—

''(1) FUNDS DERIVED FROM SECURITY FEES.—From amounts in the Fund attributable to fees collected under section 70121(a)(1) and (2)—

''(A) no less than $400,000,000 (or such amount as may be appropriate to reflect any modification of the fees under section 70121(c)(3)) shall be made available each fiscal year for grants under section 70107 to help ensure compliance with facility security plans or to help implement Area Maritime Transportation Security Plans;

''(B) funds shall be made available to the Coast Guard for the costs of implementing sections 70114 and 70115 fully by the end of fiscal year 2006;

''(C) funds shall be made available to the Coast Guard for the costs of establishing command and control centers at United States ports to help coordinate port security law enforcement activities and implementing Area Maritime Security Plans, and may be transferred, as appropriate, to port authorities, facility operators, and State and local government agencies to help them defray costs associated with port security services;

''(D) funds shall be made available to the Under Secretary of Homeland Security for Border and Transportation Security for the costs of implementing cargo security programs, including the costs of certifying secure systems of transportation under section 70116;

''(E) funds shall be made available to the Under Secretary of Homeland Security for Border and Transportation Security for the costs of acquiring and operating nonintrusive screening equipment at United States ports; and

''(F) funds shall be made available to the Transportation Security Administration for the costs of implementing of section 70113 and the collection of commercial maritime intelligence (including the collection of commercial maritime transportation information from the private sector), of which a portion shall be made available to the Coast Guard and the Customs Service only for the purpose of coordinating the system of collecting and analyzing information on vessels, crew, passengers, cargo, and intermodal shipments.

''(2) TRANSSHIPMENT FEES.—Amounts in the Fund attributable to fees collected under section 70121(a)(3), shall be made available to the Secretary to defray the costs of providing international maritime transshipment security at the United States borders with Canada and Mexico.

''(d) UTILIZATION REPORTS.—The Commandant of the Coast Guard and the Secretary of Homeland Security shall report annually to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on utilization of amounts received from the Fund.

''(e) LETTERS OF INTENT.—The Secretary of Homeland Security, or his delegate, may execute letters of intent to commit funding to port sponsors from the Fund.''.

(f) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, as amended by section 11, is amended by adding at the end the following:

''70122. Port security capital fund''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 327—PROVIDING FOR A PROTOCOL FOR NONPARTISAN CONFIRMATION OF JUDICIAL NOMINEES

Mr. SPECTER submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 327

Whereas, judicial nominations have long been the subject of controversy and delay in the United States Senate;

Whereas, in the past the controversy over judicial nominees has occurred when different political parties control the White House and the Senate;

Whereas, in the current Congress, even though the White House and the Senate are controlled by the same party, the controversy over judicial nominees continues and has reached a crisis point;

Whereas, during the current Administration there have for the first time been Senate filibusters of nominees to the U.S. Circuit Courts of Appeal;

Whereas, the White House has made recess appointments of two of these filibustered nominees;

Whereas, the minority party has taken the position that further Senate confirmations of the President's judicial nominees would be blocked unless the White House gives assurances that it will no longer make such recess appointments.

Resolved,

SECTION 1. PROTOCOL FOR NONPARTISAN CONFIRMATION OF JUDICIAL NOMINEES.

(a) TIMETABLES.—

(1) COMMITTEE TIMETABLES.—The Chairman of the Committee on the Judiciary, in collaboration with the Ranking Member, shall—

(A) establish a timetable for hearings for nominees to the United States district courts, courts of appeal, and Supreme Court, to occur within 30 days after the names of such nominees have been submitted to the Senate by the President; and

(B) establish a timetable for action by the full Committee to occur within 30 days after the hearings, and for reporting out nominees to the full Senate.

(2) SENATE TIMETABLES.—The Majority Leader shall establish a timetable for action by the full Senate to occur within 30 days after the Committee on the Judiciary has reported out the nominations.

(b) EXTENSION OF TIMETABLES.—

(1) COMMITTEE EXTENSIONS.—The Chairman of the Committee on the Judiciary, with notice to the Ranking Member, may extend by a period not to exceed 30 days, the time for action by the Committee for cause, such as the need for more investigation or additional hearings.

(2) SENATE EXTENSIONS.—

(A) IN GENERAL.—The Majority Leader, with notice to the Minority Leader, may extend by a period not to exceed 30 days, the time for floor action for cause, such as the need for more investigation or additional hearings.

(B) RECESS PERIOD.—Any day of a recess period of the Senate shall not be included in the extension period described under subparagraph (A).

Mr. SPECTER. Mr. President, I have sought recognition to submit a resolution providing for a protocol for the nonpartisan confirmation of judicial nominees. We have come to a crisis situation in the Senate on the confirmation of Federal judges. This has been a highly controversial subject since the beginning of the Republic. There have been controversies from time to time, pitched debates in the Senate Chamber, nominees confirmed and some nominees rejected.

The current controversies focused significantly in the last 2 years of President Reagan's Presidency when the Democrats won control of the Senate in the 1986 elections. For the last 2 years of President Reagan's tenure, the Presidential appointments were slowed down. The same thing happened during the 4 years of President George Herbert Walker Bush. When President Clinton was elected, and we had a Democrat in the White House, when we Republicans gained control of the Senate in the 1994 elections, President Clinton's nominations were slowed down. Pretty much a tit-for-tat situation.

Now that we have had both the Presidency and the Senate under Republican stewardship, the controversy has reached a new level where for the first time in the history of the Republic, court of appeals nominees have been filibustered. The responsibility of the President has been to use his constitutional authority for interim appointments. Those two interim appointments have been roundly criticized by the Democrats.

