United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, FRIDAY, JANUARY 17, 2003 No. 9

House of Representatives

The House was not in session today. Its next meeting will be held on Monday, January 27, 2003, at 2 p.m.

Senate

FRIDAY, JANUARY 17, 2003

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

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Lord of history, who calls great leaders and anoints them with supernatural power to lead in times of social distress when Your righteousness and justice must be reestablished, this weekend we celebrate the birthday of Martin Luther King Jr. We praise You, O God, for his life and leadership in the cause of racial justice. You gave him a dream of equality and opportunity for all people which You empowered him to declare as a clarion call to all America.

As we honor the memory of this truly great man and courageous American, we ask You to cleanse any prejudice from our hearts and help us press on in the battle to assure the equality of education, housing, job opportunities, advancement, and social status for all people, regardless of race and creed. May this Senate be distinguished in its leadership in this ongoing challenge to assure the rights of all people in this free land. Amen.

The PRESIDENT pro tempore. Please join the distinguished assistant Republican leader in pledging allegiance to our flag.

PLEDGE OF ALLEGIANCE

The Honorable MITCH MCCONNELL, a Senator from the State of Kentucky, 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.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. MCCONNELL. Mr. President, this morning we will be resuming consideration of H.J. Res. 2, the appropriations bill. Under the order, following 5 minutes of debate, there will be a vote in relation to the Harkin amendment regarding Byrne grants. Following that vote, and an additional 5 minutes of debate, there will be a vote in relation to the Schumer amendment relating to port security. Members can, therefore, expect two consecutive votes to begin shortly. I understand additional amendments are expected and, therefore, Members can expect further rollcall votes today. It is hoped we can finish this bill today or this evening. If that is not possible, it is anticipated that the Senate will resume consideration of this bill on Tuesday after the holiday and remain in session until it is completed.

The PRESIDENT pro tempore. The assistant Democratic leader.

Mr. REID. Mr. President, I ask my distinguished colleague, the senior Senator from Kentucky, I was not paying as much attention as I should have. Did the Senator announce how late we would be working today?

Mr. MCCONNELL. Mr. President, I say to my friend from Nevada, at this point, about all I can relate to our colleagues is that we will stay in session and continue to try to make progress on the bill. That is really about all the enlightenment I can offer at this particular point this morning.

Mr. REID. I am sure the Presiding Officer will be down and enlighten us further at some subsequent time.

Mr. MCCONNELL. I am confident he will.

RESERVATION OF LEADER TIME

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

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2003

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of House Joint Resolution 2, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 2) making further continuing appropriations for the fiscal year 2003, and for other purposes.

Pending:

Harkin amendment No. 32, to restore funding for nondiscretionary Byrne grants to a level of $500,000,000.

Schumer Modified amendment No. 31, to provide funds for research and development grants to increase security for United States ports.

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

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

Mr. STEVENS. Will the Chair please announce what the program is.

AMENDMENT NO. 32

The PRESIDING OFFICER. Under the previous order, there will be 5 minutes of debate equally divided prior to the vote on or in relation to the Harkin amendment No. 32.

Mr. STEVENS. Mr. President, before that starts, I think we should wait for the participants. I wish to announce, assuming the Senator from New York and I can work out an understanding, there may not be a second vote. Members should be aware, there may not be the second vote. The first vote will take place as scheduled.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. HARKIN. Mr. President, parliamentary inquiry. Will the Presiding Officer state what is before the body right now?

The PRESIDING OFFICER. There are 5 minutes evenly divided on the Harkin amendment No. 32.

Mr. HARKIN. Mr. President, the omnibus bill that is before us virtually eliminates the Byrne law enforcement grant program. This amendment restores the funding to $500 million to the fiscal year 2002 level. There is no increase, but this at least holds it harmless.

On each Senator's desk is a table of how much each State's law enforcement would lose without the Byrne grant. These grants go directly to State and local law enforcement. It pays for regional drug task forces, technology, forensics, prevention, and other valuable antidrug efforts in local communities.

I have heard from the National Sheriffs Association, the International Association of Chiefs of Police, the National Association of Police Organizations, and the National Governors' Association, who have voiced strong support for this amendment.

At this crucial time in our history, we cannot afford to reduce the effectiveness of our Nation's law enforcement agencies.

I received a letter this morning from the head of the Kansas Bureau of Investigation, Mr. Larry Welch. I do not know him personally. He said:

> Elimination of Byrne funding would be absolutely devastating to Kansas law enforcement.

Mr. President, this amendment is needed by local law enforcement all over the United States, and I hope we adopt it overwhelmingly.

I yield to the Senator from Delaware.

Mr. BIDEN. Mr. President, I am pleased to cosponsor Senator HARKIN'S amendment to restore full funding to the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, a program which is used to fund crime and drug prevention programs in communities nationwide.

The bill before use today cuts the Byrne grant program by $500 million, in essence eviscerating it. I have trouble understanding why anyone would choose to decrease funding for a program that strives to improve the criminal justice system and increase public safety.

Cutting this program has real consequences in my home State of Delaware. There, Byrne grant money goes to fund a wide range of significant drug abuse and prevention programs, juvenile crime initiatives and other criminal justice projects, including: Delaware's Key and Crest programs, which help criminal offenders get off of drugs and decrease there chance of re-offending once they are released from jail; drug treatment services for criminal offenders in drug court programs; drunk driving patrols in Dover, DE; and drug prevention programs such as ''Heroin Hurts'' which educates teens about the dangers of the deadly pure heroin available in my State.

The Byrne program is distributed as a block grant to each State, based on a State's population. Delaware typically receives almost $2.5 million per year. It's critical funding, funding that secures the hometown and that helps keep our kids safe and drug-free.

I could go on about the good Byrne has done in Delaware. We have used Byrne funds to create eight community-based crime prevention programs around my State. In New Castle County and Dover, these programs offered training and services to adults and youth in high crime areas. Another project identified hate crime hotspots throughout New Castle County and increased police services through a specialized hate crime unit to those areas.

We have used Byrne funds to train prison officers, to improve our criminal justice records, and to expand the Delaware State Police's crime mapping project.

Byrne is an incredibly flexible law enforcement program. It's amazing to me that we would propose to eliminate it in this bill. I will fight this cut, and I am pleased to stand with my friend from Iowa in offering this amendment to restore Byrne funds.

Mr. President, I cannot fathom why my colleagues are doing this. This is the single most popular, effective program that has existed in helping State law enforcement. Everybody on that side knows that. It has all the Republican attributes. It is flexible. It is one of those programs that the States like very much.

The Presiding Officer from South Carolina knows how it works in South Carolina, and in this rush to be able to make room for these cockamamie priorities, what are we doing? We are cutting FBI agents. We eliminate the Violent Crimes Task Force. The FBI cannot function in the States on ordinary crimes such as bank robbery and interstate car theft. We cut another 800 FBI agents, or thereabouts, under this proposal.

We are cutting the COPS program. I think my colleagues have it backwards. I think this is the most cockamamie idea I have heard in a long while. This narrow definition of a constitutional national defense is going to come back to bite us.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I ask unanimous consent that Senators JEFFORDS, MURRAY, EDWARDS, CLINTON, GRAHAM, and SCHUMER be added as cosponsors.

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

Mr. KOHL. Mr. President, unfortunately, the Edward Byrne Memorial State and Local Law Enforcement Assistance Program suffered a $500 million cut in this bill. Hundreds of law enforcement agencies throughout Wisconsin depend on this money to fund a variety of crime prevention, drug interdiction, domestic violence, and many other creative, anti-crime initiatives. In fact, Wisconsin received more than $9 million in Byrne formula grant funds last year.

Eliminating this source of funding will drastically impair local law enforcement's ability to combat crime. I am pleased to co-sponsor Senator HARKIN's amendment to restore the Byrne formula grant program to last year's level of $500 million. We cannot leave our State and local law enforcement agencies out in the cold, especially at a time when we've asked them take on the additional responsibility of being the first line of defense and the first to respond in case of a terrorist incident. The safety of our communities depends on local law enforcement's ability to do their job well. At the very least, we can assist them by restoring this funding.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

Mr. KERRY. Mr. President, I strongly support the Harkin amendment to restore funding for the Edward Byrne Memorial State and Local Law Enforcement Assistance Program to its fiscal year 2002 level. I am concerned that the omnibus appropriations bill before us eviscerates the Byrne program. The Byrne program provides a flexible source of funding to State and local law enforcement agencies to help fight crime by funding drug enforcement task forces, more cops on the street, improved technology, and other anticrime efforts. Massachusetts received over $11.5 million in Byrne funding last year. On countless occasions I have heard from law enforcement officers from Massachusetts about the value of the Byrne program to their crime-fighting efforts.

The war against terror has placed unprecedented demands on State and

local law enforcement to prevent terrorist attacks and to respond to an attack should one occur. But fighting the war on terror is not the only job that we expect police officers to do. We also expect them to combat the prevalence of drugs in our cities and rural communities, we expect them to keep our homes and families safe from thieves, and we expect them to make us feel secure when we walk through our neighborhoods. We are well aware that the States are facing a severe fiscal crisis, some $75 billion collectively, what priority does it reflect to cut back on support to local law enforcement in this budget and security environment? A wrong-headed one, in my estimation.

This amendment is supported by the National Association of Police Organizations, the International Association of Chiefs of Police, and the National Governor's Association. I am proud to stand with these organizations in support of the Harkin amendment to restore funding to the Byrne amendment.

Mr. BIDEN. Mr. President, I am pleased to cosponsor Senator HARKIN's amendment to restore full funding to the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, a program which is used to fund crime and drug prevention programs in communities nationwide.

The bill before us today cuts the Byrne grant program by $500 million, in essence eviscerating it. I have trouble understanding why anyone would choose to decrease funding for a program that strives to improve the criminal justice system and increase public safety.

Cutting this program has real consequences in my home state of Delaware. There, Byrne grant money goes to fund a wide range of significant drug abuse and prevention programs, juvenile crime initiatives and other criminal justice projects, including:

Delaware's Key and Crest programs, which help criminal offenders get off of drugs and decrease their chance of reoffending once they are released from jail;

Drug treatment services for criminal offenders in drug court programs;

Drunk driving patrols in Dover, DE;

Drug prevention programs such as ''Heroin Hurts'' which educates teens about the dangers of the deadly pure heroin available in my State.

The Byrne program is distributed as a block grant to each state, based on a State's population. Delaware typically receives almost $2.5 million per year. It's critical funding—funding that secures the hometown and that helps keep our kids safe and drug-free.

I could go on about the good Byrne has done in Delaware. We have used Byrne funds to create eight community-based crime prevention programs around my state. In New Castle County and Dover, these programs offered training and services to adults and youth in high crime areas. Another project identified hate crime hotspots throughout New Castle County and increased police services through a specialized hate crime unit to those areas.

We have used Byrne funds to train prison officers, to improve our criminal justice records, and to expand the Delaware State Police's crime mapping project.

Byrne is an incredibly flexible law enforcement program. It's amazing to me that we would propose to eliminate it in this bill. I will fight this cut, and I am pleased to stand with my friend from Iowa in offering this amendment to restore Byrne funds.

Mr. HATCH. Mr. President: I rise to comment on amendment No. 32, which would restore $500 million in funding for the Department of Justice's Edward Byrne Memorial State and Local Law Enforcement Assistance Program, the Byrne Grant Program.

There is no question we all agree on the importance of maintaining adequate funding for the Byrne Grant Program. The Byrne Grant Program does much to enhance State and local law enforcement, providing critical grants which are needed to fight violent and drug-related crime. In the last year alone, over $4 million was awarded to State and local law enforcement agencies in Utah to fight violent and drug-related crime.

As many of my colleagues, I was extremely disturbed to learn the resolution we have before us today contains absolutely no funding for the Byrne Grant Program. Obviously, it is not in the interest of supporting local law enforcement for that situation to stand.

Let me discuss another consideration. Appropriation have worked very to craft a bill that is fiscally responsible, that will balance the need for spending against restraint, and that will help us restore a balanced budget which is so vital to our country's economic security. The amendment we have before us, offered by my good friend and colleague, Senator HARKIN, proposes to add $500 million to the bottom line of this bill, without an offsetting reduction which will keep the resolution within the total funding level acceptable to the President. Thus, its passage would vastly exceed the carefully crafted Federal discretionary spending level agreed to by President Bush and congressional appropriators last year and jeopardize the legislation we must pass to ensure continued funding for virtually all of the Government except the Department of Defense.

I am relieved to hear our chairmen, Senator STEVENS and Senator GREGG, provide assurances that if the Harkin amendment were not adopted, they will restore the funds in the conference committee with the House of Representatives. Based on those assurances, I will cast my vote to table the Harkin amendment.

Before I close, I wanted to also express my concerns about a provision in H.J. Res 2 which dramatically restructures the section 8 Housing Choice Voucher renewal calculation. The resolution states that contracts will be renewed based upon levels used in previous years to calculate future housing payments and administrative fees. This formula could result in a severe undercounting of the number of families likely to be served by vouchers in the upcoming year.

Housing Authorities are facing an ever-increasing series of challenges, including increases in low-income and disabled eligibles and rising rental costs in many areas. Many of Utah's agencies who have received new voucher awards within the last six to 12 months are projecting they will have inadequate funding to meet their needs.

As I read the resolution, any additional funding needed to support increased costs will be a limited amount that is located within a central fund allocated by the Secretary. This could force Housing Authorities to reduce staff, resulting in lost administrative fees, and a reduction in the percentage of vouchers being used. It is my hope that the conferees will be able to rectify this problem that could serve to undermine the successfulness of the Section 8 program.

Mr. SPECTER. Mr. President, I am unable to support the amendment by my colleague, Senator HARKIN, to restore $500 million in non-discretionary funding to the Edward Byrne Memorial State and Local Law Enforcement Assistance Program. I am unable to do so not based on my opposition to the program, but rather due to the fact that the chairman of the Appropriations Committee, Senator STEVENS, has outlined a separate strategy to restore this funding in conference.

The Edward Byrne Memorial State and Local Law Enforcement Assistance Program provides funding to State and local governments to help make communities safe and improve criminal justice systems. Specifically, the Byrne Program emphasizes the reduction of violent and drug-related crimes and fosters multi jurisdictional efforts to support national drug control priorities.

Byrne Program funds are awarded through both discretionary and formula grant programs. Discretionary funds are awarded directly to public and private agencies and private nonprofit organizations, while formula funds are awarded to the States, which then award subgrants to State and local units of government as well as to agencies and organizations.

Senator HARKIN's amendment would add $500 million to the overall cost of the Omnibus Appropriations bill, an amount which far exceeds the funding cap on the bill which the administration is willing to support. Chairman Stevens has explicitly stated that although this program was taken out of the bill, additional money was put in its place because he is aware that the House of Representatives intends to restore funding for this program in conference.

I have consistently supported the Byrne Program and similar programs

in the past, and have also worked tirelessly through the annual appropriations process to secure funds and grants for both rural and metropolitan law enforcement agencies in the Commonwealth of Pennsylvania and throughout the Nation. As the former District Attorney of Philadelphia, I understand the importance of Federal funds to local and state law enforcement agencies to help reduce crime and have consistently supported increased funding for that purpose.

Based on the comments made by Chairman STEVENS, I am confident that this program will be restored in conference. Accordingly, I am unable to support my colleague's amendment.

Mr. GREGG. Mr. President, what is the remaining time?

The PRESIDING OFFICER. The Senator from New Hampshire has 2½ minutes remaining.

Mr. GREGG. If the Chair would advise me when I have reached a minute, then I will yield to the chairman of the committee, the President pro tempore.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. First off, let's remember we have dramatically increased the money in this bill by $2 billion which is going back to the local police forces in this country. That is $2 billion. The Byrne program is a good program, but it is a program that buys lights and cars. It is a program that is used for basically the day-to-day operation of the police forces, and that makes sense when we can afford it.

This bill is structured in a way so that we can stay at the seven-fifty level. We expect the Byrne money to come back into this out of conference. But as a practical matter, to get to the seven-fifty level, we thought it was more important to put $2 billion of new money into the police agencies where they needed it, which is in the area of supporting their efforts to fight terrorism.

I yield to the Senator.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, this is the time when we ask both sides of the aisle to trust us. We took out a program we know is going to go back into this bill and put additional money in another place because we know the House will help us put it back in. This will help save another portion of this bill that we support.

We have done this for years. The other side has done it, too. We know what the House wants. The House wants this back in. We want to convince them the other money we have in here also is good.

I urge the Senate to give us the flexibility to deal with this bill in conference the way it is outlined. It is a very flexible bill. There are 11 bills in 1 amendment. I guarantee it will survive.

I pledge it will survive, but also what will survive is another $2 billion we need for another program. This is part of that program. So on the basis of trust, I ask my colleagues to trust us.

I move to table this amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is not a sufficient second.

The Senator from Iowa.

Mr. HARKIN. Is there any time remaining on our side?

The PRESIDING OFFICER. There is no time remaining on the Democratic side.

Mr. STEVENS. If the Senator wishes a minute, I ask unanimous consent that he would have an additional minute.

Mr. HARKIN. I only need 30 seconds.

Mr. STEVENS. All right. Thirty seconds.

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

Mr. HARKIN. I want to add Senator DORGAN as a cosponsor.

On the $2 billion that is in the bill, that is for first responders. That does not go to the same entities we are talking about in the Byrne amendment. That is the only point I want to make.

Mr. STEVENS. I agree it does not, but this money is going back in under the negotiations strategy we outlined. I guarantee it is going back in, but give us some leeway to deal with this bill. It is an enormous bill.

Again, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is not a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Regular order. A voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

Mr. REID. I ask for the yeas and nays on the underlying amendment.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there does not appear to be a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

Mr. STEVENS. I move to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Nebraska (Mr. HAGEL) 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 ''no''.

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

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 6 Leg.]

YEAS—52

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

NAYS—46

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

NOT VOTING—2

Hagel	Kerry

The motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 31, AS MODIFIED

Mr. STEVENS. Mr. President, the Senator from New York offered the next amendment on which the yeas and nays have been ordered. As I promised last night as we wound up, we have reviewed Senator SCHUMER's amendment, and he has drafted a modified amendment which he will offer and which we will accept.

I want to call to the attention of Senators that there are some of these

amendments that can be worked out, if we have a chance to work them out. We want to work with both sides of the aisle to try to accommodate the desires of Senators with regard to these 11 bills in one amendment.

I yield to my friend from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent that Senators HOLLINGS, DORGAN, KENNEDY, GRAHAM of Florida, BIDEN, CLINTON, and LAUTENBERG be added as cosponsors of this amendment.

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

AMENDMENT NO. 31, AS FURTHER MODIFIED

Mr. SCHUMER. Mr. President, I ask unanimous consent to further modify my amendment with the changes that I now send to the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 31), as further modified, is as follows:

(Purpose: To provide funds for research and development grants to increase security for United States ports)

On page 719, strike ''.'' on line 14, and insert the following:

Provided further, That, of such amounts provided herein, $150,000,000 shall be available for the Secretary of Homeland Security pursuant to the terms and conditions of section 70107(i) of Public Law 107–295 to award grants to national laboratories, private nonprofit organizations, institutions of higher education, and other entities for the support of research and development of technologies that can be used to secure the ports of the United States:

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

Mr. KERRY. Mr. President, I strongly support Senator SCHUMER's amendment to add $150 million for port security research grants to the omnibus appropriations bill for fiscal year 2003. I cannot be here for the vote, but if I were I would vote in favor of this amendment. We passed a comprehensive maritime security bill at the end of the last Congress because in the aftermath of September 11 it became apparent that our Nation's ports were vulnerable to terrorist attacks. Our bill provided for the creation of a port security infrastructure that will significantly increase the level of security at ports and maritime facilities across the country. However, the bill was not funded through the appropriations process and a funding mechanism has yet to be been decided. The Schumer amendment would immediately release grant money to laboratories and universities for the research and development of technologies which will help detect the presence of chemical, biological, and nuclear weapons at our Nation's ports, something we addressed in the Maritime Security Act but have yet to implement.

There is no doubt that we will need to develop new technologies and improve upon existing detection technology if we are to fully secure our ports against the threat posed by weapons of mass destruction. There are simply not enough customs inspectors to search every piece of cargo that comes into the United States. We will need to have equipment that can scan large cargo containers and detect explosives, chemical and biological agents, and any other substance that could conceivably cause harm. We will also need improved technology that will help officials track, and keep track, of cargo containers from their point of origin to their point of destination. Calling upon our scientists and educators to develop new security technologies is essential if we are to effectively wage the war on terrorism. Given the inadequacies that we know exist in our port security, I do not believe that we can afford to wait around to act. Senator SCHUMER's amendment is critical to the future of maritime security, and I urge my colleagues to vote for its passage.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, we are prepared to accept this amendment. What it does is it dedicates moneys that are already in the bill to the consideration of the process of developing the system of detecting items in cargo vans as they come into our country. It is a very vital subject, and we are pleased to work with the Senator from New York.

I urge its adoption.

I yield back the remainder of our time.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, first, I thank the Senator from Alaska, as well as the Senators from South Carolina, Washington State, and Arizona for their help.

Let me explain it quickly to my colleagues and how it is changed. As many of you know, something I have felt very strongly about is the ability to detect nuclear devices as they might be smuggled into this country by terrorists, either on ships in the large containers or over the Mexican or Canadian borders.

The scientists at our energy labs tell us they can develop or perfect detection devices much better than Geiger counters, which is the only detection device we have now that can prevent such devices from being smuggled in, which could cause an unimaginable tragedy—if a nuclear device were smuggled into the country and exploded.

The original amendment added $150 million for research. Through the good work of the chairman of the Appropriations Committee, we have now simply said that that money will come out of TSA. He has graciously agreed to protect that in conference. I think it is a happy compromise that solves the problem I have had getting research for this and the problem he has had making sure there are no new allocations.

It tracks the language that Senator HOLLINGS and Senator MCCAIN put in the port security bill and now provides the funding without adding any additional funding. So I am glad we have a compromise and look forward to seeing this research proceed very quickly. We cannot afford to wait.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as further modified.

The amendment (No. 31), as further modified, was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, it is my understanding the Senator from West Virginia will offer an amendment. I would like to inquire from my good friend if we could put a time limit on this amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, if I may respond to my friend, I am willing to enter into a time agreement. I think that is good. I wonder how many of my colleagues will want to have 2 or 3 or 5 minutes. I do not want to leave my friends out of the equation. As far as I am personally concerned, I could do with 45 minutes.

Mr. STEVENS. Mr. President, I ask unanimous consent that we have an hour on the amendment; 45 minutes for the Senator from West Virginia, 15 minutes for our side.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Is this the one on the across-the-board cuts?

Mr. BYRD. Yes.

Mr. STEVENS. Does the Senator wish to have no second-degree amendments?

Mr. BYRD. That is fine, and an up-or-down vote.

Mr. STEVENS. We agree, no second-degree amendments and an up-or-down vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 36

(Purpose: to nullify all across-the-board rescissions contained in this joint resolution.)

Mr. BYRD. Mr. President, I yield myself such time as I may consume. And I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD) proposes an amendment numbered 36:

Strike title VI of division N.

Mr. BYRD. Mr. President, the distinguished Senator from Alaska has been very gracious in proposing that I, as the author of the amendment, have 45 minutes and that he, the manager on the other side, have 15 minutes.

My hearing isn't too good at this point. I am trying to clarify.

Mr. REID. Mr. President, if I could ask the Senator from West Virginia to yield.

Mr. BYRD. Yes.

Mr. REID. It is my understanding that on this amendment the Senator from West Virginia would control 45 minutes and the Senator from Alaska 15 minutes.

The PRESIDING OFFICER. That is correct.

Mr. BYRD. I thank the Chair.

Mr. President, let me thank my friend from Alaska again. He is, in Shakespeare's words, ''a man after my own kidney.'' He offers me three times as much time as he intends to claim. What does that tell you? That tells you he is a very fair man. And it also tells you he is very sure of his votes. We saw, yesterday, how well disciplined the Republican majority is. Every man, every woman, right down the line—no variation, no veering off course—straight to the object, no matter what the contents of the amendment, no matter what its attributes, votes it down. I say this with all due respect to Senator STEVENS. But he is sure of his votes, which indicates to me that the other side has caucused, they have said they are going to say no to every amendment we offer on this side. I respect them and I admire them for their discipline.

Now, Mr. President, to the amendment.

After the election—remember the election, my friend from Rhode Island, who presides this morning over this Chamber with a degree of discipline and poise and aplomb that is so rare as a day in June—after the election, the President of the United States threw down the gauntlet and insisted that total discretionary spending not exceed $751 billion. He said: That is it. That is the line. That is the mark. No more. That far but no further.

To meet this arbitrary target, Senator STEVENS was forced to reduce the 11 bills that were approved by the Senate Appropriations Committee last July, on bipartisan, unanimous votes, by $9.8 billion. What a change. What a change a few months can make.

These 11 bills were approved by the Senate Appropriations Committee last July, when we had 15 Democrats, 14 Republicans, and—to the man and to the woman—we had a bipartisan vote, a unanimous vote, in support of these 11 bills. And now, because the President has drawn a line in the sand and sent the message to the Republican majority: Cut it. Cut it—and we see the discipline on the other side of the aisle—everybody is marching to the tune of the President of the United States on that side of the aisle. So what he says goes. He says: That far. It will go this far, and no further.

All right. So to meet this arbitrary target, Senator STEVENS was forced to reduce the 11 bills that were approved by the Senate Appropriations Committee last July, on bipartisan, unanimous votes, by $9.8 billion. Let's see how everybody votes today.

This shortsighted and arbitrary ceiling on spending forced Senator STEVENS to make dramatic reductions in priority programs designed to defend our homeland, educate our children, improve our transportation systems, and strengthen our law enforcement programs.

The legislation before us also includes a 2.9-percent across-the-board cut in all domestic programs. Get that, an across-the-board cut in all, not just some but all domestic programs. This provision, buried in 1,052 pages of legislative text, will exacerbate the cuts that are already made in the bill. A cut of 2.9 percent now, or $11.4 billion, in domestic spending is no technical adjustment.

The President insisted that there be a vote on going to war with Iraq before the election. He insisted that he must have that vote. The Republicans insisted that we must have the vote on Iraq before the election so that the impending election would affect the outcome of that vote. I wonder why they didn't say: Let's vote on the 11 appropriations bills before the election, with the across-the-board cut of 1.6 percent and then with the addition yesterday of 1.3 percent, making a total of 2.9 percent across the board. How would that have been before the election? How would that have been perceived before the election if we had this vote then? If we could have only had the vote that is about to come, if we could have had it before the election, what a difference that would have made.

Here we are now. This country is faced with a cut of 2.9 percent, or $11.4 billion, in domestic spending. This is no technical adjustment. This is a real cut. Nor can it be fairly characterized as capturing the savings from agencies operating under a continuing resolution for 4 months. Don't you believe that. The President's budget for fiscal year 2003 was simply inadequate when it came to critical domestic programs. The President proposed to freeze domestic spending, excluding homeland security, and last summer the Senate Appropriations Committee approved, on a bipartisan unanimous vote, an allocation that provided just enough additional resources, about $11 billion, to cover the cost of inflation for domestic programs. Every Republican on the Appropriations Committee voted for that. Every Democrat on the Appropriations Committee voted for that.

With those additional funds, the committee was able to restore essential funding for programs that the President proposed to cut, such as veterans medical care, highway funding for the States, education programs, the new No Child Left Behind law, Amtrak, and State and local law enforcement.

Now what a change. Now the President has not only insisted on virtually eliminating the $11 billion increase that the committee approved last summer, but by including this 2.9-percent cut in domestic programs, spending will actually be cut overall by 1 percent. It is also deeply troubling that some of this $11.4 billion across-the-board cut is being imposed on domestic programs to pay for increases in mandatory programs.

The mandatory side of the Federal budget is going through the roof unchecked, going through the ozone layer, while the domestic programs that are being funded through the annual appropriations process are being squeezed—like I squeezed my grapefruit this morning. The domestic programs that are being funded through the annual appropriations process are being squeezed.

Approximately $4 billion of the $11.4 billion across-the-board cut is included in the bill to pay for increased mandatory spending in Medicare, in assistance for needy families, and for drought relief. While these are important programs, should our veterans have to pay for them with longer lines at hospitals and clinics? Hear me. I am asking you, the people out there who are listening and watching through the electronic eye, I am asking you. I am asking my friends on the other side of the aisle, while these are important programs, should our veterans have to pay for them with longer lines at hospitals and clinics? How many pregnant women and infants have fewer meals through the WIC program? How about that? The silence is deafening.

Should we fail to meet our commitment to double the budget for the National Institutes of Health over 5 years? I think not. And the Senate, based on previous votes, thinks not.

Once we start down this road of paying for increases in mandatory programs by cutting domestic funding, where will it stop?

When I came to Congress more than 50 years ago, I seem to remember that the Appropriations Committees of the two Houses controlled something like 90 percent of the domestic spending programs. My memory is not infallible, but it was a tremendous figure over today's. We have been hearing in recent years that the Appropriations Committees have control over about one-third of the total expenditures.

Now what we are doing, with these mandatory programs, you might refer to them as backdoor spending. Congress, and the Appropriations Committee, has absolutely no control over that. That change has come about in my 50 years in Congress. Now what we are going to do is pay for some of those mandatory programs with an across-the-board cut in discretionary spending.

Now, go back and face your constituents. I wish we had this vote before the election. This is the vote we should have had before the election. Once we start down this road of paying for increases in mandatory programs by cutting domestic funding, where will it stop? There will be no stopping it.

There is only $385 billion of domestic funding for fiscal year 2003. We are talking about funding that is important to 290 million people in this great Nation. Are we going to pay for the new prescription drug benefit with cuts in domestic programs? Are we? There simply is not enough domestic spending in the entire budget to cover such mandatory costs.

Let's be sensible about this matter. Let's forget politics for a moment. An across-the-board cut of 2.9 percent is a real, honest-to-goodness cut that would change people's lives across this Nation. Where do you stand? Go back to your constituents, tell them where you stand.

What was the first question that was ever asked since the human race began? In reading the Book of Genesis, the first chapter, the first question ever asked was when God walked through the Garden of Eden in the cool of the day, before the shades of night had fallen, and he was looking for Adam and Eve. They had eaten of the forbidden fruit.

I know some people think it is old-fashioned to refer to the Holy Bible. I don't. Right there in that first chapter of Genesis you will find the greatest scientific treatise that was ever written, giving the chronology of creation, and the scientists don't dispute that chronology as it is laid down there. But God went through the garden and he asked: ''Adam, where art thou?'' Adam was hiding. He and Eve had gotten over behind some bushes. They were hiding. Can you hide from God? They found they could not. But they were hiding over behind some bushes. God went through the garden and said: ''Adam, where art thou?'' I say to my friends, you are going to be asked by the people: Where were you? Where were you? Where were you when these cuts took place? Where were you?

Mr. REID. May I ask the Senator to yield for a question?

Mr. BYRD. Yes.

Mr. REID. The Senator is aware, I am sure, that one of the groups being affected by these vicious cuts is American veterans. I was on a cable TV show today with the Officers' Association and the Veterans of Foreign Wars. They talked about the tremendous needs of American veterans for health care and other benefits.

Mr. BYRD. Yes.

Mr. REID. Is the Senator aware that what they have done already is a $693 million cut to American veterans' health care benefits?

Mr. BYRD. Yes. I am getting to that. I want Senators to answer the question from their veterans, where were you?

Mr. REID. Almost $700 million.

Mr. BYRD. Yes, where were you?

Mr. REID. Is the Senator also aware that in the Washington Post and all over the country today there are stories that in addition to these cuts, the VA is going to cut veterans' access further? I think it is a disgrace to do to American veterans what this bill does, and I say to the Senator—I am sure he is aware but I ask this question: Isn't this exemplary of the vicious cuts that are taking place in this legislation?

Mr. BYRD. That is just one example, and it is a shameful—not just a disgrace, it is a shame, a shame. This across-the-board cut is not a careful choice. This cut would result in ham-handed reductions in veterans' programs, public health programs, education programs, and homeland security programs. Yes, this is a shame.

Mr. REID. I say to the Senator, the reason I mention this is it is descriptive, exemplary of what they are doing to the American people under the guise of fiscal conservatism. If this is ''compassionate conservatism,'' then I don't want any part of it.

Mr. BYRD. If this is compassion, the shedding of tears means nothing. Where is the compassion when it comes to spending money to send our men and women overseas, with all of this big, loose talk that we hear, and we are spending money hand over fist. Nobody suggests cutting a nickel or a dime when it comes to putting money in the military. There is no across-the-board cut there.

The taxpayers elect us to make careful choices. So I thank the distinguished Senator for bringing out this inequity.