And the position has been stated on the other side of the aisle that there will be no more confirmations of Federal judges until there is a commitment, an indication, or some statement, or some understanding that the interim appointments will no longer be made.

My State of Pennsylvania is very severely impacted by this controversy. We have a nomination pending before the Senate of a distinguished Federal judge, Judge Van Antwerpen, who is ready for confirmation. The Court of Appeals for the Third Circuit is badly understaffed. We have some five nominees for the United States District Court for the Eastern District of Pennsylvania awaiting confirmation. There again, the courts are in need of the services of these prospective Federal judges.

The resolution, which I am submitting today, is a protocol which would call for a hearing in the Judiciary Committee 30 days after a President submits a nomination; 30 days later, a vote by the committee; 30 days after that, floor action in the Senate; 30 days after that, a decision on the outcome.

It is true there would not be the opportunity for filibuster, but the Republic has survived for more than 200 years before the filibuster was used. There was one illustration where there was a filibuster for a Supreme Court nominee, but that is really irrelevant to the kinds of controversies we have now, or the situation we are in at the present time.

Beyond my State of Pennsylvania, there are other States, other circuits, having judicial crises, and we ought to take the Federal judicial nominating confirmation process out of the politicization course, and we ought to try to work this through.

It may be that, in August, when there is some uncertainty as to who will occupy the White House and which party will control the Senate, that some accommodation can be reached. But right now litigants are being denied the prompt disposition of their cases. It is a well-known maxim that justice delayed is justice denied. It is my hope that we could find an accommodation somewhere here to do the people's business.

It is well known that partisanship is at a very high level in the Congress today—in the House of Representatives, where there is a narrow margin for the Republicans; and the partisanship here in the Senate, where there is a 51–49 majority for the Republicans.

But we ought to establish a protocol. We ought to establish a procedure. The protocol I am proposing is not in concrete. I am prepared to discuss it to find ways of working it out.

I had thought of putting in a provision that if it was a party line vote in the Judiciary Committee, even though there was not a majority in favor of sending a nominee to the floor, but a party line vote, that it come to the floor. I have decided to omit that.

I had thought about putting a provision in that if the Supreme Court nominee did not have a majority, the nominee would come to the floor in any event. And I have omitted that.

Twice in the past 14 years, nominees have come to the floor of the Senate for the Supreme Court of the United States without having a majority vote in the Judiciary Committee. But both times—one a 5-to-8 vote, the nominee came to the floor; another time, on a 7–7 tie, there was a 13–1 vote to send the nominee to the floor. And I have decided, in the interest of avoiding a controversy, to omit that.

But I ask my colleagues to review this resolution for a protocol and to see if we cannot find some way to confirm Federal judges without figuring out whose ox is being gored.

SENATE RESOLUTION 328—EXPRESSING THE SENSE OF THE SENATE REGARDING THE CONTINUED HUMAN RIGHTS VIOLATIONS COMMITTED BY FIDEL CASTRO AND THE GOVERNMENT OF CUBA

Mr. NELSON of Florida (for himself and Mr. ALLEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 328

Whereas, one year ago, in March 2003, Fidel Castro and the Government of Cuba led a nationwide campaign to arrest and jail dozens of prominent democracy activists and critics of the repressive regime in Cuba;

Whereas credible nongovernmental observers report that the imprisoned democracy activists include—

(1) Osvaldo Alfonso Valdes, sentenced for 18 years;

(2) Librado Linares Garcia, sentenced for 20 years;

(3) Raul Rivero Castaneda, sentenced for 20 years;

(4) Martha Beatriz Roque Cabello, sentenced for 20 years;

(5) Victor Rolando Arroyo Carmona, sentenced for 26 years;

(6) Mijail Barzaga Lugo, sentenced for 15 years;

(7) Oscar Elias Biscet, sentenced for 25 years;

(8) Margarito Broche Espinosa, sentenced for 25 years;

(9) Dr. Marcelo Cana Rodriguez, sentenced for 18 years;

(10) Roberto de Miranda Hernandez, sentenced for 20 years;

(11) Carmelo Diaz Fernandez, sentenced for 18 years;

(12) Eduardo Diaz Fleitas, sentenced for 21 years;

(13) Antonio Diaz Sanchez, sentenced for 20 years;

(14) Alfredo Dominguez Batista, sentenced for 14 years;