The Women, Infants and Children Program, which provides essential sources and nutrition to millions of low-income families, would be cut by $138 million. If food costs and program demands continue to climb, this cut could mean that 224,689 eligible women, infants, and children could be turned away from the WIC program later in the year.

At a time of heightened concern about the safety of our Nation's food supply, the Food Safety Inspection Service would be cut by $22 million, eliminating the salaries of 490 food safety inspectors.

Last fall, at an Intelligence Committee hearing, FBI Director Mueller testified. He said:

> I have a hard time telling the country that you should be comfortable—

This is Mr. Mueller talking. The Director said that the FBI is focusing on the threat of terrorists who would use military action against Iraq as a pretext to strike America. That is what he said. That is not what I am saying. That is what he said. Yet, this across-the-board cut would result in the FBI losing 1,175 agents, including 188 agents through attrition, 90 agents through current vacancies, 110 agents that were requested in the fiscal year 2003 budget request, and 787 agents from the agency would have to be laid off.

Yesterday, my friend, Mr. GREGG, the distinguished senior Senator from New Hampshire, said in so many words, but I think they all added up to this: The FBI is flush with cash. Well, after this across-the-board cut, the FBI will be scrounging for pennies. How about that song, ''Pennies from Heaven.'' I don't know where the pennies will be coming from, but they are going to be pretty scarce, that is sure.

At the same Intelligence Committee hearing, FBI Director Mueller, in discussing the potential for terrorist attacks in America, focused attention on certain high-risk sectors, such as transportation, energy, and agriculture. The FBI has sent warnings urging extra precautions in those sectors. Yet, this across-the-board cut would reduce funding for security at our nuclear powerplants by $18 million. This cut will result in a reduction of more than $280 million in funding for the Transportation Security Administration and the Coast Guard, two critical agencies whose mandates are to protect our airports and our ports.

A reduction of this size will require the Coast Guard to conduct fewer port security patrols and further degrade their efforts in the areas of drug interdiction, marine safety, and fisheries patrol. Coast Guard ships will spend more time sitting at the dock for the lack of fuel, money, and operating funds.

The Customs Service would have to cut 1,600 positions, including agents and inspectors, at our Nation's seaports. Now this is serious. This is not just play money. This is serious.

The administration has continually stated that places of national interest have specifically been targeted by terrorists for attack, and yet this arbitrary cut would reduce funds for the U.S. Park Police, resulting in approximately 35 fewer Park Police officers at the very same time that the agency is beefing up its antiterrorism efforts at our most visible national symbols, such as the Statue of Liberty, the Washington Monument, and the Jefferson Memorial.

With these additional cuts, total funding in the bill for homeland security programs would be reduced to less than $24.4 billion. This is virtually a freeze at the level for fiscal year 2002. At a time of heightened vulnerability at home, the FBI will be losing agents, the Customs Service will be losing inspectors at our ports, the Food Safety Inspection Service and the Food and Drug Administration will be losing food inspectors, and the Immigration and Naturalization Service will be losing Border Patrol agents.

In addition, the resources to help State and local governments train and equip first responders for potential terrorist attacks with biological, chemical, or nuclear agents will be cut—that is right, cut—by 2.9 percent. Is this any way to govern? I think not.

Environmental cleanup activities would be cut by $203 million. Such a cut would delay short-term cleanup milestones at Hanford in Washington State, Savannah River in South Carolina, as well as in Idaho, in New Mexico, in Nevada, in Ohio, in Kentucky, yes, and even at Rocky Flats in Colorado.

Let's talk about the Head Start Program. The Head Start Program would

be cut by $192 million, eliminating services for 2,722 children, adding to the 2,800 children that the National Head Start Association claims would be displaced by the President's budget. This cut would result in the elimination of services to a total of 5,522 children in fiscal year 2003.

The budget for the National Institutes of Health would be cut by $778 million, scuttling the plan to double NIH's budget over 5 years. A 2.9-percent cut would reduce VA medical care by $692 million. How about that? This would result in 230,000 fewer veterans being treated and 1.8 million fewer visits by veterans to outpatient clinics.

Go to the veterans the next time you go home; go around your State and tell the veterans what you have done. Tell them you have cut the money for their clinics. Tell them you have cut the money for VA medical care. Tell those veterans, look into their eyes, tell them we have cut their money. Yes, I voted to cut it. I voted to cut it.

Last year, though, I did not vote to cut it. When we reported out those bills last year, we supported it. So this would result in 230,000 fewer veterans—let me say it again, 230,000—being treated and 1.8 million fewer visits by veterans to outpatient clinics.

This cut would also result in 236,000 veterans remaining on VA's waiting list to see a doctor because the VA would not be able to hire additional staff to reduce the backlog of veterans waiting to see a doctor. These across-the-board cuts are simply not acceptable. They are real cuts.

If Senators care about health care for our veterans, if you care about homeland security, if you care about the National Institutes of Health, you should support this amendment regardless of political party; you should support this amendment.

I urge Members to support my amendment to strike this arbitrary and ill-considered cut.

Mr. President, I reserve the remainder of my time. How much time do I have left?

The PRESIDING OFFICER. Fourteen minutes.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I understand the position of the Senator from West Virginia. However, I wish to state the policy of this amendment that I have offered is that it does not go below the level of the 2002 appropriations that are the basis for the continuing resolution is in effect now.

I took the position if we went below the funding level that is out there now based on the 2002 level of appropriated funds, Members would say: Wait a minute, we are better off to continue on the 2002 level. The Senator's statement about what was cut are cuts from the proposal we brought before, and I joined him in bringing that before the Congress last year.

We are not cutting any veterans. We are not cutting out anyone who is receiving care now. We are cutting out the increase that would have been available under the bills that were pending before the Congress last year.

As a practical matter, there may be some items where the programs had been ramped up because of a supplemental. We are working on the basis of the appropriated level of funds for 2002. In some instances, the continuing resolution does ramp up a little bit, as we found out with regard to an item that was before us last night in the amendment we dealt with just before we went home.

I do believe the Senator's amendment, as I understand it, strikes the offsets. We are back at the question of whether the Senate wants to discipline itself. We had no budget resolution last year. That was not the fault of any action of the Appropriations Committee under the chairmanship of the Senator from West Virginia or myself. We had no budget resolution. Had we had a budget resolution, we would have had a level of discipline, and that is the ceiling that had been established by the budget resolution.

The President sent a budget to the Congress, and it was limited to $750.5 billion. We have before us a proposal that limits that to $751.3 billion because the President submitted a subsequent request and amended his budget for the fire program of $825 million.

Lacking any other basis for a level of discipline, after the election, Senator BYRD and I, Congressman YOUNG, and Congressman OBEY got together and agreed we would hold the level of the President's $750.5 billion if we could get the bills done at that time. We did not get them done, and when we came back, the President asked me to join him and asked if I would continue the quest for a limit at that level of $750.5 billion. He agreed at that time to give us the $825 million for the fire program.

The offsets listed in title VI, which Senator BYRD would strike, are offsets that are necessary to achieve basically two things: One is the full funding for the amount that can be spent of the election reform bill in the 7½ to 8 months that are remaining, a bill that is absolutely necessary to be funded and put into place if we are to avoid, or at least try to avoid the problems of the election in the year 2000. This would modernize the election system throughout the country. This was a bipartisan bill that was passed, and this is its funding.

Secondly, the tremendous drought disaster areas of the country demand help. We faced a problem of how to deal with that, so we added the monies for drought and disaster to this bill and we offset it by an across-the-board cut in all programs.

That, again, is dealing with the basic problems of the country in a way that we will take these to conference, and we hope to come out of the conference with a bill approved by the House, that the President will sign, that will not exceed the $751.3 billion level but will take care of these and hopefully keep the two basic programs, drought disaster and election reform, and hopefully stay within the level we have agreed to try to achieve, and that is the $751.3 billion.

Our goal is to cover these, and we intend to cover them within the bill without across-the-board cuts. I do not know if we can get there. We know the House disagrees with a series of things that the Senate added. The Senate still has basic items above the President's budget request in most instances. So the House may want us to come down on a series of those. We are going to conference, and for the first time we will deal, through the full committee process, with 11 of the 13 bills, an enormous undertaking.

The only way we can get the two critical items to conference, in order to stay within our stated goal and demonstrate that we are going to stay within that goal to limit our expenditure to $751.3 billion, we provide for an across-the-board cut. I personally think it is going to end up somewhere around 1 percent by the time we are finished.

If there is not a 1-percent slush in every item in this budget, then I really have not been here 34 years, going on 35. These bills are estimates, and we are reducing estimates by 1 percent in order to take to the President the final bill at the level he sees fit to set. I think it is a legitimate objective.

Again, if we were not in the process of dealing with the post-9/11 situation, if we were not in the process of building up to try to protect the interests of our country abroad and our allies in terms of Iraq, if we were not dealing with the problems in Korea, if we did not have the problems we have abroad—they are all military in nature—we probably would not have this problem because we have already passed the two bills, the military construction bill and the Defense appropriations bill.

Even in this bill we have given the President an additional amount of money for intelligence and activities with relationship to the problems I have mentioned, and we have emphasized the protection in training and equipment for our men and women who are in uniform. There is no question about that. That has strained the national budget, and it has led the President of the United States to urge us to hold this level to $751.3 billion.

I urge the Senate to defeat the Senator's amendment. I know across the Senate, if this becomes final, people are going to say this is going to be down, that is going to be down, and that is true. There are going to be some accounts that are not as high as we would like to have them, and as I would like to have them, but there is going to be a budget the President will sign, and we can go on to the work of 2004.

We are trying to get behind us the problems of the last Congress. I really

feel very uncomfortable about the fact that we are trying to pass 11 bills that should have been passed by the last Congress, and I have been trying to do it in a way that no one says who shot John or why would we not pass them. In my opinion, one of the main reasons is we did not have a budget resolution. We did not have a budget resolution for a lot of reasons.

In any event, we do not have one now, and the only way I know to get this bill to conference is to insist upon maintaining the discipline that is required to show we are going to get a bill to the President that he will sign.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Democratic leader.

Mr. DASCHLE. Mr. President, I will use my leader time to talk to this amendment.

I compliment the distinguished Senator from West Virginia for his amendment. I think this is one of the most important amendments we will vote on in this entire debate. He is simply restoring the across-the-board cut, as he indicated and outlined. We are now at a 2.9-percent across-the-board cut. That 2.9 percent represents at least $16 billion, over and above the other $5 billion that was cut, a total of $21 billion from discretionary accounts.

We have done an analysis of what those cuts actually mean in real-life terms. Those cuts mean the elimination of 1,175 FBI agents. There are 1,175 FBI agents who will lose their jobs if this cut goes into effect as it is now proposed.

The FBI Web site lists 10 priorities. The No. 1 priority is to protect the United States from terrorist attack.

The No. 2 priority is to protect the United States against foreign intelligence operations and espionage. The No. 3 priority is to protect the United States against cyberspace attacks in high-technology crime; No. 4, combat public corruption at all levels; No. 5, protect civil rights.

Which of these priorities will be sacrificed as a result of the loss of 1,175 FBI agents? Would we do that to the military? Would we do it to the National Guard? Would we do it in any other context as we consider the war on terror and the need to fulfill our constitutional responsibility to protect and defend this country against all enemies, foreign and domestic? I do not think so. Why would we cut 1,175 FBI agents at this time?

We have had serious food safety issues over the course of the last decade. I was chairman of a Subcommittee on Agriculture when the whole E. coli crisis broke out. I can recall so vividly families talking about their children being poisoned as a result of E. coli. Why? In part, because we did not have enough food safety inspectors. This 2.9-percent reduction, this $21 billion, will cut 490 food inspectors from our system today. We will have 490 fewer food inspectors. This will cut 230,000 veterans who are now getting medical services. How ironic it is that as we send people to the Persian Gulf to fight for this country and we tell those who are already there we are going to cut them off; they are not going to have the medical assistance; they are not going to get the care.

I cannot begin to imagine how, in the name of fiscal discipline or anything else, so long as that huge tax cut is out there, our colleagues on the other side could possibly rationalize advocacy for a tax cut of that magnitude, leaving no millionaire behind, while we tell veterans they are not going to get medical services, while we tell the FBI, with all of its priorities, they are not going to have the kind of agent support for 1,175 FBI agents, we are going to eliminate their jobs.

How in the world, with all the dangers there are in food safety, can we say we do not need 500 food safety inspectors today?

That is what we are saying. That is what anybody is saying if they vote against Senator BYRD's amendment. I hope people will rethink this. As I said, this whole budget business that we are facing now is bizarre. We cannot afford $6 billion for education. We cannot afford $5 billion for homeland defense. We cannot afford the money for 1,175 FBI agents. But we can afford an $89,000 tax cut for 226,000 millionaires. I do not get it. I hope our colleagues will follow the wise counsel and leadership of our colleague from West Virginia. Let's vote for the Byrd amendment. Let's put some sanity into the budget process, into these appropriations bills this year.

I yield the floor.

Mr. REID. Will the Senator from West Virginia yield me time?

Mr. BYRD. How much time does the Senator want?

Mr. REID. Six minutes.

Mr. BYRD. I yield 6 minutes to the distinguished Senator from Nevada.

Mr. REID. I very much appreciate our leadership laying out the problem. Yesterday, instead of the FBI losing the number of agents it is losing today, 1,175 agents, it was 800. Each day, more FBI agents are lost because of this ridiculous procedure we are going through.

For my friend, and he is my friend, the Senator from Alaska, who I care a great deal about—I have served with him all my time in the Senate on the Appropriations Committee—for him to say we are funding election reform out of this, is that not good? It is money they are stealing from other accounts. Next, are they going to take care of prescription drugs by cutting off domestic discretionary spending?

Anyone who votes against Senator BYRD today is voting against the FBI, literally; 1,175 FBI agents will be eliminated.

Mr. STEVENS. Will the Senator yield on my time?

Mr. REID. For a question?

Mr. STEVENS. Yes.

Mr. REID. Sure.

Mr. STEVENS. Where does the Senator get those figures? The FBI received $3.49 billion in fiscal year 2002 and this bill has $3.92 billion. Beyond that we provided $158 million in the FBI joint task force. Not one FBI agent will be fired. We will not increase, but not one will be fired. Where does the Senator get those figures?

Mr. REID. I say to my friend from Alaska, how he or anyone else can with a straight face say you can do an across-the-board cut—''across the board'' means across the board, equal in every account in domestic discretionary spending—without money being lost, and without people losing their jobs, that is what it is all about.

These budgets, most of them, most every budget we have in the Federal Government involves employee personnel.

Where do the figures come from? They come from our staffs. This comes from the staff of the Democratic leader.

We can dwell on things other than the FBI, but the FBI is being cut. Take our word for it. These across-the-board cuts are cutting into the very heart of these programs. He talks about food safety inspectors. Anyone voting against Senator BYRD is saying food safety is not too important; we can do without approximately 500 food inspectors. Anyone voting against Senator BYRD's amendment is saying there is going to be about half a billion cut with Housing and Urban Development, which will mean 79,000 fewer families receive housing assistance.

To think you can take money from across the board and take care of election reform and other programs without these programs being hurt is mystical.

There will be a cut in the Customs Service. Already they are to the bare bone. I visited the Customs Service in Las Vegas and I was astounded 5 years ago how few people worked in the Customs department in Las Vegas. In areas where they should have a lot of Customs agents, there will be cutbacks. It will be about 1,600 Customs inspectors being cut back. This new cut means fewer agents at borders than prior to September 11.

We worked very hard to ramp up the spending for NIH. Everyone should understand when they vote against Senator BYRD's amendment they are cutting the NIH by 44 percent, including in biodefense.

We estimate there will be about 2,800 children deprived of early childhood education. This new cut on top of the original cuts in the Bush budget leaves a total of 5,522 children without any services.

This $137 million cut in WIC will mean 225,000 women, infants, and children will be left without nutritional and health care services.

The VA is about $700 million, which will mean about 225,000 veterans without medical services.

I agree with Senator GEORGE VOINOVICH, my friend from the State of

Ohio, quoted as saying just a few days ago ''as far as the eye can see, I see red.'' That is what this is all about.

For my friend, my good friend, from the State of Alaska, to talk about this is a difficult job, that is an understatement. That is an understatement to try to come up with what they are doing. I heard my friend from Alaska promise one of my colleagues: we will take care of it in conference. The House is quoted as saying they will have the bill less than we have. It is magic that I don't think exists congressionally. It is magic that I don't think exists legislatively.

I say to the Senator from West Virginia, thank you very much. This is the vote of this bill. We are asking they do away with the across-the-board cuts. If they want to spend more money in these programs, get real money—not funny money—because they are stealing from the American people and trying to come up with a budget that is impossible and exists by magic.

Mr. BYRD. I thank the distinguished Senator.

How much time remains?

The PRESIDING OFFICER. The Senator from West Virginia has 8½ minutes.

Who yields time?

Mr. BYRD. I yield 3 minutes to the distinguished Senator from North Dakota, Mr. DORGAN.

Mr. DORGAN. This across-the-board cut is not a good idea. We need to make the right investments in the right agencies, to protect the American people, especially with respect to homeland security. These across-the-board cuts are not the right thing to do. Everyone knows that.

My colleague talked about the number of veterans that will be affected with respect to the diminished veterans health care, as well as the FBI. My colleague from Alaska, for whom I have great respect, said we will increase that budget. That is true. But if this is a cut, it is a cut. It is a cut below the anticipated level of spending in these areas.

It has been said this morning that part of the reason for this is to give farmers some help. Providing some money to help farmers who have experienced disaster is very important. But we did that last year by a wide bipartisan vote in the Senate and proposed a $5.9 billion program on an emergency basis. What is being proposed today, apparently—I read in the paper—is a $3.1 billion proposition that will send drought aid to farmers who never had a drought. I don't understand that. What are we thinking about? Let's pass the disaster aid we passed last year for family farmers on an emergency basis, and then let's deal with the spending needs we have in this country. Yes, for the FBI, for the Customs Service, for all of these agencies, especially those engaged in homeland security.

Yesterday my colleague from West Virginia talked about the importance of homeland security. I understand what is going on. I understand the President has said, here is a marker; you have to meet that marker. So he wants to cut spending in the FBI, the Customs, Veterans, Health and so on, in order to meet his marker.

But on the other hand, he says while we are short of money and cannot fund what we intended for these funds, let's have a tax cut of $675 billion over 10 years. I don't understand the priority here. Either we have a homeland security issue we need to respond to or we do not.

My colleague from West Virginia said earlier today the head of the FBI told us we are in as much jeopardy today as we were the day before September 11 with respect to the potential threat from terrorists. If that is the case, how can anyone say we cannot fully fund the needs we anticipated earlier with respect to the FBI, the Customs Service, and others?

I understand what is going on. I understand someone had to bring to the floor the President's marker with respect to spending, but it is not right to do this across-the-board cut in order to meet that artificial level, especially at a time when the President says there is plenty of money for a $675 billion tax cut over the next 10 years. In terms of priorities, that is the wrong priority for this country.

Mr. STEVENS. I yield 2 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my friend and colleague from Alaska for his leadership on this bill. I have great respect for the Senator from West Virginia, and he is very consistent in wanting to spend more money in this bill. He tried yesterday and didn't win, so now he says, let's eliminate the reductions across the board. The net impact of that would be $11.4 billion this year. You might say that also would increase the base that we put in the budget, so that would be compounded every year, so this amendment would cost at least $120 billion assuming no inflation—probably closer to $140- or $150 billion—over those years.

I have heard my colleague say we are cutting the FBI. The FBI went from $3.4 billion to $4.1 if you add the two accounts together.

I heard my colleague say they are cutting the NIH. That went from $27.2 billion and received a $3.8 billion increase.

I just heard my colleague say we are cutting the VA; we are hurting veterans and veterans health care. Veterans care went from $23.9 and received a $2.6 billion increase, over a 10-percent increase.

When people are saying we are having cuts and it is going to cost thousands of jobs, it reminds me of somebody saying we are going to give you $1,000. Then they say we changed our mind, we are giving you $900—you just lost $100. We are talking about big increases, funding the priorities. I congratulate my colleague and urge my colleagues to vote no on this amendment.

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

Mr. STEVENS. Mr. President, fear is a terrible quotient in the political spectrum. And the fear that an across-the-board cut might reduce the level of spending today, spending under the 2002 appropriations level, is a great one.

But I can state to the Senate without equivocation, not one FBI agent will be cut, not one will be lost. We have an increase, again, of nearly $500 million in the overall FBI level—rounded off a little bit. We have another increase of $158 million for the Joint Terrorism Task Force. An across-the-board cut to those two increases, $436.5 million for the FBI and $158.5 for the Joint Terrorism Task Force, is about $80 million. That still represents an increase for those two programs. An across-the-board cut would not reduce the FBI at all—there would be no reduction. The Department of Justice would still receive an increase of well over a billion dollars after the across-the-board cut.

I have respect for my friend with regard to facing the problem of an across-the-board cut. It is an indiscriminate cut and that is why I don't like it. It goes across the board and says take from each account so much money in order to achieve putting all the items you want to take to conference into conference. But remember, it is a mechanism to get to conference.

I could eliminate all of the across-the-board cuts if I took out all of the add-ons from that side of the aisle, or take out all the add-ons from this side of the aisle, the Members' requests. If the Senate wants me to do it, I will put them in the RECORD. They total a considerable amount more than 2 percent of the budget.

Under the circumstances, to accuse me of some strange tactic by having an across-the-board cut to accommodate those requests, take them to the conference with the House and see how much the House will allow us to add, for these Members to add, I think is a little duplicitous.

So before I am accused of cutting the FBI or cutting milk for babies or something such as that, keep in mind, if it keeps up, I will not put them in. We could take every one of them out with just one single amendment. If the Senate wants to do that, we wouldn't have any across-the-board cut at all. Take the Members' accounts out of this bill and there will be no across-the-board cut.

I suggest the defeat of the amendment of the Senator from West Virginia.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

Mr. KERRY. I strongly support the Byrd amendment to strike title VI of

division N from the omnibus appropriations bill. Title VI includes a provision which would impose a 1.6 percent across-the-board reduction on all domestic spending. These cuts follow an earlier $9.8 billion reduction in domestic spending from the Senate Appropriations Committee passed spending bills. Together, these cuts will reduce domestic spending by more than $20 billion and will force punitive cuts in veterans health care, housing, education, homeland security, highway funding, Amtrak, the National Institutes of Health, Head Start, WIC and other important national priorities.

Today, we are not meeting our promises to our veterans. The Department of Veterans Affairs, VA, has consistently received inadequate resources to meet rising medical costs and a growing demand for its health services. In November 2001, Secretary of Veterans Affairs Principi identified a $400 million funding shortfall for fiscal year 2002. As a result of this shortfall, more than 300,000 veterans throughout the country are on waiting lists for medical care, and many must wait 6 months or longer for an appointment to see medical staff. Although Congress provided $417 million for veterans health care as part of the fiscal year 2002 emergency supplemental spending bill, passed in July 2002, the President agreed to spend only $142 million of the approved funds. In addition to the fact that the VA health system must now overcome the severely inadequate amount provided in fiscal year 2002, the VA has also been operating at last year's funding level since the onset of the 2003 fiscal year in October.

This funding crisis has forced the VA health system to resort to short-term fixes, such as discontinuing outreach activities in an effort to reduce enrollment and instituting new regulations that require the rationing of health care. Moreover, the VA has already reduced services at a number of facilities throughout the country and has closed some facilities altogether. It is crucial for the VA to receive an increase in fiscal year 2003 medical care funding provided in both the Senate and House Appropriations Committee bills. Instead, the Republican majority has decided to impose an additional 1.6 percent reduction to the already inadequate levels of funding for veterans services.

Today, our Nation is facing an affordable housing crisis. For thousands upon thousands of low-income families with children, the disabled, and the elderly, privately owned affordable housing is simply out of reach. Recent changes in the housing market have further limited the availability of affordable housing across the country, while the growth in our economy in the last decade has dramatically increased the cost of the housing that remains.

The Department of Housing and Urban Development, HUD, estimates that more than 5 million American households have what is considered worst case housing needs. Since 1990, the number of families that have worst case housing needs has increased by 12 percent, that is 600,000 more American families that cannot afford a decent and safe place to live.

Despite the fact that more families are unable to afford housing, we have decreased Federal spending on critical housing programs such as the Public Housing Capital Fund, elderly housing, and Public Housing Drug Elimination Grants since fiscal year 1995.

Earlier this month HUD also announced plans to dramatically reduce the amount of funding available for the operation of public housing by up to 30 percent. This would cost the city of Boston approximately $13 million in housing funding during fiscal year 2003. This additional across-the-board cut would impose even further cuts in the operation of public housing. This is simply unacceptable to those who depend upon housing assistance.

These are just two examples of the arbitrary cuts will be imposed on every domestic program, many of which already are inadequately funded. That is why I strongly support the Byrd amendment and urge my colleagues to support it as well.

Mr. GRAHAM. Mr. President, as the now ranking member on the Committee on Veterans' Affairs, I must make my fellow Senators aware of the impact of the proposed across-the-board cut in the appropriations for the executive branch for fiscal year 2003 on the Department of Veterans Affairs and its ability to provide health care and benefits to our Nation's veterans.

Yesterday morning we were talking about a 1.6 percent cut, of which VA's share would be over $424 million. But let me put that in context. That would have meant that 125,000 fewer veterans will be seen in VA's hospitals, that 250 benefits claims adjudicators would lose their jobs. And it would mean that a hiring freeze would be in place across the VA. These cuts are being put into place at a time when there are 235,000 veterans waiting over 6 months for an appointment at VA. It takes an average of 200 days for a veterans disability claim to be decided. But today we are talking about a 2.9 percent cut across the board. VA has not computed what this will mean to America's veterans yet.

Let me be more specific, so that my colleagues can understand the consequence of this decision. The proposed 2.9 percent cut would cost the Veterans Health Administration almost $695 million of the $2.4 billion increase VA health care was slated to receive. The VA–HUD Appropriations Committee recognized VA's dire need for health care resources, and responded accordingly in a bipartisan effort last year.

Meanwhile, VA announced just today that in light of rapidly rising numbers of veterans coming to VA for health care and prescription drugs, they will have to cut off enrollment for a certain category of veterans. How can we possibly consider cutting funding now, in the face of such sharply rising demand for VA health care? There are over 44,000 veterans waiting half a year to see a doctor in my home State of Florida right now—this is unacceptable. The system clearly needs higher increases in funding, not decreases.

Mr. President, it is also important to point out that a vital segment of the VA health system will receive a drastic cut as a result of this proposal, VA research. This program is invaluable not only to the veteran community, but to the Nation as a whole. VA research is responsible for advances such as the CT and MRI scans, the cardiac pacemaker, and performing the first kidney transplant. The groundbreaking dynamic of the VA research program also serves to attract leading researchers and physicians to VA. Reducing funding for this program is a true disservice to all Americans.

On the benefits side, this is a true cut. The original Senate-reported amount of $992 million will be reduced by $29 million. VA has been battling a backlog of claims. It has been making some progress. The VA Secretary has set a goal of deciding new claims within 100 days by the end of this fiscal year. He will not meet his target with this appropriation. As I said, FTE will be cut. There will be a hiring freeze. While the Florida office is now doing slightly better than the national average, it still takes 155 days to process a claim.

In addition, the nationwide overtime authorized at various regional offices to process disability claims will be severely curtailed. Currently, each regional office is averaging 40 overtime hours per month. This overtime program has resulted in a reduction in the pending claims backlog. An across-the-board reduction in overtime will mean that veterans will have to wait longer to have their claims reviewed. The accuracy in decisionmaking will drop. We must restore funding before the backlog grows again to unmanageable proportions.

As you all know, the veterans' population is aging rapidly. We are losing over 1,200 World War II veterans per day. While the VA is attempting to make a special effort to adjudicate claims of veterans over the age of 70, every day a veteran dies while his or her claim is awaiting a decision.

I understand that there are many competing demands being placed on the executive branch right now. But in a time when the White House can afford to offer a tax cut of $640 billion, and in time when we are asking the men and women in the military to go back into harm's way, can we really afford to turn our backs on them when they return from war?

Mr. BYRD. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 5 minutes. The Senator from Alaska has 11½ minutes.

Mr. BYRD. Mr. President, if I may have the attention of the Senator from

Alaska, nobody has accused the Senator from Alaska of anything that is wrong, any underhanded tricks, any tactics that are inappropriate. The Senator from Alaska is trying to do the bidding of this President. And the bidding of the President is we will take an arbitrary figure.

Here are Senator HOLLINGS and Senator GREGG and the members of their committees—they work hard. They determine what is right for the FBI and for the other items in their budget. They make that determination based on their hearings, based on the testimony that is educed from those hearings, based on common sense. These two Senators I have mentioned have been in this business for a long time. They know what they are doing.

Then to come along with an arbitrary figure—I am not accusing the Senator from Alaska of anything. I would be the last to do that. If he wants to cut out the add-ons, let him do it. He can cut out mine if he wants and cut out his. We are not going to play blindman's bluff here. If you want to, cut those out. Those add-ons are for the people we represent, for the installations in our home towns. We can defend those add-ons. There is nothing I care about being secret on as to those add-ons.

But what I am talking about here is the fact that we are not exercising good judgment based on facts. What we are doing is taking an arbitrary figure that is set by this administration downtown, and the distinguished Senator from Alaska is doing a good soldier's work.

I would never complain about the Senator from Alaska. But I would say to you, Mr. President, these are real cuts. These are real cuts. And it is unwise to cut across the board. That is not the way to make cuts. That is not the way to reduce spending—across the board. That is unfair. It is unwise. That is what we are doing.

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

Mr. BYRD. Yes, I yield.

Mr. HARKIN. If the Senator will yield——

Mr. BYRD. How much time do I have?

The PRESIDING OFFICER. The Senator from West Virginia has 2 minutes 50 seconds.

Mr. HARKIN. I will be brief. I just want to buttress what the Senator is saying about real cuts. Listen to this.

Mr. BYRD. Save me 1 minute, I say to the Chair.

Mr. HARKIN. The cut to NIH. We have worked hard here on a bipartisan basis to double the funding in 5 years. This is the last installment this year. The cuts we now have before us will cut $778 million out of the NIH. That is more than the entire budget for research on Alzheimer's disease.

Mr. BYRD. Yes.

Mr. HARKIN. It is more than the NIH's entire budget for research on breast cancer.

Mr. BYRD. Yes.

Mr. HARKIN. It is more than the NIH's entire budget, now get this, for research on prostate cancer, ovarian cancer, Parkinson's disease, and muscular dystrophy all combined.

Mr. BYRD. Yes.

Mr. HARKIN. That is a real cut. The Senator from West Virginia is right, that is big.

Mr. BYRD. And this amendment impugns the good judgment of the Senator who is now speaking to me and his counterpart from Pennsylvania.

Mr. HARKIN. Senator SPECTER.

Mr. BYRD. Those two Senators have chaired that committee and they have worked hard. They have used their good judgment based on the testimony and based on the facts.

Mr. HARKIN. Precisely.

Mr. BYRD. They are saying to these two Senators and the members of that subcommittee: Forget your experience, forget your wisdom, forget what you say. We are going to have an arbitrary figure. It doesn't mean anything; it is just a figure. And you are going to suffer. Your people are going to suffer—your people back home, my people.

It is unwise. It is unfair. It is unjustified. It is unreal. And I say every Senator in this body ought to think, ought to look in the mirror when he or she casts this vote and be ready to go back home and tell his constituents or her constituents: I did it.

Mr. President, this record is going to follow Senators.

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. BYRD. I thank the Chair. I reserve my 1 minute.

Mr. STEVENS. Mr. President, the Senator is entitled to his last minute.

Let me tell the Senator about NIH. In fiscal year 2002, we had $23.45 billion. In this bill, we have $27.15 billion. That is an increase of almost $4 billion. An across-the-board cut takes out about $300 million. It does not reduce anything.

In my chairmanship——

Mr. HARKIN. If the Senator will yield——

Mr. STEVENS. I am not yielding. In my chairmanship, when I was chairman before, we doubled NIH. I am proud of that. We have not reduced that level. We have increased it.

No Senator on this side need fear we are cutting one FBI agent, taking one dollar away from the existing level of NIH, or taking one dollar away from anything. The guideline, again, was we kept the level of 2002 in every account.

That is a continuing resolution. To reduce the level that they are traveling on now would be wrong. We are increasing every one by passing those three bills. That is why we want to pass them.

Look at them. You can go down these Departments. Every one of them gets some kind of increase because of the fact we are going from 2002 to 2003. An across-the-board cut takes less than 2 percent out of all of them, if we have to do that when we come out of conference. We don't believe we will have to.