(15) Oscar Espinosa Chepe, sentenced for 20 years;
(16) Alfredo Felipe Fuentes, sentenced for 26 years;
(17) Efren Fernandez Fernandez, sentenced for 12 years;
(18) Adolfo Fernandez Sainz, sentenced for 15 years;
(19) Jose Daniel Ferrer Garcia, sentenced for 25 years;
(20) Luis Enrique Ferrer Garcia, sentenced for 28 years;
(21) Orlando Fundora Alvarez, sentenced for 20 years;
(22) Prospero Gainza Aguero, sentenced for 25 years;
(23) Miguel Galban Gutierrez, sentenced for 26 years;
(24) Julio Cesar Galvez Rodriguez, sentenced for 15 years;
(25) Jose Luis Garcia Paneque, sentenced for 24 years;
(26) Edel Jose Garcia Diaz, sentenced for 16 years;
(27) Ricardo Gonzalez Alfonso, sentenced for 20 years;
(28) Diosdado Gonzalez Marrero, sentenced for 20 years;
(29) Lester Gonzalez Penton, sentenced for 20 years;
(30) Alejandro Gonzalez Raga, sentenced for 14 years;
(31) Jorge Luis Gonzalez Tanquero, sentenced for 20 years;
(32) Leonel Grave de Peralta Almenares, sentenced for 20 years;
(33) Ivan Hernandez Carrillo, sentenced for 25 years;
(34) Normando Hernandez Gonzalez, sentenced for 25 years;
(35) Juan Carlos Herrera Acosta, sentenced for 20 years;
(36) Regis Iglesias Ramirez, sentenced for 18 years;
(37) Jose Ubaldo Izquierdo Hernandez, sentenced for 16 years;
(38) Reinaldo Labrada Pena, sentenced for 6 years;
(39) Nelson Alberto Aguiar Ramirez, sentenced for 13 years;
(40) Marcelo Lopez Banobre, sentenced for 15 years;
(41) Jose Miguel Martinez Hernandez, sentenced for 13 years;
(42) Hector Maseda Gutierrez, sentenced for 20 years;
(43) Mario Enrique Mayo Hernandez, sentenced for 20 years;
(44) Dr. Luis Milan Fernandez, sentenced for 13 years;
(45) Nelson Moline Espino, sentenced for 20 years;
(46) Angel Juan Moya Acosta, sentenced for 20 years;
(47) Jesus Mustafa Felipe, sentenced for 25 years;
(48) Felix Navarro Rodriguez, sentenced for 25 years;
(49) Jorge Olivera Castillo, sentenced for 18 years;
(50) Pablo Pacheco Avila, sentenced for 20 years;
(51) Hector Palacios Ruiz, sentenced for 25 years;
(52) Arturo Perez de Alejo Rodriguez, sentenced for 20 years;
(53) Omar Pernet Hernandez, sentenced for 25 years;
(54) Horacio Julio Pina Borrego, sentenced for 20 years;
(55) Fabio Prieto Llorente, sentenced for 20 years;
(56) Alfredo Pulido Lopez, sentenced for 14 years;
(57) Jose Gabriel Ramon Castillo, sentenced for 20 years;
(58) Arnaldo Ramos Lauzerique, sentenced for 18 years;
(59) Blas Giraldo Reyes Rodriguez, sentenced for 25 years;
(60) Pedro Pablo Alvarez Ramos, sentenced for 25 years;
(61) Alexis Rodriguez Fernandez, sentenced for 15 years;
(62) Omar Rodriguez Saludes, sentenced for 27 years;
(63) Pedro Arguelles Moran, sentenced for 20 years;
(64) Omar Ruiz Hernandez, sentenced for 18 years;
(65) Claro Sanchez Albtarriba, sentenced for 15 years;
(66) Ariel Sigler Amaya, sentenced for 20 years;
(67) Guido Sigler Amaya, sentenced for 20 years;
(68) Ricardo Enrique Silva Gual, sentenced for 10 years;
(69) Fidel Suarez Cruz, sentenced for 20 years;
(70) Manuel Ubals Gonzalez, sentenced for 20 years;
(71) Julio Antonio Valdes Guevara, sentenced for 20 years;
(72) Miguel Valdes Tamayo, sentenced for 15 years;
(73) Hector Raul Valle Hernandez, sentenced for 12 years;
(74) Manuel Vazquez Portal, sentenced for 18 years; and
(75) Antonio Augusto Villarreal Acosta, sentenced for 15 years;

Whereas the imprisoned political opponents of Castro include librarians, journalists, poets, and others who have supported the Varela Project, which seeks to bring free speech, open elections, and democracy to Cuba;

Whereas Fidel Castro seized the opportunity to expand his brutal oppression of the people of Cuba while the attention of the United States and other nations around the world was focused on the war in Iraq;

Whereas the failure to condemn the Government of Cuba's continued political repression of democracy activists will further undermine the opportunity for freedom on the island; and

Whereas the international community missed an opportunity to speak against such brutal repression in a meaningful manner during the 59th Session of the United Nations Commission on Human Rights held in Geneva, Switzerland, from March 17, 2003, through April 23, 2003: Now, therefore, be it

Resolved, That the Senate—

(1) reaffirms—

(A) Senate Resolution 272, 107th Congress, unanimously agreed to June 10, 2002, calling for, among other things, amnesty for all political prisoners in Cuba;

(B) Senate Resolution 97, 108th Congress, unanimously agreed to April 7, 2003, condemning the crackdown on democracy activists in Cuba; and

(C) Senate Resolution 62, 108th Congress, unanimously agreed to June 27, 2003, calling upon the Organization of American States Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba;

(2) calls on the Government of Cuba to immediately release individuals imprisoned for political purposes;

(3) praises the bravery of those Cubans who, because they practiced free speech and signed the Varela Project petition, have been targeted in this most recent government crackdown;

(4) calls on foreign governments to—

(A) increase the pressure on the Government of Cuba to improve its record on human rights in Cuba; and

(B) invite civil society leaders and democracy activists in Cuba to official events;

(5) calls upon the 60th Session of the United Nations Commission on Human Rights in Geneva from March 15, 2004, to April 23, 2004, to—

(A) condemn Cuba for its human rights abuses; and

(B) demand that inspectors from the International Commission of the Red Cross be allowed to visit and inspect the conditions of prisons to assess for the international community the extent of human rights abuses and the current situation in Cuba; and

(6) urges the President to direct United States Representatives at the 60th Session of the Commission on Human Rights to make the strong condemnation of the human rights situation in Cuba a top priority.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3007. Mr. TALENT submitted an amendment intended to be proposed to amendment SA 2961 submitted by Mr. TALENT and intended to be proposed to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table.

SA 3008. Mr. TALENT submitted an amendment intended to be proposed to amendment SA 2960 submitted by Mr. TALENT and intended to be proposed to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 3009. Mr. ROCKEFELLER (for himself and Mr. NELSON, of Nebraska) submitted an amendment intended to be proposed to amendment SA 2947 submitted by Ms. MURKOWSKI and intended to be proposed to the bill H.R. 4, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3007. Mr. TALENT submitted an amendment intended to be proposed to amendment SA 2961 submitted by Mr. TALENT and intended to be proposed to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, strike lines 4 through 7, and insert the following:

''(i) 15 percent for fiscal year 2004;
''(ii) 25 percent for fiscal year 2005;
''(iii) 35 percent for fiscal year 2006;
''(iv) 45 percent for fiscal year 2007;''.