I really respect my friend from West Virginia. But I am carrying the President's torch, which is ''remember the deficits.'' People on this side reminded us of the deficits every day this last week. The President said: Remember the deficits. Get a guideline. Take my number for a guideline. I said: We will do that. We will take your number, we will take it to conference, and we will hold it coming out of conference and you will have a bill you can sign.

Mr. BYRD. Mr. President, the President says, ''Remember the deficits.'' I say remember the $1.6 trillion tax cut that was enacted by this body and the other body last year. I say, let us not enact a $670 billion tax cut that this President and this administration is suggesting Congress pass. Tax cuts will add to the deficit.

This is where the deficit cuts lie. These are not mere computational exercises. These are not mere budgetary exercises. These are real cuts. These mean something to the people out there in connection with their safety, their health, their welfare, and the security of their homeland. I say, Senators, look in the mirror when you cast this vote.

The PRESIDING OFFICER. All time has expired.

Mr. STEVENS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Nebraska (Mr. HAGEL) 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 ''Aye''.

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

The result was announced—yeas 46, nays 52, as follows:

[Rollcall Vote No. 7 Leg.]

YEAS—46

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

NAYS—52

Alexander	Allen	Bond
Allard	Bennett	Brownback

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

NOT VOTING—2

Hagel	Kerry

The amendment (No. 36) was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I hope Senators will listen.

Rarely in recent memory has the United States faced more profoundly serious and complicated challenges to our global leadership. We are beginning our second year of war in Afghanistan, our second year of chasing after Osama bin Laden, and at the same time the Pentagon is feverishly mobilizing for possible war in Iraq. Meanwhile, North Korea is firing up its nuclear production facilities and warning of a third world war in Asia if the United States dares to interfere.

Suddenly large swathes of both the Middle East and Asia are on the brink of open warfare, and the conduct of U.S. foreign policy is facing enormous tests. Even our allies are questioning our real intentions and our ultimate ambitions. This is certainly not the time for rash words or hasty action, but it is most definitely the time to take a long and sober look at where the United States has been and where it may be headed.

The administration's doctrine of preemption and the testing of that doctrine in Iraq have thrust the United States into a new and unflattering posture on the world stage.

In many corners of the world, America the peacemaker is now seen as the bully on the block. I believe it is time for this administration to review our national security strategy and its take-no-prisoners approach to international relations. In working through the complex process of developing strategies to protect the world from terrorists and weapons of mass destruction, we must also work to restore the image of the United States to that of strong peacekeeper instead of belligerent bully.

Terrorism is a global threat and it demands a global response. We must seek cooperation, not confrontation. The contrast between the administration's handling of the crisis in Iraq and its handling of the crisis in North Korea is a perfect illustration of why a doctrine that commits the United States to the use of preemptive force, unilaterally if necessary, to prevent unsavory regimes from acquiring weapons of mass destruction is a flawed instrument of foreign policy.

I am relieved that the administration, despite North Korea's alarming rhetoric, appears to fully comprehend the folly of a preemptive U.S. military strike on a nation which we believe is a nuclear power.

Mr. MCCAIN. Mr. President, I raise a point of order that the debate has to be germane during the first 3 hours of the consideration of the bill under the so-called Pastore rule and that that be enforced.

Mr. BYRD. Mr. President, the Pastore rule, as I understand it, has run its course. The Senator is talking about the Pastore rule.

Mr. MCCAIN. Mr. President, I ask for a ruling from the Chair raising a point of order that during the first 3 hours of legislation it has to be germane to the pending legislation.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator is correct that the Pastore rule requires that debate be germane during the first 3 hours of consideration of the measure.

Mr. BYRD. Mr. President, this debate is germane. I have not finished my speech yet. I hope the Senator will show me the courtesy that I would show him.

Mr. MCCAIN. Mr. President, I raise the point of order that the debate is not germane at this time during the first 3 hours of the debate.

The PRESIDING OFFICER. The Senator is entitled under precedent to a reminder under this rule.

Mr. BYRD. What is the Chair's ruling?

The PRESIDING OFFICER. Under the rule, Senator, you are entitled to one reminder about the germaneness.

Mr. BYRD. Mr. President, there is $3.9 billion in this bill in defense funding for related activities. What I am saying, I think, is very germane to what we are talking about. The Senator from Arizona hasn't shown me the courtesy of even hearing my speech.

Mr. MCCAIN. Mr. President, again I ask for a ruling of the Chair. The remarks the Senator from West Virginia is making are in a manager's amendment and not included in the present bill.

Mr. BYRD. Mr. President, I am speaking about the defense of this country. This bill involves the defense of this country. There is $3.9 billion in this bill for national defense.

The PRESIDING OFFICER. The Senator from West Virginia, the Chair has ruled, is within the confines of the rule and the topic in question is germane.

Mr. BYRD. I thank the Chair.

Mr. President, let me go back in my speech and pick up where I was interrupted. I have been in Congress more than 50 years. There have been 11,707 Members of the House and Senate since the Republic began. I am the fourth—only three Members, men and women, of all the 11,707 men and women elected to both Houses in the Congress exceed me. And here I am making a speech on what I consider to be important, and I think it is very germane to what we are talking about. We are talking about the national defense of this country when we have this appropriation bill up. We are talking about the expenditures for the military in this bill. We are facing a situation in which we may be spending more and more and more money for the military. I thank the Chair for the ruling. I am just sorry I was interrupted on this matter. I would not interrupt the Senator from Arizona concerning germaneness on a speech he maybe making at any time. I would not do that.

I will back up and then pick up where I was interrupted. I am relieved that the administration, despite North Korea's alarming rhetoric, appears to fully comprehend the folly of a preemptive military strike on a nation which we believe is a nuclear power, and has finally agreed to at least talk with the North Korean government and to work with other nations in the region toward a diplomatic solution to the crisis.

The situation in Iraq, however, appears to be heading in the opposite direction. Iraq, which, by all accounts, does not have nuclear weapons, and is presently the subject of scrutiny by U.N. inspectors, is under the heavy threat of a preemptive U.S. attack. The airwaves are awash with video snapshots of brave young American soldiers bidding tearful goodbyes to loved ones. When it comes to Iraq, America's war machine seems to be cranked up to a fever pitch. This is going to cost money, real money. We have talked about a 2.9 percent across-the-board cut here in domestic discretionary spending. Nobody is saying anything about a cut in military spending, no. I am not advocating that. I want to face up to the situation that confronts us. I want the American people to start looking and listening to what is going on.

Ever since Congress voted last year to hand to the President the power to decide—we did that; Congress did that over my obstreperous objection, vociferous objection; Congress did that. Twenty-three Members of the Senate did not do that. Twenty-three Members decided to vote against handing this power over to the President, the power to declare war. Ever since Congress voted last year to hand to the President the power to decide why, when, how, and where we will wage war against Iraq, the question of whether we should wage war has largely been overlooked.

It is past time to remedy that omission. Where is the debate on the wisdom of actually resorting to force? Is that going to cost money? Where is the debate? How much is it going to cost? How many men and women in the Armed Forces are we likely to lose? What may happen here at home in the

war against terrorism? Where is the urgency? Why not let the inspectors do their job? Why are our allies backing away?

Congress made a serious mistake in passing the open-ended use-of-force authorization last year, but we only compound that mistake by sitting idly by while the Pentagon draws up war plans—costly war plans—and sends our young men and women abroad.

Now is the time for informed debate. Here we are about to go out for a recess. It is time for us to look at this matter. It is facing us. Now is the time for informed debate, and now is the time for a public examination of where we are headed and why.

The President has stated repeatedly that he has not decided whether to invade Iraq. We must take him at his word. It is my hope that he will not rush to judgment. The situation demands a careful and thorough examination of the views of our allies, the costs in money, the costs in lives, the risks before any final conclusion that war is the only recourse.

Congress must be part of that debate. The United Nations must be part of that debate. A vote taken last fall should not constrain Members of Congress from reevaluating the situation in light of recent developments. However bad it was—and it was very bad, I think—the use-of-force resolution passed by Congress last October did not impose an oath of silence on Congress or on the American people. It did not prohibit the continued questioning of the administration's decisions with regard to Iraq. This may be difficult to do when the war drums are beating, but that is sometimes the uncomfortable role of the true patriot.

Mr. President, without so much as a whisper of debate, our Nation is actually mobilizing to attack a sovereign state before U.N. weapons inspectors have even made serious headway in their work. Is this what the policy of preemption means: That we preempt evidence and move to attack based on suspicions?

The administration's new policy of preemption has repercussions far beyond Iraq. Other nations are watching what we are doing. North Korea is one of those nations. Even Brazil is reported to be contemplating the development of nuclear weapons as an insurance policy against possible attack.

Iraq and North Korea are both charter members of the President's infamous ''axis of evil,'' and yet at the same time that the President is turning the heat up on Iraq, he and his administration have been vigorously downplaying the crisis in North Korea.

Iraq has at least allowed U.N. weapons inspectors into the country. North Korea threw them out. Iraq, to the best of our knowledge, does not currently have nuclear weapons. North Korea, on the other hand, has brazenly admitted that it is working to develop nuclear weapons, and there is evidence that it already has some nuclear capability. Iraq at least is going through the motions of cooperating with the United Nations. Meanwhile, North Korea has announced its withdrawal from the Nuclear Non-Proliferation Treaty, threatened to resume missile testing, and declared that U.N. sanctions will mean war. Yet the United States is mobilizing for war with Iraq while politely tiptoeing around the far more dangerous situation on the Korean peninsula.

The President, in the same breath that he assails Saddam Hussein, has gone to great lengths to assure the world he has no intention of invading North Korea. Is it any wonder that our allies are scrambling to make sense of America's foreign policy? Is it any wonder that the new image of the United States has caused turmoil and puzzlement even among our staunchest allies?

I am sure many of our friends around the globe wonder why diplomacy can remain an option with a regime as treacherous and threatening as North Korea and yet can be taken off the table when it comes to a much weaker Iraq. I wonder if the administration has calculated enough the ramifications of a military solution in Iraq not only in terms of dollars, but also in terms of bloodshed and hardship in the Middle East and terrorist attacks here at home.

What is the message we convey to the world if we are eager to apply a doctrine of preemption on those countries with limited ability to defend or counterattack and yet waffle over a preemptive response to dangerous regimes with the firepower to get back? Are we not, in effect, saying that nuclear weapons and long-range missiles can provide small countries with an insurance policy against a U.S. preemptive strike? The unanticipated result of this doctrine of preemption may be to unleash a global scramble to acquire the means to deter the United States from unprovoked attacks. We could be at the brink of a new type of arms race, unleashed by fear of a preemptive U.S. strike.

There are many risks to an inconsistent foreign policy that, in some cases, threatens the use of force as a first response and, in other cases, takes military action off the table entirely. Our national treasure will be increasingly poured into bullets and bombs at a time when homeland security is an equally pressing concern, or even greater concern. Our efforts to preach peace and restraint as a solution to the Israeli-Palestinian conflict will be sabotaged by our own our own foreign policies. American citizens at home will face an increased threat at the hands of terrorists lying in wait for the chance to cripple our economy and derail our war machine, and we will be increasingly hard pressed to prevent terrorist destruction because our resources will be sucked up—sucked up—by the war machine that now drives our foreign policy.

Additionally, if we stay the current course, thousands upon thousands of American families will face a painful uprooting. Many of the men and women who will be sent to Iraq are members of the National Guard and Reserve. Military officials have said that the activation of National Guard and Reserve troops for a war against Iraq could exceed 100,000.

The impact of such a large activation will reverberate throughout the Nation in communities large and small, in the small community of Sophia where I have lived and where I have voted for these many years. On January 7, the Charleston, WV, Gazette reported that a speeding motorist raced through three tollbooths and drove more than 75 miles on the West Virginia Turnpike before any State troopers were available to pursue him. The problem? The State Police force is suffering a severe shortage of troopers. The fear? The situation will get much worse if the 51 West Virginia troopers who are also members of the Guard and Reserve are called up for duty.

This problem is not unique to West Virginia. According to the Charleston Gazette, law enforcement agencies across the nation, whose members are heavily represented in the Guard and Reserve, are worried about the impact of a war on their ability to protect the public. And law enforcement will not be the only profession to be affected by a Reserve call-up. Members of the Guard and Reserve are not just part-time soldiers—they are also full-time members of their communities, holding key jobs. Policemen, firefighters, paramedics, doctors, nurses, teachers—their professions run the gamut, and their absences when on active duty leave significant voids for those left behind.

America will be at great risk of terrorist attack—we are told—if we invade Iraq. Shortages among the ranks of health and public safety professionals diverted from their civilian jobs to go to war with Iraq will leave Americans with a perilously thin margin of protection at home just when they are likely to need it most.

We must not be in a rush to initiate war against Iraq. Saddam Hussein is certainly in no position to launch a strike against the United States with thousands of our troops massed on his doorstep. Iraq will not be able to rebuild its ailing military in the coming months or to covertly produce weapons of mass destruction under the watchful gaze of the U.S. military and the U.N. weapons inspectors. Today's headlines reveal that the UN inspectors discovered a cache of empty chemical warheads in an ammunition dump. Who knows what tomorrow's inspections may uncover. Where is the urgency that would drive us to preempt the inspectors before they have adequate time to fulfill their mission. While there is dwindling international support for using the initial findings of the U.N. inspectors as a trigger point for

invasion, there is great support for the overall United Nations arms inspection program. Saddam Hussein is politically isolated, and the world is virtually unanimous in supporting the disarmament of Iraq. I support that disarmament.

To act precipitously now, however, without the full support of our friends and allies, could cost the United States dearly in the long run. Already, some of our strongest allies in the region, most notably Turkey, must chafe at U.S. pressure to join in the war on Iraq. According to a recent survey by the nonpartisan Pew Research Center, 83 percent of Turks oppose allowing U.S. forces to use bases in their country to attack Iraq. And yet our war plans call for the stationing of as many as 80,000 U.S. troops in Turkey. In Europe, the same poll found that large percentages of the population believe that U.S. desire to control Iraqi oil is the chief reason that we are considering attacking Iraq. These perceptions can only serve to undermine our global influence in the years to come. If the U.S. can seize Iraq for its oil, what other nation might it decide to conquer? These thoughts must be on the minds of those who question our new and belligerent foreign policy.

The possibility exists that the crisis in Iraq can be resolved without a shot being fired. With more time and increased diplomatic efforts, there is a chance that Saddam Hussein could be peacefully forced into exile. But first, the fever pitch of war rhetoric often heard from this White House must subside. If we fancy ourselves a superpower then we must behave as a superpower, with confidence, with wisdom, and with dignity.

Some very important dates are fast approaching. The first is January 27, when the United Nations weapons inspectors are due to present to the Security Council their first formal assessment of Iraqi compliance with U.N. disarmament demands. Their interim report, delivered to the Security Council on January 9, confirmed that Iraq's weapons declaration was incomplete and insufficient, but the inspectors also reported that they have found no ''smoking guns.''

I was heartened by Secretary of State Colin Powell's statement that, despite indications to the contrary, January 27 is ''not necessarily a D-Day for decision-making.'' We must give the inspectors adequate time to conduct a thorough search. While the White House continues to assert that Saddam Hussein possesses weapons of mass destruction, it is important to note that the United States has just begun to share key intelligence information on the Iraqi weapons program with the U.N. inspectors. It will take time to pursue those leads. Even our staunchest allies, including Great Britain, are urging the U.S. to slow down on Iraq and let the inspectors do their work. The January 27 report is the first, not the final, step in that process.

The second important date on the near horizon is January 28, when President Bush is due to deliver his State of the Union message. The dueling crises in Iraq and North Korea are grim reminders of his last State of the Union speech when the President branded those nations and Iran an ''axis of evil.''

The President's rhetoric that evening was colorful, but events have proved that it was not wise. I note that the President is now saying that he is ''sick and tired'' of Saddam Hussein. That is just the type of rhetoric we do not need at this volatile time. It only adds to our image of bellicosity. President Bush must resist any urge to personalize our foreign policy and tone down the supercharged public rhetoric which has been flying around for months. Whether George Bush is ''sick and tired'' is not the issue. Whether ROBERT BYRD is sick and tired is not the issue. It must not be perceived as the President's reason for sending American men and women to shed their blood in the hot sands of Iraq.

America must not be viewed globally as a reckless power which views the world in terms of simply flattening the opposition. We must not continue to brandish our awesome military might, walk away from treaties and cooperative agreements, and ignore nuances and sensitivities.

We are losing friends all around the world, and that is extremely risky business in an age of globalism and terrorism. A great nation should not have to rely solely on the force of its armies to inspire the world's admiration. A great nation should inspire other nations by the example it presents to the world.