SA 3008. Mr. TALENT submitted an amendment intended to be proposed to amendment SA 2960 submitted by Mr. TALENT and intended to be proposed to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, strike lines 17 through 24, and insert the following: ''least 20, but less than 24, hours per week in a month, as 0.675 of a family.

''(ii) In the case of a family in which the total number of hours in which any adult recipient or minor child head of household in

the family is participating in such work activities for an average of at least 24, but less than 33, hours per week in a month, as 0.75 of a family.''.

SA 3009. Mr. ROCKEFELLER (for himself and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed to amendment SA 2947 submitted by Ms. MURKOWSKI and intended to be proposed to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

TITLE ____—TEMPORARY STATE FISCAL RELIEF

Subtitle A—Extension of Temporary Increase of the Medicaid FMAP

SEC. ____01. EXTENSION OF TEMPORARY INCREASE OF THE MEDICAID FMAP.

(a) IN GENERAL.—Section 401(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (42 U.S.C. 1396d note) is amended—

(1) in the subsection heading, by striking ''$10,000,000,000 FOR A'';

(2) in paragraph (2)—

(A) in the paragraph heading, by striking ''FIRST 3 QUARTERS OF''; and

(B) by striking ''the first, second, and third calendar quarters'' and inserting ''each calendar quarter'';

(3) by redesignating paragraphs (3) through (9) as paragraphs (4) through (10), respectively;

(4) by inserting after paragraph (2), the following:

''(3) PERMITTING MAINTENANCE OF FISCAL YEAR 2004 FMAP FOR FIRST 3 QUARTERS OF FISCAL YEAR 2005.—Subject to paragraph (6), if the FMAP determined without regard to this subsection for a State for fiscal year 2005 is less than the FMAP as so determined for fiscal year 2004, the FMAP for the State for fiscal year 2004 shall be substituted for the State's FMAP for the first, second, and third calendar quarters of fiscal year 2005, before the application of this subsection.'';

(5) in paragraph (4) (as so redesignated)—

(A) in the paragraph heading, by striking ''AND FIRST 3 CALENDAR QUARTERS OF FISCAL YEAR 2004'' and inserting '', EACH CALENDAR QUARTER OF FISCAL YEAR 2004, AND FIRST 3 CALENDAR QUARTERS OF FISCAL YEAR 2005''; and

(B) by striking ''and for the first, second, and third calendar quarters of fiscal year 2004, the FMAP (taking into account the application of paragraphs (1) and (2))'' and inserting '', each calendar quarter of fiscal year 2004, and the first, second, and third calendar quarters of fiscal year 2005, the FMAP (taking into account the application of paragraphs (1), (2), and (3))'';

(6) in paragraph (5) (as so redesignated), by striking '' and the first, second, and third calendar quarters of fiscal year 2004'' and inserting ''each calendar quarter of fiscal year 2004, and the first, second, and third calendar quarters of fiscal year 2005'';

(7) in paragraph (7) (as so redesignated), by adding at the end the following:

''(D) SPECIAL RULE.—During the period that begins on July 1, 2004, and ends on June 30, 2005, subparagraphs (A) and (B) shall be applied by substituting 'January 1, 2004' for 'September 2, 2003' each place it appears.'';

(8) in paragraph (8) (as so redesignated), by striking '' and the first, second and third calendar quarters of fiscal year 2004'' and inserting ''each calendar quarter of fiscal year 2004, and the first, second, and third calendar quarters of fiscal year 2005''; and

(9) in paragraph (10) (as so redesignated), by striking ''2004'' and inserting ''2005''.

(b) CONFORMING AMENDMENTS.—Section 401(a) of such Act (42 U.S.C. 1396d note) is amended—

(1) in paragraph (1), by striking ''paragraph (5)'' and inserting ''paragraph (6)'';

(2) in paragraph (2), by striking ''paragraph (5)'' and inserting ''paragraph (6)'';

(3) in paragraph (4) (as so redesignated), by striking ''paragraphs (5), (6), and (7)'' and inserting ''paragraphs (6), (7), and (8)'';

(4) in paragraph (5) (as so redesignated), by striking ''paragraphs (6) and (7)'' and inserting ''paragraphs (7) and (8)''; and

(5) in paragraph (7) (as so redesignated)—

(A) by striking ''paragraph (4)'' each place it appears and inserting ''paragraph (5)''; and

(B) by striking ''paragraph (3)'' each place it appears and inserting ''paragraph (4)''.

(c) RETROACTIVE EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if included in the enactment of section 401 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (42 U.S.C. 1396d note).

Subtitle B—Clarification of Economic Substance Doctrine and Related Penalty Provisions

SEC. ____10. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. ____11. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

''(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

''(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

''(I) depreciation,

''(II) any tax credit, or

''(III) any other deduction as provided in guidance by the Secretary, and

''(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. ___12. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

''(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

''(c) DEFINITIONS.—For purposes of this section—

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction,

''(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''.

(b) DISCLOSURE BY SECRETARY.—

(1) IN GENERAL.—Section 6103 is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

''(q) DISCLOSURE RELATING TO PAYMENTS OF CERTAIN PENALTIES.—Notwithstanding any other provision of this section, the Secretary shall make public the name of any person required to pay a penalty described in section 6707A(e)(2) and the amount of the penalty.''.

(2) RECORDS.—Section 6103(p)(3)(A) is amended by striking ''or (n)'' and inserting ''(n), or (q)''.

(c) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. ___13. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

''SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO ASSERTION AND COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

''(5) CROSS REFERENCE.—

''For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).''.

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.''.

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained,

''(IV) has an arrangement with respect to the transaction which provides that contractual disputes between the taxpayer and the advisor are to be settled by arbitration or which limits damages by reference to fees paid to the advisor for such transaction, or

''(V) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts,

''(IV) is not signed by all individuals who are principal authors of the opinion, or

''(V) fails to meet any other requirement as the Secretary may prescribe.''.

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''FOR UNDERPAYMENTS'' after ''EXCEPTION''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''.

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

''SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.''.

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

''Sec. 6662. Imposition of accuracy-related penalty on underpayments.

''Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. ___14. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer

an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

''(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).''.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, April 21st, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on implementation of the Recreation Fee Demonstration Program by the Forest Service and Bureau of Land Management, and on policies related to the program.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Frank Gladics at 202–224–2878.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 1, 2004, at 9:30 a.m., in open and closed session to receive testimony for Unified and Regional Commanders on their military strategy and operational requirements, in review of the Defense Authorization Request for fiscal year 2005.

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

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, April 1, 2004, at 2 p.m. to mark up an original bill entitled ''The Federal Housing Enterprise Regulatory Reform Act of 2004.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, April 1, 2004, off the Senate floor on pending Committee business.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 1, 2004, at 9:30 a.m. to hold a hearing on Economic Treaties.

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

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 1, 2004, at 9:30 a.m. in Dirksen Senate Building room 226.

Agenda:

I. Nominations: Henry W. Saad to be U.S. Circuit Judge for the Sixth Circuit; Peter W. Hall to be U.S. Circuit Judge for the Second Circuit; William Gerry Myers III to be U.S. Circuit Judge for the Ninth Circuit; Roger T. Benitez to be U.S. District Judge for the Southern District of California; Jane J. Boyle to be U.S. District Judge for the Northern District of Texas; Marcia G. Cooke to be U.S. District Judge for the Southern District of Florida; Paul S. Diamond to be U.S. District Judge for the Eastern District of Pennsylvania; Walter D. Kelley, Jr. to be U.S. District Judge for the Eastern District of Virginia; and Matthew G. Whitaker to be U.S. Attorney for the Southern District of Iowa.

II. Bills: S. 1735—Gang Prevention and Effective Deterrence Act of 2003 [Hatch, Chambliss, Cornyn, Feinstein, Graham, Grassley, Schumer].

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, April 1, 2004, for a hearing to consider the nominations of Robert N. Davis, to be Judge, U.S. Court of Appeals for Veterans' Claims, and Pamela M. Iovino, to be Assistant Secretary of Veterans Affairs for Congressional Affairs.

The hearing will take place in room 418 of the Russell Senate Office Building at 2:30 p.m.

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

SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE AND NUCLEAR SAFETY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to meet on Thursday, April 1 at 9:30 a.m. to conduct an oversight hearing on the implementation of the National Ambient Air Quality Standards for Particulate Matter and Ozone.

The meeting will be held in SD 406.

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

SUBCOMMITTEE ON IMMIGRATION AND BORDER SECURITY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Immigration and Border Security be authorized to meet to conduct a hearing On ''Securing Our Borders Under a Temporary Guest Worker Proposal'' on Thursday, April 1, 2004, at 2:30 p.m. in SD226.

Panel 1: The Honorable Robert Bonner, Commissioner, U.S. Customs and Border Protection, Department of Homeland Security, Washington, DC; The Honorable Stewart Verdery, Assistant Secretary for Policy, Border and Transportation Security Directorate, Department of Homeland Security, Washington, DC; and Director Donna Bucella, Terrorist Screening Center, Federal Bureau of Investigations, Department of Justice, Washington, DC.

Panel II: Daniel Griswald, Associate Director for Trade Policy Studies, Cato Institute, Washington, DC and Margaret D. Stock, Associate Professor, U.S. Military Academy, West Point, NY.

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

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management support of the Committee on Armed Services be authorized to meet during the session of the Senate on April 1, 2004, at 2:30 p.m., in open session to receive testimony on military installation programs in review of the Defense authorization request for fiscal year 2005.

THE PRESIDING OFFICER. Without objection, it so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

MR. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space be authorized to meet on Thursday, April 1, 2004, at 2:30 p.m., on NASA FY05 Budget, in SR–253.

THE PRESIDING OFFICER. Without objection, it so ordered.

PRIVILEGES OF THE FLOOR

Mr. REED. Mr. President, I ask unanimous consent that Leigh Ann Simmons-Wescott, a legislative fellow in Senator KENNEDY's office, be granted floor privileges during the remainder of the day and cloture vote on the TANF reauthorization.

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

Mr. ALEXANDER. Mr. President, I ask unanimous consent that privilege of the floor be granted to Sharon Segner of my staff for the next hour during consideration of the Get Outdoors Act.

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

60TH ANNIVERSARY OF THE ALLIED LANDING AT NORMANDY

Mr. FRIST. I ask unanimous consent the Judiciary Committee be discharged from further consideration of S.J. Res. 28 and that the Senate proceed to its immediate consideration.

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

The clerk will report the resolution by title.