The doctrine of preemption is likely to cause us trouble far into the future. Labeling whole countries as ''evil'' invites a response and risks arousing hatreds and passions that are best left sleeping.

Setting the United States up as the ultimate judge of good and evil, with the right to preemptively strike any nation which might pose a threat in the future, is the fastest way one can imagine to make us not only feared but also universally hated.

When one considers that a single angry person in a crowd with a vial of some dreadful, active virus is the equivalent of billions and billions of dollars worth of U.S. military might, it becomes clear that we are making the wrong choices on the foreign policy front.

When tensions across the globe are so high, the President would be prudent to measure his words carefully and reiterate for all the world to hear that he has not yet decided to attack Iraq, that he will fully engage in diplomatic solutions to the North Korean crisis, and that the United States will seek not to initiate war but to apply the soothing balm of patience to an anxious world. I call upon this Administration to cool the rhetoric; reevaluate its doctrine of preemption; initiate a return to the peace table in the Mideast; and go back to the United Nations for a final endorsement before we decide whether to unleash the deadly dogs of war.

I yield the floor.

The PRESIDING OFFICER. The galleries will refrain from making any outbursts.

The Senator from Arizona.

AMENDMENT NO. 44

(Purpose: To strike section 211 of Division B)

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. MCCAIN. While I am waiting for the clerk, I mention that I was told by the distinguished manager of the bill after the last vote that I would be recognized for the next amendment. That did not happen. In the aspect of senatorial courtesy, I believe I have been given assurances that I would propose the next amendment. It is clear we are on Friday at 12:30, and we have additional amendments, some 40 or 50 amendments, that will require recorded votes. I think it is important at this time we move forward.

I intend to be brief in my description of this amendment and ask for the yeas and nays at the appropriate time. I have an amendment at the desk and ask for its reading.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 44.

Beginning with line 12 on page 138, strike through line 14 on page 141.

Mr. MCCAIN. Mr. President, this amendment would strike section 211 of division B of the resolution. What section 211 of division B does is pretty incredible. It would give the still-to-be created subsidiary of the Malaysian-owned ''Norwegian Cruise Lines,'' owned by Malaysia, the exclusive right to operate foreign-built cruise vessels in the domestic cruise trade.

Effectively, the provision would allow Norwegian Cruise Lines, which bought the pieces and parts of two ''Project America'' cruise vessels following the bankruptcy of a company called American Classic Voyages, to incorporate these parts into large cruise vessels that would be constructed in foreign shipyards. Then, notwithstanding the Passenger Vessel Services Act, the provision would allow the Norwegian Cruise Lines to flag these vessels as if they were U.S.-built vessels and operate them in the domestic trade—guess what—requiring service in Hawaii. The provision also allows the Norwegian Cruise Lines to bring over a third foreign-built ship to operate in the United States of America, in direct violation of existing law.

As many of my colleagues know, I am no fan of the protectionist laws that require domestic cruise ships to be U.S.-owned, U.S.-built, U.S.-flagged, and U.S.-crewed. However, I strongly object to waiving these laws for only one foreign-owned company.

These proposed vessels have a long and sordid history. The pieces and parts that NCL will build into cruise ships have cost the American taxpayers close to $200 million dollars. Again, these parts were bought following American Classic Voyages' bankruptcy, which had begun construction of two vessels in Ingalls Shipyard in Mississippi after securing loan guarantees from the Federal Government through an intensive lobbying effort.

Let me provide some history of American Classic Voyages' ''Project America'' for the record: The project, which was to consist of the construction of two large cruise ships in the United States, received considerable political support over the last several years. This political support translated into language being included in the Department of Defense Appropriation Bill for FY 1998 that granted a legal monopoly for its owner, American Classic Voyages, to operate as the only U.S. flagged operator among the Hawaiian islands. In March of 1999, the contract for Project America was signed with great fanfare in the rotunda of this very building.

Intense lobbying also created the political pressure that helped secure a $1.1 billion loan guarantee from the U.S. Maritime Administration's (MARAD) Title XI loan guarantee program for the construction of these two vessels—which is, by the way, the maximum allowable amount.

Within the first year of construction on the first of these cruise ships, the project was a year to a year and a half behind schedule. Both American Classic Voyages and Northrop Grumman Corporation—Ingalls Shipyard's parent company—were crying foul over construction problems and months of nonbinding mediation over contract disputes.

On October 19, 2001, American Classic Voyages filed a bankruptcy petition under Chapter 11 of the U.S. Bankruptcy Code. The petition listed total assets of $37.4 million and total liabilities of $452.8 million. The cruise line said in its petition that it has more than 1,000 creditors, including the American taxpayers being represented by the Department of Transportation.

Had the Project America vessels been completed, they would have been the largest cruise ships ever built in the United States and could have sparked a new phase of commercial shipbuilding in this country.

Mr. President, none of that occurred. The failed project is one of the most costly loan guarantees ever granted under the Maritime Loan Guarantee Program. I questioned the merits of the ''Project America'' at the time the special legislation was considered and went so far as to introduce an amendment to the FY 1998 Department of Defense Appropriation Bill to remove the monopoly language. Based on the information available at the time, I believed then that the project was more likely to fail than to succeed.

Guess what? The project did fail. Project America resulted in the U.S. Maritime Administration paying out over $187.3 million of the American taxpayers' money to cover the loan default for this project, and recovering only $2 million from the sale of some of the construction materials and parts. But now, the provision in the Omnibus is built around the scraps of that horribly failed pork project, which would now go into the new venture.

Like ''Project America,'' the provision in this omnibus bill singles out one company; this time it is Norwegian Cruise Lines, for preferential treatment, and gives that company privileges enjoyed by no other. There has been no analysis, no discussion, no hearing, no debate on the value of granting an exclusive exemption for this one foreign-owned company—exclusive exemption from the Passenger Vessel Services Act.

Over the last several years, I have worked with all sectors of the maritime industry to look for solutions that would provide for a healthy U.S.-flagged cruise ship industry calling on ports nationwide. While these efforts have not come to fruition, I am committed to continuing this work. But those efforts will be, and should be, taken in the committee charged with this responsibility, the Committee on Commerce, Science, and Transportation.

The author of this language is a member of the Commerce Committee, and a valued one. I strongly urge him to bring this issue on the agenda of the Commerce Committee and maybe we can work this out, rather than tucking it in as a provision, without any debate, without any discussion, without any authorization at any time, in direct violation of existing law. It is a direct violation, an exemption from existing law, the Passenger Vessel Services Act.

Any proposed legislation from the Commerce Committee will be crafted in an open and inclusive manner, not behind closed doors as appears to have occurred with section 211.

Aside from the procedural concerns I have, section 211 is fundamentally unfair. I firmly believe what is good for one corporation is good for all. Section 211, however, would create an uneven playing field for cruise operators and, depending on how the language was interpreted, also would create an uneven playing field for States by requiring these vessels to operate only in Hawaii, leaving most coastal States with no regular U.S.-flagged cruise ship service.

Following on the heels of the failed attempt by American Classic Voyages to build a large cruise ship in a U.S. shipyard—an effort driven by lobbyists and special interests—I believe further efforts to expand the U.S.-flagged cruise ship fleet should be accomplished through the normal legislative process after debate and open examination. Any solution should benefit a broad section of the U.S. maritime industry and all of our Nation's ports. In order to spur such a debate, I offered that amendment to simply strike the special interest provisions in the omnibus bill. We can do better than this provision.

Let me just give a couple of quotes from the media, this one from the New York Times, June 18, 2002:

CRITICS CHRISTEN SHIP PROJECT AS AN OFF-COURSE U.S.S. PORK.

Two years ago, with waving flags and hula dancers swaying, the government announced an ambitious program to build two passenger cruise ships—the first in a United States shipyard since the 1950's—and provided more than $1 billion in loan guarantees to get the program going.

It did not hurt that the ships were to be built in the Pascagoula, Miss., shipyard where the father of Trent Lott, the Republican Senate minority leader, once worked. As a result, Senator Lott became one of the strongest supporters of the program, which was named Project America.

Today, the project is being derided as an example of political pork gone wrong. What remains of Project America is an unfinished hull the size of two football fields and pieces for a second ship lying around. The hull is not floatable; it has neither a completed bow or stern; and its future is in doubt. The price to the government for the failed project is $187 million—money the government is trying to recoup by putting the half-finished hull on the market.

By the way, they did put it on the market. They sold it for $24 million, of which the American taxpayer got $2 million—1, 2—$2 million, in return for a $187 million default.

How can we come to this body and tell them that we ought to do anything but leave this issue alone for now? Haven't we done enough damage to the American taxpayers? Isn't a $187 million default enough?

This dismal reality only confirms the worst fears of the project's critics—and is a far cry from the high hopes of those who backed it. Critics, who call Project America corporate welfare, say it shows the dangers lurking behind the tens of billions in loan guarantees the government has extended to an array of businesses, among them airlines, the housing industry and American exporters.

''This has turned into a corporate welfare debacle.''

* * * * *

The Maritime Administration's loan program is intended to support domestic shipyards by guaranteeing the debt issued to finance commercial ship construction. Last year, the agency guaranteed $362 million; in 2000, $885 million.

When a project fails—as happened after American Classic's bankruptcy filing—the government steps in to pay off the debtholders.

You know, the interesting thing about this, too, this outfit that started this Project America, is there is a billionaire who operates a casino—riverboat. He is a billionaire. He didn't lose any money on this deal. He didn't lose any money. The American taxpayer did, because it was so well crafted, thanks to special interest lobbying, that the only exposure was to the American taxpayer—$187 million worth.

It will be argued that September 11 was the cause of the downfall of this magnificent project.

Even before Sept. 11, Project America had run into trouble. It had fallen behind schedule and was far over budget. As a result, Northrop Grumman, which owns the shipyard, took a $60 million write-off from it and American Classic lost $100 million. The yard itself will continue to make and repair Navy vessels.

''The project was behind schedule and millions in the hole,'' said John Graykowski, former administrator of the government's shipbuilding program. ''The terrorists' attack masked this reality and perhaps allowed the emperor to maintain his modesty.''

So any argument that it was September 11 that caused this porkbarrel project to fail is simply not in compliance with the facts.

There have been a lot of articles written. There probably should have been more because of the incredible loss to the American taxpayer of $187 million—sorry, $185 million; we got $2 million back.

So now here we go. We take an omnibus appropriations bill of $400 billion and we stick into it a little amendment that violates existing law, protects a Malaysian—gives a special break to a Malaysian-owned Norwegian Cruise Lines, and we are supposed to sit back and accept that. I don't think so. I don't think so. Didn't we learn a lesson last time, when Congress got involved, when there were a few of us who said: Wait a minute, wait a minute, this is crazy; this is just crazy?

How many millions of Americans' taxpayer dollars do we have to spend before we stop this kind of activity?

There are a number of other aspects of this issue. The proposed amendment will achieve the completion of Project America. My response to that—when Project America's earmark was pushed through in 1998, the proponents alleged that the goals were to develop a U.S-built, U.S-flagged cruise vessel fleet by authorizing the temporary operation of foreign-built cruise ships in the domestic trade.

The provision in today's omnibus appropriations bill totally disregards the prior requirement that a company operating foreign-built U.S.-flag vessels in Hawaii trade build the U.S. vessels in the United States. Now they will be built overseas. Instead, 211 will allow the construction of two vessels, using some parts of the failed Project America project, but it would not accomplish the objectives of promoting U.S. shipbuilding, as was one of the alleged benefits under the original project. When the Project America earmark was pushed through in 1998, it was limited to one company and two vessels. When Project America encountered financial problems and then bankruptcy, all of the alleged benefits to the country were lost and cost the taxpayers nearly $200 million.

If the sponsors are now seeking to achieve a new objective—the operation of U.S-flagged cruise vessels regardless of where they are built—then the amendment should be expanded to allow foreign-built cruise vessels to operate under the U.S. flag in all the domestic cruise ship markets in order to increase the alleged economic benefits that would result from U.S-flagged cruise vessels.

As far as military preparedness goes, we don't need to even bother to discuss that.

The proposed amendment will benefit the U.S. economy. It has really benefited the U.S. economy a great deal so far.

The proposed amendment does not perpetuate the Project America monopoly. As drafted, the provision creates a de facto monopoly for one company in the Hawaii cruise trade, arguably in the U.S. coastal cruise market. No other company under this proposal, under this legislation, can operate foreign-built, U.S.-flagged—can, under this proposal, operate U.S.-flagged, foreign-built cruise vessels in the Hawaiian market or any other market. It is totally unrealistic to believe another company will be able to secure financing to build a vessel in the United States for operation in the Hawaii cruise trade in direct competition with the foreign-built, U.S.-flagged cruise vessels that would be authorized to operate under this provision with far less capital investment.

I will be glad to engage in more debate on this issue. This was a terrible thing we did to the U.S. taxpayers back in 1998 under a process that I have vehemently and strongly resisted because of these very circumstances. Provisions are inserted in appropriations bills without hearing, without authorization, without scrutiny.

Then some of us have to come to the floor and object to them without full and certain knowledge of the issue.

I promise you that if I had known for sure we were going to lose $187 million of the taxpayers' money, I would have filibustered.

I knew it was wrong and seriously flawed. I knew that some billionaire who operates riverboats probably isn't very good in the business of building massive cruise ships.

But we cannot continue this kind of activity. Just suppose that this is a good idea, that it is a great idea. Why are we putting it into an omnibus appropriations bill that is supposed to fund the functions of Government and not authorize in direct violation of existing law? How do we justify that?

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. McCAIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, in 1997 Congress, as noted by my colleague from Arizona, enacted the U.S.-Flag Cruise Ship Pilot Project in an attempt to ''jump start'' the redevelopment of a U.S.-flag cruise industry. As some of our colleagues know, the large oceangoing cruise ships, so familiar in Miami and other United States ports, all operate under foreign flag. This may be a startling fact when one considers that after the Second World War, U.S. flag ships carried some 80 percent of the world's ocean borne cargo and most of America's seagoing passengers. Today, in stark contrast, less than 4 percent of all the world's international cargo moves on ships flying the U.S. flag, and not a single large oceangoing passenger cruise ship in the world operates under U.S. registry.

The enactment of what has become known as the ''Project America'' legislation more than 5 years ago was intended to reestablish a U.S.-flag cruise ship industry. The benefits of creating a U.S.-flag cruise ship industry have long been obvious. Such an industry would maintain America's preparedness for a national emergency by developing a pool of qualified seafarers, help sustain a fleet of U.S.-flag vessels to support our military vessels and a maritime industrial base for times of national emergency, create tens of thousands of seagoing and shoreside American jobs, and stimulate the development of a U.S.-flag cruise ship tourism business with commensurate benefits to the U.S. tax base, the U.S. economy, and U.S. employment.

These were among the guiding principles and objectives of our legislative efforts to restore a U.S.-flag cruise ship industry through the Project America legislation in 1997. Under the terms of that legislation, the re-flagging of one foreign-flag cruise ship was permitted contingent on the operator contracting for construction of two new U.S.-built cruise ships—the first such vessels to be built in the U.S. in more than 40 years.

The project, while proceeding with considerable difficulty, including delays and increased costs in construction, ultimately became a victim of the September 11 attack on our Nation. The terrorist attacks dramatically impacted the U.S. economy, and caused financial difficulties for the entire travel industry. In fact, passenger bookings for American Classic Voyages Co.—AMCV—the company that undertook Project America, decreased by as much as 50 percent, and cancellations of bookings increased by as much as 30 percent in the weeks after the attacks. Ultimately, as a result, AMCV filed for bankruptcy, and construction on the two Project America ships was halted. The re-flagged vessel, the m/v Patriot, was transferred out of U.S. registry.

As a result of these events, thousands of seagoing and shoreside jobs were lost including more than 1,000 crewmembers and cruise ship service providers. Passengers experienced disruptions and lost fares. Yet, the U.S. government paid $185 million on a Title XI shipbuilding loan guarantee for the two cruise ships under construction at Northrop Grumman Ingalls Shipbuilding—

Ingalls—in Mississippi. Project America came to an abrupt halt.

At the time the Senate considered the Project America legislation, there were concerns, and in some cases opposition, expressed about Federal funds being spent for the construction of these ships and a proposed preference in market access for AMCV to serve the coastwise trade among the islands that comprise my State. But no one—not one member of the Senate—voiced an objection to the goal of further developing a U.S. flag cruise industry that would ultimately provide thousands of seafarer and shoreside jobs for Americans. Those jobs, along with the development of a qualified pool of seafarers that this country could rely upon in times of national emergency, should not become the permanent victims of the terrorist attacks. As our Nation restores the buildings and facilities that bore the brunt of that attack, we must also assist in the recovery of economic causalities. Since the demise of Project America, I have searched for a solution that would permit most of the objectives of the original legislation to be accomplished, but without any further expenditure of Federal funds, without any Federal loan guarantees, and without the need for the market preference in the 1997 law.

Last year, the U.S. Maritime Administration and Ingalls put the partially constructed Project America ships up for sale. While the sale was open to any offeror, Norwegian Cruise Line—NCL—the longest established of the U.S.-based cruise lines, placed a bid on the Project America ships that far exceeded all others. After NCL committed to acquiring the hulls, I met with company officials to discuss the possibility of completing Project America in a way that would achieve most of the main objectives of the original legislation without any further expenditure of Federal resources or any Federal loan guarantees. It is my hope that over time the United States will reap the benefits of its investment.

In the course of those discussions, completing the vessels at Ingalls did not seem possible. NCL asked Ingalls to bid on completing the vessels in Mississippi; however, the yard did not bid because it was preparing to build new ships for the U.S. Navy. Unfortunately, NCL's only option was to complete the ships elsewhere. In the meantime however, more than 250 workers in Mississippi worked on the partially completed hull over the summer to make it seaworthy for towing overseas for completion in another shipyard. It has become apparent that further legislation is necessary to reestablish the project to achieve most of the Project America goals, and to respond to concerns expressed by my colleagues about the original legislation.

Therefore, this provision in the Omnibus Appropriations bill will amend the original Project America authority. This provision, like the original Pilot Project, will apply only to cruise ships operating in regular Hawaii service. It was done that way because other areas did not want to have this competition. My provision would allow for the completion of the first hull, with an option to complete the second hull, from the material acquired in conjunction with the Project America ships that were under construction at Ingalls. Either or both of these ships may be completed in a non-U.S. shipyard experienced in cruise ship construction for operation under the U.S. flag in regular coastwise service. These new U.S.-flagged cruise ships will be required to operate with American crews, be subject to all U.S. laws, including tax, labor and environmental laws, and be owned by a U.S. corporation with United States citizens serving as chief executive officer and chairman of the board of directors, and with U.S. citizens controlling the board. Like the original Project America legislation, this bill permits increased foreign equity involvement in the enterprise. While under this new provision, the ultimate beneficial owner need not be a U.S. citizen, the requirement that the vessels be owned by an American company ensures that the ships' operations will be subject to all U.S. laws and that the vessel assets of the U.S. company will be available to our Nation in times of national emergency.

Consistent with the original Project America legislation, the U.S. corporate owner would have the right to reflag a modern foreign-built vessel under U.S. flag for operation in the coastwise trade to facilitate a cost-effective and timely transition to U.S. registry. Like the newly built ships, the reflagged vessel must have a U.S. crew and be subject to all U.S. laws. Before operating under U.S. registry, however, two conditions must be met. First, the reflagged vessel must undergo a complete inspection to ensure compliance with all relevant Federal safety and public health laws of the United States that are applicable to U.S.-flagged cruise ships. Further, any refurbishing or remodeling that may be necessary to assure compliance with these Federal laws must occur in a United States shipyard. Second, the reflagged vessel may commence operating only after the first Project America ship enters service. The U.S. Maritime Administration will be charged with overseeing the implementation of this bill, but reimbursement for costs associated with this oversight shall be obtained from those who operate cruise ships under this new authority.

The result of this provision would be the introduction of multiple modern U.S.-flagged cruise ships in regular Hawaii service. The ships would employ as many as 3,000 U.S. seamen, and all would be subject to U.S. labor, tax, and environmental laws, unlike the major foreign cruise lines. In short, these proposed changes to the original Project America legislation will still allow many of the original principles and objectives to be achieved, without additional cost to the American taxpayer.

While the legislation is limited to Hawaii, at the request of other areas, the benefits go far beyond the shores of my home State. In addition to the thousands of jobs and hundreds of millions of dollars in economic activity generated nationwide, this provision will strengthen our U.S. Merchant Marine. The ships operating under U.S.-flag will be assets available to the Department of Defense in time of national emergency, and these U.S.-flagged cruise ship operations will significantly expand our pool of qualified seafarers that man civilian-crewed military ships such as the Ready Reserve Fleet, a fleet of 76 U.S. Government-owned ships used to meet surge sealift.

The Department of Defense relies heavily on U.S. mariners to crew a large number of non-combatant vessels to deliver a wide range of supplies to United States and allied forces around the globe. In fact, as much as 95 percent of the military's fuel, food, munitions, and spare parts would move by these ships in the event of a major war.

The media have chronicled the concerns of our Nation's military and maritime officials about the Nation's ability to crew these non-combatant ships because of shortages in the numbers of civilian American seafarers. Most recently, in Defense Week, VADM David Brewer, Commander of Military Sealift Command, expressed ''concern'' that the lack of qualified seafarers might ''strain'' activation of the Ready Reserve Fleet.

CAPT Bill Schubert, Administrator of the Maritime Administration, the agency charged with ensuring a viable Ready Reserve Fleet, has been even more blunt in his assessment of the circumstances last year in a Baltimore Sun article entitled, ''Shipping Crew Deficit Called Wartime Risk,'' where he said:

> This is a very serious issue that needs to be addressed now—today . . . I'm not comfortable right now that we have the ability to respond to an emergency.

Mr. President, I ask unanimous consent that a copy of the Defense Week and Baltimore Sun articles be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 1.)

Mr. INOUYE. Mr. President, I think we should remind ourselves that not too long ago there was a war we have referred to as the Yom Kippur war that was fought in the Middle East. It was a war that involved the Republic of Egypt and the State of Israel.

On Yom Kippur Day, a day of very holy significance in Israel, Egyptian troops went across the river, got into the Sinai, and were on the verge of successfully carrying out the military mission. We received frantic calls from Israel to resupply their troops, because their troops had a 90-day amount of

ammo, but because of the intensity of the combat, over half of that had already been used.

We, therefore, called upon every American and American company that owned ships on the high seas but under foreign registry. There are hundreds upon hundreds of vessels owned by Americans or American companies that are registered in Panama, Liberia, or in someplace out in the Pacific in the trust territories. They do not pay taxes. They do not hire American crews. But we felt that because they were Americans, they might come to our aid. We wanted ships to carry these military goods to help the Israelis.

When the word reached them that the Saudis would look upon this as an unfriendly act, the response from our fellow Americans, to help Americans provide help to their allies, the Israelis, was absolutely zero. Not one ship responded. History shows, as a result, we had to carry out cargo on C–5 aircraft, huge aircraft. Two of them were buzzed by Egyptian fighters. Every time I think of this, I shudder, because if any one of them had been shot down, the question arises, would we have been involved? In all likelihood, we would have been.

Therefore, the fact that after the end of World War II we carried 80 percent of all the cargo, and today less than 4 percent, should be of concern to all of us.

What if the war many are suggesting might happen does happen and it becomes not a minor war but a major war? Do we have the vessels to carry necessary troops and equipment abroad? I believe that is a good question we should ask ourselves.

I do not suggest the Project America provision solves this problem. However, virtually every person engaged in the debate over seafarer readiness would agree that a primary way to address the problem is to promote a viable U.S.-flag fleet. My provision does just that.

With international tensions rising, I believe we must do all we can to support the Nation's military readiness. My legislation would do that by creating desperately needed American seafaring jobs that will support a military sealift.

To summarize, let me be clear what this section does. First, no Federal funds may be used to complete the Project America hulls. No Federal loan guarantees may be issued by the U.S. Government to perform work on these ships. The preference in the original Project America law that was criticized as limiting competition among the islands of the State of Hawaii does not apply to these ships. At this moment, if any American company wishes to build a ship in the United States and carry on the business in Hawaii or, for that matter, in any other port of the United States, that company may do so. Or if that company has a foreign flag vessel and believes that vessel should be reflagged to an American flag and would come before us, as we have in the past, it we may do so. This does not close that door. It just gives it a jump start.

We need something to be done. As I pointed out, Federal safety and health inspections on the proposed reflagged vessel must occur in the United States shipyard, not abroad. All future maintenance on these cruise ships and any repairs needed in order to register the vessel in the U.S. must occur in our shipyards. The U.S. Coast Guard safety regulations will govern ship operations, and U.S. mariners operating the vessel will be subject to Coast Guard licensing. The U.S. Maritime Administration will oversee the implementation of this legislation and recapture that cost from the cruise line operators.

I want to stress to my colleagues and those in the maritime industry that this provision will not adversely impact the Jones Act cargo trades where the fleet is vibrant and growing. It is strictly limited to the large oceangoing cruise ships and then only those operating in the regular Hawaii service where there are no U.S.-flag operations.

I would also like to stress I continue to support U.S. domestic shipping requirements that mandate U.S.-built, operated, and crewed vessels. I recognize that in certain circumstances, some degree of relaxation of these requirements may be necessary to stimulate growth in the United States maritime industrial base. While this particular provision is intended to fulfill the completion of Project America, and promote the use of large U.S.-flag passenger vessels in Hawaii, I have supported legislation that will provide similar flexibility for large passenger vessels throughout the United States. This legislation was introduced by my distinguished colleague from Arizona. I will continue to support such proposals that are crafted to strengthen our U.S. maritime industrial base.

However, I feel we need to move forward expeditiously with this proposal to ensure we can realize some of the benefits of the original Project America legislation. Planning requirements and operational changes necessary to complete this project to allow for the use as a U.S.-flag vessel must be made shortly or the vessels will be completed for use under a flag of convenience or foreign flag.

Yes, some $185 million in Federal funds have already been invested in this project as a result of the Maritime Administration loan guarantees that were called upon when AMCV went bankrupt. A U.S.-based cruise company has taken the risk of purchasing the hull and related materials from Project America with no assurance that legislation could be enacted to obtain coastwise privileges.

Instead of simply building the ships overseas for operation under a foreign flag with foreign crews or seeking product exemptions to the Passenger Vessel Services Act to operate these ships, NCL has stepped to the plate and is willing to hire American crews, be subject to American laws, and achieve some of the original benefits of Project America.

I will be the first to admit that the original Project America failed. There is no U.S.-built cruise ship ready for delivery on January 23, 2003, which was supposed to have been the delivery date of the first Project America ship. There is no work proceeding on a second U.S.-built cruise vessel, and the Federal Government is out $185 million for the title XI loan guarantee. While the economic downturn resulting from September 11 was the final nail in the lid of the Project America coffin, the troubles, as noted by my colleague from Arizona, began well before that catastrophic event.

No one will dispute that U.S. shipyards are inexperienced in constructing large oceangoing cruise ships. We recognized this and, through the original Project America, provided the incentive necessary for an $880 million fixed price contract to build modern state-of-the-art cruise ships in the United States.

Throughout the process, the shipyard experienced significant problems in construction of ships. For example, within the first year of construction, the yard was experiencing a projected delay in delivery of approximately 1 year and an escalation in the price of outfitting the interior of the ship by as much as $76 million. Eventually a negotiated settlement was reached, extending the delivery dates, increasing the price, and requiring additional project equity.

After the vessel owner's bankruptcy brought the work on Project America to a halt, the partially completed vessels were auctioned. The successful bidder, NCL, offered the Ingalls shipyard an opportunity to bid for completing the vessels, but Ingalls declined. The yard handled predominantly military construction and was not interested in completing the vessels. Instead, the yard retooled its operation to handle an increased order book for Navy ships.

U.S. shipyards predominantly build Navy ships. Based on past experience, the Government is more willing than the private sector to absorb increases in the price tag or delays in delivery of the vessel. A commercial company requires more stringent pricing and schedule discipline to ensure that projects are economical.

With Project America, that discipline did not exist, and the shipyard opted to concentrate its efforts on government contracts. Other shipyards were in the same situation, with orderbooks filled with government vessels.

I remain committed to our U.S. shipyards and believe they have an important role to play in the future of the U.S. cruise ship industry. My provision will give shipyards additional business that they may not otherwise get—any conversion work necessary for certification of the new cruise ships, and any

future non-warranty repairs and maintenance must be done in U.S. shipyards.

If Section 211 is not adopted, the Federal Government will lose all future benefits from its $185 million investment. My provision gives America another opportunity to jump-start a U.S.-flag cruise industry that will bring the Government a return on its investment.

NCL is the only cruise line willing to step up to the plate today and commit to a U.S.-flag, U.S. crewed operation.

We can choose to write off the Project America investment by not acting, and watching as these completed hulls are introduced into the booming U.S. cruise market under a foreign flag, with foreign crews, operated by foreign corporations without direct benefit to the U.S. economy or American workers.

But if we are to make good on any of that investment, we must act now to generate real and lasting economic benefit to our economy—and to restore pride in the fact that the Stars and Stripes will once again fly on modern oceangoing passenger cruise ships.

By taking action now on Project America, we will begin to recover the investment our nation has made in these hulls both through revenues to the U.S. Treasury in the form of individual income taxes, Federal and State corporate income and payroll taxes, and a broad range of other Federal and State taxes paid by the cruise industry—not to mention the broader benefits this legislation will bring to our military preparedness and to our sagging economy.

No further Federal funds are required, nor are Government financial guarantees permitted. This legislation simply allows for the completion of Project America and for this company to set a shining example as a proud employer of U.S. seafarers and as a proud operator of U.S. flag ships.

I urge my colleagues to support this effort so that we can revive our U.S.-flag cruise industry, increase our military preparedness, stimulate the economy, and create thousands of good jobs for Americans.

EXHIBIT NO. 1

[From Defense Week, Nov. 12, 2002]

FORCE PROTECTION IS TOP CONCERN FOR SEALIFT COMMANDER

(By Nathan Hodge)

Protecting vulnerable cargo ships has become the main worry for the three-star admiral in charge of the fleet that is moving weapons and materiel in support of a U.S. military buildup in the Middle East.

In an interview with Defense Week, Vice Adm. David Brewer, commander of Military Sealift Command (MSC), said that force protection is MSC's ''No. 1 priority.''

At some point, that could possibly mean embarking armed guards aboard foreign-flagged ships that move sensitive U.S. military cargo. Asked if that was the case, he simply said, ''We're still working that issue,'' and declined to elaborate. MSC operates a fleet of 120 noncombatant ships to deliver a wide range of supplies to U.S. and allied forces around the globe. In event of a major war, ships controlled by MSC would move as much as 95 percent of the military's fuel, food, ammunition and spare parts.

The command augments its own fleet by contracting with commercial shippers. According to U.S. Transportation Command, the United States military relies on commercial ships—many under foreign flag-to meet as much as two-thirds of its sealift requirements.

In an ideal world, said Brewer, the U.S. military would move all its cargo under U.S.-flagged ships. But he added: ''Right now, we don't have enough. We've seen a steady decline in U.S. flag shipping over the last 10 years. I think . . . there's less than 125 U.S.-flagged [commercial] ships now.''

That means increased reliance on foreign-owned ships for military sealift, an issue that has prompted concern in policy circles. In a July report, the General Accounting Office said the Defense Department ''relinquishes control'' of sensitive military cargo when it contracts out to foreign ships.

When the U.S. military hires foreign-flagged vessels, there are no armed U.S. guards on board. When the U.S. military hires U.S.-flagged ships, sometimes there are guards on board. But when GAO reviewed many shipments of weapons on U.S.-flagged vessels, it found them unguarded.

Brewer stressed that U.S. cargo preference laws favor U.S.-flagged shippers, who get the first opportunity to bid on any of MSC's contracts for cargo movement. And he said that MSC very closely scrutinizes all the commercial vessels, including foreign ones, that carry military cargo.

''If we cannot find a U.S. flag, we sometimes will embark cargo or equipment on a foreign flag,'' he said. ''But in a perfect world, we want a U.S. flag.''

When MSC does embark equipment aboard a foreign-flagged ship, Brewer said, ''We watch those ships very closely and in some cases embark our personnel aboard those ships to make sure the cargo is secure.''

Asked if that included armed cargo supervisors, called supercargoes, Brewer said: ''We're still working that issue. Armed supercargoes is an issue we're still working.''

INVESTING IN UPGRADES

An attack last month on an oil tanker off the coast of Yemen spotlighted the vulnerability of commercial ships. In an incident reminiscent of the attack on the USS Cole (DDG 67) in 2000, a small watercraft laden with explosives struck the French supertanker Limburg, crippling the ship.

Brewer said MSC takes the threat to merchant vessels as seriously as it takes the threat to military transport ships and said his command would be investing more money over the next several years to upgrade security on board its own ships.