A joint resolution (S.J. Res. 28) recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

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

Mr. FRIST. I ask unanimous consent the joint resolution be read a third time and passed, 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 joint resolution (S.J. Res. 28) was read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 28

Whereas June 6, 2004, marks the 60th anniversary of D-Day, the first day of the Allied landing at Normandy during World War II by American, British, and Canadian troops;

Whereas the D-Day landing, known as Operation Overlord, was the most extensive amphibious operation ever to occur, involving on the first day of the operation 5,000 naval vessels, more than 11,000 sorties by Allied aircraft, and 153,000 members of the Allied Expeditionary Force;

Whereas the bravery and sacrifices of the Allied troops at 5 separate Normandy beaches and numerous paratrooper and glider landing zones began what Allied Supreme Commander Dwight D. Eisenhower called a ''Crusade in Europe'' to end Nazi tyranny and restore freedom and human dignity to millions of people;

Whereas that great assault by sea and air marked the beginning of the end of Hitler's ambition for world domination;

Whereas American troops suffered over 6,500 casualties on D-Day; and

Whereas the people of the United States should honor the valor and sacrifices of their fellow countrymen, both living and dead, who fought that day for liberty and the cause of freedom in Europe: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress—

(1) recognizes the 60th anniversary of the Allied landing at Normandy during World War II; and

(2) requests the President to issue a proclamation calling on the people of the United States to observe the anniversary with appropriate ceremonies and programs to honor the sacrifices of their fellow countrymen to liberate Europe.

TEMPORARY EXTENSION OF PROGRAMS UNDER SMALL BUSINESS ACT AND SMALL BUSINESS EXTENSION ACT OF 1958

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4062, which is at the desk.

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

The clerk will report the bill by title.

A bill (H.R. 4062) to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through June 4, 2004, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SNOWE. Mr. President, I rise to support passage of H.R. 4062, a bill that provides needed improvements to the Small Business Administration's largest business loan program, the ''Section 7(a)'' program, at no additional cost to the Government.

The SBA's 7(a) loan program has proven that a small amount of government backing can greatly enhance private-sector financing for small businesses, and that the economic benefits reverberate throughout the economy at large. Small businesses create almost 75 percent of the net new jobs in the economy. The 7(a) program harnesses this power and has helped small businesses to create or retain nearly 2 million more jobs in the last five years.

The program is so popular among small businesses that demand for program funds in the first few months of fiscal year 2004 suggests that requests for the entire year would far out-pace its available budget. As a result, in January 2004, the SBA shut the program down, and then re-opened it with a loan cap of $750,000—only 37.5 percent of the $2 million maximum previously available. Faced with these restrictions, small businesses have urged Congress and the administration to improve funding opportunities for the rest of 2004.

Together with my fellow Senators, colleagues in the House, and a large coalition of small businesses and lenders, we have worked for several months to construct a way to improve the program by allowing lenders to help alleviate the funding shortfall. This plan would benefit small businesses and lenders by allowing loans larger than $750,000, and by allowing ''piggyback'' loans, or by allowing financing packages with several portions. And again, we could do this without increasing Government expenditures.

The bill would achieve these goals in three ways. First, lenders would return to the SBA a 0.25 percent, or one-quarter of one percent, fee on new loans under $150,000. Lenders are currently permitted to retain this amount from a borrower fee, of 1 percent, that lenders already collect and pass on to the SBA. For loans larger than $150,000, lenders already must pass the entire borrower fee on to the SBA; this change would make the treatment the same for all loan sizes. This proposal was first made by the SBA, as part of a larger plan the SBA submitted to Congress this year.

Second, a lender fee on new loans would be increased from 0.25 percent, one-quarter of one percent, to 0.36 percent. This fee cannot be passed on to small businesses.

Third, lenders would be permitted to provide small businesses with ''piggyback'' financing packages that include a 7(a) loan portion and a non-7(a), strictly commercial portion, if the lenders paid the normal fees on the 7(a) loan portion and a 0.70 percent fee on the non-7(a) portion. Prior to January 2004, the SBA permitted this type of financing, but without receiving any fee income for the non-7(a) portion, and without an upper limit on the total financing. H.R. 4062 prohibits the non-7(a) portion of the financing from being larger than the 7(a) loan.

The bill also extends to June 4, 2004, the authorization for several SBA programs that would otherwise expire on April 2, 2004, including the Preferred Surety Bond Program, the Small Disadvantaged Business Program, and the SBA's co-sponsorship authority. Finally, the bill extends to September 30, 2004, the authorization for the SBA's Certified Development Company program, also known as the 504 Loan Program.

H.R. 4062 is very similar to legislation which I introduced in the Senate on March 10, S. 2193, the ''Small Business Loan Revitalization Act of 2004,'' which I was joined in sponsoring by 18 fellow Senators. That legislation was the result of months of hard work and negotiations with fellow Senators, colleagues in the House, small businesses, lenders, and the administration. I regret that S. 2193's provisions, such as its lower fees for lenders, and the increased debenture sizes for the 504 Loan Program which I recently added by amendment, are not being enacted today, but I am pleased that, according to the Small Business Administration's projections, H.R. 4062 at least achieves the goal of allowing the 7(a) program to operate without restriction through the remainder of this fiscal year.

ORDERS FOR FRIDAY, APRIL 2, 2004

Mr. FRIST. I ask unanimous consent when the Senate completes its business

today, it adjourn until 9 a.m. on Friday, April 2nd. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

PROGRAM

Mr. FRIST. Tomorrow the Senate will be in session for the transaction of routine morning business. There will be no rollcall votes during Friday's session. The next rollcall vote will occur on Wednesday of next week. I will have more to say on that in the morning.

Next week, there are a number of issues that may be addressed. There is an important medical liability bill being introduced by Senator GREGG and others, Pregnancy and Trauma Care Access Protection Act of 2004. That bill deserves to be debated and voted on. We will try to schedule that bill for next week. I will continue to hold out hope that we will be able to finish the JOBS bill, which is the FSC/ETI bill.

Senators have come to the floor over the course of the last several weeks discussing the importance of this bill. Yet we have been unable to vote on the legislation as the WTO sanctions continue each day. In fact, today, since this is 1 month after the sanctions began, the sanctions were increased by $40 million. We must move expeditiously on that bill. It is a priority for the Senate. We will have an opportunity next week to speak on this bill.

The pension reform conference report is another piece of legislation that should be moved expeditiously. The House may act on that conference report later this evening or on Friday. I will be talking to my colleagues about scheduling that conference report for Senate action.

Finally, the conferees on the budget resolution continue to meet and it is important to address the budget conference report as soon as that does become available. Having said that, we have a lot of work to do and not a lot of time to do it. We will be working each day next week with an effort to schedule the above-mentioned items throughout.

In addition, next week we have accommodated Members' schedules for the observance of Passover. I will have more to say on the specific schedule for rollcall votes on Wednesday, April 7. However, we will have no vote prior to 2:15 on that day on Wednesday.

ORDER FOR ADJOURNMENT

MR. FRIST. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order, following the completion of the remarks of Senator DAYTON and following the remarks of Senator SARBANES, each for up to 10 minutes.

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

VOTING TO HELP THE AMERICAN PEOPLE

Mr. DAYTON. Mr. President, I am troubled by some of the comments made earlier as we debated whether to continue with this bill before us. In particular, one of the leaders on the other side of the aisle is quoted in today's paper as saying—this a direct quote—''Why put our Members through the whole litany of Democratic political votes for no discernible gain?''

I am amazed at the implication these amendments we in the Democratic caucus are trying in vain to have voted upon by the Senate are political votes. I am even more astonished it could be said they are for no discernible gain.

For whose gain are we talking? Not, perhaps, for Republican Members of the Senate. But that is not the purpose of our amendments. These are amendments to benefit the American people.

We are talking about extending unemployment benefits for the over 1.1 million Americans who have exhausted those benefits since December of last year. The Children's Defense Fund, originators of the No Child Left Behind concept, are committed to seeing it carried out and have estimated 622,000 American children live in families whose parents have exhausted their unemployment benefits. They estimate each of those families loses an average of $1,100 a month in income when their unemployment benefits run out. It drives over a third of them below the poverty level. Over two-thirds of those families lose their health care coverage.

No discernible gain from a vote on extending unemployment benefits? Perhaps not to the Republican caucus. But it would surely make a huge difference to 1.1 million American adults and their 622,000 children.

No discernible gain to a vote on protecting overtime pay for some 8 million Americans who stand to lose those benefits through the unilateral action of the Secretary of Labor? These are not idle political gestures. These are real decisions affecting the lives of millions of Americans.

It may be inconvenient for some Members to vote on them, but that is our responsibility in this body.

EDUCATION FUNDING

As another illustration of how these votes and these decisions really do affect people's lives, about a month ago we were holding rollcall votes regarding the budget resolution for the next fiscal year, and just about that same time the Secretary of Education was in my State of Minnesota, where he met with educators and with State officials, and with, evidently, some of the Members of the Minnesota congressional delegation on the other side of the aisle—I was not invited to either of those meetings, which seemed a shame since they were being billed as nonpolitical meetings, but, nevertheless, they did occur—and at that meeting—again, I was not invited, so I was not there—according to the reports of those who attended, the Secretary assured these Minnesota educators that No Child Left Behind is adequately funded.

Well, there had been rumors that there were going to be cutbacks affecting Minnesota in the title I program, which is the major source of funds under the so-called No Child Left Behind. So the Minnesota educators were temporarily relieved by that, until just a few weeks later—scarcely a month later, in fact—when the actual title I allocations for the next fiscal year, 2005, became known.

Lo and behold, Minnesota will experience a reduction of over $2.5 million. Only two States in the Nation are going to experience cuts in title I funding from the year 2004 to the next year, 2005: Massachusetts and Minnesota.

Now, I am not running for President or anything else, for that matter, this year, so I am shocked that Minnesota would be paired with Massachusetts as being the only two States to be cut back in title I dollars at the same time we are experiencing an increase in the children who are eligible for title I funding. As that reduction gets spread across our school districts, some of the consequences are very severe. Quite a number of districts will be taken off of title I funding whatsoever. They will not be able to serve any of the children in those school districts who are eligible, individually, for title I.

One of the school districts, Anoka-Hennepin, is going to experience a 40-percent reduction in funding for title I programs at the same time the number of children eligible for title I is going up.

Now, how can we say that there is no child going to be left behind under this program, and that it is adequately funded, when a school district such as that is going to experience a 40-percent reduction in funding? How is it that two States in the Nation—Massachusetts and Minnesota—are going to see a reduction in funding while the overall program nationwide is going to receive a $1 billion increase?

Why are we being punished? Why are we being penalized? Why are we being singled out for those reductions? Why does the Secretary of Education come to our State one month earlier and assure our educators that there is plenty of money, that these reductions are not going to take place, when either he did not know—in which case he was unbelievably ill-informed—or he knew and did not speak honestly to our educators? And either one of those I find enormously reprehensible.

Mr. President, $2,727,000 is a huge loss in money for the disadvantaged children of the State of Minnesota, meaning that less than half—less than half—of all the children in my State who are eligible for title I funding are actually going to get services provided to them. And that is no child left behind? That is a fraud. That is adequate funding for No Child Left Behind? That is a lie. That is a lie.

In this room I have heard it said several times: There is plenty of money for title I. There is plenty of money for No Child Left Behind. Not for Minnesota. We were underfunded before, and it is being cut back now. We are one of two States being cut. I ask the Secretary of Education: I want to know why. Come back to Minnesota, Mr. Secretary, now that you have the facts, evidently. Come back to Minnesota and meet with those educators and tell them why, why our money is being cut back.

The chairman of the Health, Education, Labor, and Pensions Committee has stood on this floor—and I have had this debate with him; he is not here presently, but I look forward to that opportunity again in the future—saying there is additional money available to the States under No Child Left Behind. In fact, there is so much additional money that some States don't know what to do with it all.

Well, I can see why that distinguished Senator made that statement, because in his home State, over the last 5 years, they have experienced a 44-percent increase in funding under title I. In this next year, they are going to receive an increase of almost the same $2.5 million which Minnesota is going to lose. They will receive an 8.1-percent increase in title I funding, whereas we will experience a reduction of over $2,727,000.

So I guess for some States this is a good deal because they are getting more money. I am glad they are, if they have that additional need. But the State of Minnesota has the additional need, also. More children are coming in from all over the world; children who need English second-language skills; children who are without any education from countries that have been war ravaged for years; children coming from other States with educational achievement levels grades behind the students in Minnesota.

We cannot offer the services they are entitled to under Federal law that existed before No Child Left Behind? We cannot offer the services that were promised to them and to us as a condition for voting in favor of No Child Left Behind? I voted against that, I will confess, as did my colleague at the time in the Senate. Maybe that is why Minnesota is being singled out and punished. I do not know. I do not understand why, except that I know the two Senators from Massachusetts—one is the ranking member of the Health, Education, Labor, and Pensions Committee, and he certainly made a commitment to this program at the time because he was assured there was going to be full funding; the other Senator, of course, is now the Democratic candidate for President of the United States. I find it really not coincidental that is one of the two States that is singled out to be cut back in funds.

But I do not understand why Minnesota—why Minnesota—is suffering accordingly. It is wrong. It is wrong to be cutting back funds when you are saying to the American people that no child is going to be left behind and then you turn around and make that a lie. It is wrong. It is unfair to the State of Minnesota.

Mr. Secretary of Education, you owe it to our State to come back and explain to our educators why it is that they are going to have to do more with less next year. Why is it that we are one of two States being cut back?

I am deeply offended. On behalf of the people of Minnesota, I am enraged that we are being treated in this unfair way—and on behalf, most of all, of the children in the State of Minnesota who are not going to be receiving the special services to which they are entitled. We are going to force cutbacks in educational services affecting all of our schoolchildren. They are being left behind, Mr. Secretary. Mr. President, they are being left behind. What are you going to do about it?

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Maryland is recognized for up to 10 minutes.

CONGRATULATING SENATOR ROBERT C. BYRD

Mr. SARBANES. Mr. President, earlier in the day, a number of my colleagues took the floor to pay tribute and respect to my dear friend and colleague, Senator BYRD. I was unable to be here because I was involved in a markup of legislation. I want to take a few moments now, as we bring the day's business to a close, to pay tribute to my very good friend on the occasion of his 17,000th vote in the Senate, an all-time record.

The distinguished Senator from West Virginia has given this Nation and his beloved State of West Virginia the very best in public service. The civility, the intelligence, the commitment, and dedication that Senator BYRD brings to this body commands the respect and admiration of every Member of the Senate. That has been expressed from time to time by many of us in this Chamber.

The vote today is but one of many milestones for Senator BYRD, but it does offer all of us the opportunity to reflect upon his very special place in the Senate.

Senator BYRD often refers to the Senate as a ''pillar of the Constitution.'' I think it is fair to refer to Senator BYRD as a ''pillar of the Senate.'' The Senator's dedication to this body and its history—he has written, after all, the definitive history of the U.S. Senate—its customs and its procedures are unequaled by any other Member I have known. And his dedication to the Senate ranks with his dedication to the country, to the State of West Virginia, and to the Constitution.

As this body's indisputable expert on parliamentary procedure, it is only fitting that Senator BYRD's first vote, the first of the 17,000 votes that we celebrate today, was cast on January 8, 1959, and was procedural in nature. That vote began, of course, a legacy of extraordinary leadership and service in this body.

The able Senator from West Virginia has not only employed his mastery of how the Senate functions effectively in floor debates, but he has used it to pass on and protect and perfect the spirit of this body which he has called ''the cornerstone of our constitutional system.''

Given this incredible record of service and experience, Senator BYRD now, I think fairly, stands as both the intellect and the conscience of this Chamber. He constantly reminds us of the fundamentals of our democracy and the role the Framers of our Constitution envisioned for the legislative branch.

No Member of the U.S. Congress has a deeper understanding of the Constitution and of the Legislature's vital function as a guardian of our fundamental national document.

It is because of this institutional knowledge, his devotion to the Senate's distinguishing characteristics, and his devotion to the civility that has customarily underpinned the interaction of the Members of this body that in times of severe national crisis, and on occasion constitutional crisis when the Senate is faced with the most difficult of choices, Members from both sides of the aisle have sought the leadership of Senator ROBERT C. BYRD of West Virginia.

I consider it a singular honor to serve with him in the Senate. I congratulate him on casting his 17,000th vote, and I look forward to seeing him cast many more.

I yield the floor.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9 a.m., Friday, April 2, 2004.

Thereupon, the Senate, at 6:12 p.m., adjourned until Friday, April 2, 2004, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate April 1, 2004:

DEPARTMENT OF DEFENSE

OTIS WEBB BRAWLEY, JR., OF GEORGIA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2009. (REAPPOINTMENT)

VINICIO E. MADRIGAL, OF LOUISIANA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2009. (REAPPOINTMENT)

DEPARTMENT OF STATE

MICHAEL W. MARINE, OF VERMONT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOCIALIST REPUBLIC OF VIETNAM.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

LEO L. BENNETT, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY CHAPLAINS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be lieutenant colonel

JAMES D. JONES, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

JORGE L. ROMEU, 0000