''We're dedicating significant resources to, number one, providing . . . force protection in terms of training and equipment to budgeting a significant amount of money actually through fiscal 2009 to make sure not only that we not only install the latest technology in terms of hull-perimeter lighting, intrusion detection systems, things of that sort, but also to make sure that we have aboard ships any technology that may be available in the future,'' he said. ''So we are investing a lot of money.''

The technology upgrades are particularly important because military transport ships, unlike Navy combatants, have small crews.

''MSC ships are 'manned to mission,' '' he said. ''So that means they're minimally manned. Therefore there's not extra people on board our ships to be armed.''

Much of the money that MSC will invest is in equipment and training. And Brewer said he was working closely with the Navy's fleet commanders in terms of developing an across-the-board force-protection policy for Navy ships.

''So we're investing quite a bit of time and money into force protection and we're working with the fleet in terms of developing and refining force-protection policy,'' he said.

BEANS AND BULLETS TO MIDEAST

Meanwhile, MSC continues to charter vessels regularly to move equipment and supplies. Earlier this month, MSC hired out two commercial ships to move a large shipment (284 containers full) of ammunition along with 28,000 square feet of rolling stock (including armored vehicles).

The ships were headed for unspecified destinations in the Middle East, said Marge Holtz, a spokeswoman for the command.

Brewer would not comment directly on deployments in support of military operations or the destination of cargoes. But he suggested that his command was keeping pace with the Navy's increased operational tempo, including the recent deployment of carrier battle groups to the Persian Gulf region.

''Our workload has increased in the sense that we are operating with the increased operational tempo with the battle groups,'' he said. ''But basically we satisfy the fleet's basic needs.''

Asked whether he is confident that his command can easily be put on a war footing, Brewer said: ''Ramping up, because of the planning we've put forth, . . . is not a problem.''

However, he did suggest that a full mobilization might put a strain on the Ready Reserve Force, a fleet of 76 government-owned ships kept in reserve by the Maritime Administration to meet surge shipping requirements for the military.

''Where that would put a strain on the maritime industry is if we have to activate the Ready Reserve Force ships,'' Brewer said. ''And with the decrease in U.S.-flagged ships, there's a concomitant decrease in U.S. mariners. So we're working with the Maritime Administration and the unions in making sure that if we have to go to war and activate the Ready Reserve Forces, there are enough mariners to man those ships.''

Most of those ships are kept in a ''reduced operating status,'' with small crews aboard for maintenance.

''If we have to take those ships to a full operating status, there is some concern there, but we're working this issue very diligently with the Maritime Administration and the maritime unions and we feel we could satisfy any wartime requirements,'' he said.

That point, he said, further reinforces the desire of the government, the shipping industry and unions to increase the number of U.S.-flagged ships.

In general, said Brewer, ''I want to see more U.S.-flagged ships. Period. More U.S.-flagged ships, number one, will be good for the economy. We are a maritime nation. More importantly, it is essential for our national security. Because [it means] the less we have to depend on foreign-flagged shipping today.''

[From the Baltimore Sun, Jan. 13, 2002]

SHIPPING CREW DEFICIT CALLED WARTIME RISK; BUSH'S MARITIME CHIEF ACKNOWLEDGES WORRIES ON READINESS; ''A VERY TOP PRIORITY'' NEW RESERVE FORCE AMONG PROPOSALS TO EASE SHORTAGE

(By Robert Little)

The Bush administration is acknowledging, after years of government denials, that the nation's ability to fight a large-scale war overseas is in peril because of a

crippling shortage of manpower in the U.S. merchant marine.

William G. Schubert, Bush's maritime administrator, said in an interview that he does not believe the Pentagon could find enough sailors to operate its cargo ships if military forces were deployed for a sustained overseas campaign.

He plans to pursue several immediate remedies, including pushing for the creation of a new Merchant Marine Reserve, and said solving the manpower crisis will be ''a very top priority'' of his administration.

''This is a very serious issue that needs to be addressed right now—today,'' said Schubert, a former merchant seaman who was sworn in just over a month ago. ''We don't have time to postpone this issue any longer, or there could be some very serious consequences. I'm not very comfortable right now that we have the ability to respond to an emergency.'' A series of articles in The Sun last summer showed that a shortage of U.S. merchant sailors, brought on by declines in the nation's commercial shipping fleet, would leave many of the government's cargo ships stranded in port during a crisis.

A small military force like the one currently in Afghanistan can be deployed and re-supplied with cargo planes and helicopters. But during a large campaign involving tank divisions and heavy machinery, such as the Persian Gulf war, about 95 percent of the equipment, fuel and supplies must move in ships.

the federal government keeps almost 100 empty cargo ships scattered around the country for use is such an emergency, and it plans to crew them with civilian sailors from the U.S. merchant marine. A complete activation of the 76-ship Ready Reserve Force and about two dozen other dormat sealift vessels would require more than 3,500 mariners, all of them culled from the nation's commercial shipping industry.

Despite denials of a shortage from government and military officials, the series published in The Sun revealed that the Pentagon recycles crew members, transferring them from ship to ship giving each vessel a full crew just long enough to pass a drill verifying its readiness for war. Some mariners served on as many as five ships a year.

The series also showed that the federal government is relying on retired sailors to fill in during a crisis, even though it has no idea how many retirees are available, who they are, where they live or what qualifications they have.

Since the articles were published, leaders from the nation's merchant marine unions have acknowledged the shortages, and two senior members of Congress have introduced legislation to bolster the commercial shipping industry and reverse its decline.

''THAT'S A GOOD START''

But Schubert's comments represent the first acknowledgement from a federal official responsible for military sealift that the shortage exists—and the first pledge to do something about it.

''If he's admitting that this is a big problem, then he's the first one to do so. And that's a good start,'' said retired Navy Capt. Robert W. Kesteloot, a former director of strategic sealift for the Chief of Naval Operations who says a growing manpower shortage was apparent at the Pentagon even in the late 1980s.

''It's about time someone over there started taking this seriously,'' Kesteloot said.

The Navy is ultimately responsible for military sealift, but it has little control over the crew members hired for its dormant cargo ships because they are all temporary civilian contractors, not regular employees. The responsibility to maintain and preserve that work force rests with the U.S. Maritime Administration, a division of the Department of Transportation.

Previous maritime administrators have acknowledged concerns about manpower but have all claimed that the military's cargo ships can be fully crewed. Schubert's predecessor, Clinton-appointee Clyde J. Hart, said in an interview last year: ''It's a problem that should keep us up at nights, but it's not a readiness problem. We can man the ships.''

But Schubert, who worked for the Maritime Administration during the gulf war and watched it struggle to crew sealift vessels more than 10 years ago, said he discounts even the agency's latest survey, made public late last year, which concludes that a sufficient supply of mariners is available.

''I'd hate to put our national defense on the line based on a statistical analysis,'' he said. ''It was a problem 10 years ago, and the situation today has only gotten worse.''

The U.S. military has always relied on civilian merchant mariners for moving supplies by sea. They are cheaper than military personnel, because they are hired only when needed. And Navy sailors aren't trained in the precise skills required to operate cargo ships—and virtually all of them lack the necessary licenses and certifications.

A typical merchant mariner works four months at sea, then spends four months ashore, and few of them have permanent jobs on the same ship. Jobs are handed out by the unions based on how long a mariner has been ashore looking for his or her next ship. When a mariner has been ashore long enough to qualify for work again, most take whatever ship is available at the time.

In a crisis, the Pentagon plans to add its ships to the unions' list of commercial vessels looking for crew members, luring sailors back to sea much sooner than normal.

That strategy worked for decades, when the U.S. merchant marine dominated the globe and the fleet had thousands of vessels. But since 1950, the U.S.-flagged commercial fleet has shrunk from nearly 3,500 vessels to about 220. An industry that once kept more than 160,000 sailors employed now has fewer than 6,500 jobs.

Schubert said that correcting the manpower shortage will be a top priority in his administration. He plans to appoint a new deputy administrator with expertise in manpower and recruitment, and conduct a new, detailed survey of the merchant marine work force.

EXPANSION OF RESERVE FORCE

Schubert has already met with Navy officials to discuss creating a new merchant marine arm of the Naval Reserve. The Navy has a Merchant Marine Reserve, but it includes only ships' officers—not unlicensed seafarers that make up the bulk of a cargo ship's crew.

He is considering making service on Ready Reserve Force cargo ships an element of the service obligation for graduates of the tuition-free U.S. Merchant Marine Academy. And he wants to set up a program at the academy for emergency mariner training, to counter shortages in a crisis. Schubert graduated from the academy in 1974.

He also plans to oversee creation of a national database listing contact information for anyone—active or retired—with the Coast Guard qualifications necessary to work at sea. Today the government relies solely on unions and word of mouth to find mariners when they are needed.

But those are mostly short-term solutions. Lasting increases in the number of sailors available to the military can be accomplished only by altering the economic outlook for shipping companies that choose to register their vessels in the United States and hire American sailors, he said.

''If we don't have programs or initiatives to promote the profitability of the U.S. flag, nothing else will matter,'' he said.

The Bush administration has not taken a position on a bill before Congress that would lower taxes on American cargo ships in hopes of luring more vessels to the U.S. fleet. That legislation, sponsored by the senior Republican and Democrat on the House Transportation and Infrastructure Committee, is awaiting a nearing in the House of Representatives.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, if this amendment is allowed to stand in the appropriations bill without a hearing, without scrutiny, without any examination, without any authorization, it will be a violation of the Passenger Vessel Services Act, which required that any ship operating under these circumstances has to be built in the United States of America.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I ask unanimous consent that the vote in relation to the McCain amendment occur at 1:30 today, with the time equally divided in the usual form and with no amendments in order prior to the vote; further, that prior to the vote, Senator LANDRIEU be recognized as in morning business for up to 5 minutes; further, that following this vote, Senator BIDEN be recognized to speak for up to 20 minutes and Senator BROWNBACK, for up to 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Mr. President, reserving the right to object, I ask the distinguished manager and chairman, does he anticipate further votes following the speaking?

Mr. STEVENS. Yes, we do expect further votes this afternoon. We have the prospect of a Dodd amendment and a further amendment by the Senator from Arizona. So we have the prospect of continuing votes on through the afternoon.

Mr. MCCAIN. Mr. President, I do not object.

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

The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I thank the Senator for the accommodation for me to make a few brief comments about the District of Columbia appropriations portion of this appropriations bill.

I have no amendment to offer, but I will make a few general comments about a very small portion of this underlying bill, and I am mindful that we are about to vote on Senator MCCAIN's very important amendment.

Obviously, there are pros and cons, but I wish to take this moment to talk about a $512 million budget out of a $750 billion bill. It is not a lot of money—well, obviously, it is a lot of money; $512 million is not small change, but it is such a small percentage of the total amount of the appropriations bill. But for the 500,000-plus people who are residents of the District, for the citizens of our Nation who look to the District as truly what it is—their capital, our Nation's capital, and for the many hundreds of thousands and millions of people who travel to this District every year—adults, senior citizens, children, people of all ages, I thought I would take a moment to say a few brief words.

I want to begin by thanking our chairman, now ranking member, of the Appropriations Committee for his help in crafting this important portion of this bill. The good Senator from West Virginia spent many years as chairman of this subcommittee, and he knows well the issues about which I am speaking.

I thank the chairman, Senator MIKE DEWINE from Ohio, for his leadership. We work very closely as chairman and ranking member. I thank him and his staff, Mary Dietrich, for all of their hard work in pulling this portion of the appropriations bill together.

First, I wish to speak about a couple of big points. The District's budget is in fairly good shape. It has taken effort on the part of Congress, Democrats and Republicans, as well as the mayor and his partners on the council, a lot of work by the business community and civic organizations that have given suggestions and comments, as well as a structure that was put in place after the reform board moved on, to put in place a financial infrastructure that helps the District stay on strong financial footing.

Are there challenges? Yes. Is every city in America challenged? Yes. Every State, as the Senator most certainly knows from his State of Tennessee, is challenged with budget constraints. But the District, just as every city in America, struggles with chronic problems of losing a tax base and having to provide services for hundreds of thousands of people who come into the District each day yet do not pay that full share of the tax and the political difficulty of finding an appropriate political solution.

Nonetheless, with all those challenges, this mayor and the city council have gotten the District close to a balanced budget position, and because of that, a lot of the initiatives about which we have talked in Congress are going to hopefully be brought to the forefront.

No. 1, in this budget, there is additional security for the District of Columbia. As our Nation's Capital, we should, as Members of Congress, along with the mayor and council, make sure we set as much money in place as we can to secure the many beautiful monuments and buildings. Unfortunately, this is a target-rich district and needs extra money for security. Some, not all of what we need, but some of that money is in the bill.

No. 2, the District has put forward a great and ambitious agenda for improving their schools. I am proud to say there is $20 million to create, not for the first time, to expand a revolving fund for charter schools. As the schools improve, we are able to help create the kind of physical environment that rewards excellence, and that is in this bill.

We have also created the first ever family court in the District to try to cut down on child abuse and neglect, to help strengthen our families and our neighborhoods, to create special judges who will pay attention to these very serious challenges and then support them in their efforts. I thank Senator DURBIN particularly for his work in that regard. There are other provisions worth noting.

I am proud to submit a bill that works with the mayor and with the council in a bipartisan way to help this city, which is so special to the people who live here and so special to all of us, fulfill the dreams of how we want to see this city flourish and grow in the years ahead.

Again, I thank my colleagues on the Appropriations Committee for putting forth efforts to create this bill.

The PRESIDING OFFICER (Mrs. DOLE). The Senator's time has expired.

UNANIMOUS CONSENT—S. RES 23

Mr. DASCHLE. Madam President, on Wednesday, the administration made a decision to oppose the University of Michigan's efforts to promote diversity on the campus. In making the announcement, the administration said that Michigan's process amounted to a quota, and that the university should look at other factors, such as economic and geographic backgrounds. Their statement ignores the fact that both of those factors, as well as others, are considered by the university and given the same weight as race.

I have made clear on other occasions what I and many of my colleagues believe: The Michigan system is not a quota; the Michigan system is constitutional; and that President Bush made the wrong decision. Racial and ethnic diversity in our Nation's institutions of higher education is an important goal.

A student body that reflects the diversity of America is a valuable resource for all of our students. But kind words and lofty rhetoric alone cannot open the doors of educational opportunity or guarantee a diverse student body.

We must show our commitment through our actions. That is why today I am asking consent that we adopt a resolution that supports the University of Michigan. This resolution states that the Senate supports the university's attempts to create a racially and ethnically diverse student body and directs the Senate legal counsel to file an amicus brief on behalf of the entire Senate in support.

By adopting this resolution, we can show with our actions, not just our words, that we truly believe in the importance of racial and ethnic diversity. I hope my colleagues will join me in this effort and support, certainly not stand in the way, of the resolution.

Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 23 and that the Senate then proceed to its immediate consideration; that the resolution and preamble be agreed to, en bloc; and that the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I think all of us in the Senate would love to see equal opportunity for all students. One of the great advances we have made is to eliminate discrimination—formal discrimination—that we had in this country for a long time against people of color, but I do not believe the answer to that is by instituting something that, in fact, discriminates the other way. That is what the University of Michigan system does, to give someone, because of the color of their skin, 20 points toward the admission score and someone with a perfect SAT score—to me the values that the admission process should consider are where the person came from, the obstacles they had to overcome in their lives, their economic condition, and their family situation.

There are many issues that are intangibles that should be considered in an admissions process. But when you compare this young girl from Michigan, who was the plaintiff in this case, who happens to be white and has overcome a lot in her life to reach the point where she could apply to the University of Michigan and potentially be accepted, and you may have someone who happens to be Hispanic or African American and may have come from a privileged background, went to the finest private schools, and for them to get an advantage over someone who scratched and clawed through a very difficult situation seems to be unfair.

What the administration has done is tried to focus, as the President did at the University of Texas when he was Governor of Texas, on trying to provide opportunity for all without putting forward discriminatory impediments to people simply because of their gender, their ethnic background, or their race.

To me, it is an opportunity-based system for people who have had a disadvantaged life and I believe is a healing balm on this very difficult undertone of racism that we have seen in this country.

Madam President, I think the administration is moving in a positive direction, so I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I do not know what the agenda is. I know the chairman of the Judiciary Committee has a different opinion.

Maybe the Democratic leader decided we are not going to be dealing with the appropriations bill. We have an amendment on which we are getting ready to vote. We were supposed to vote on it a couple of minutes ago. I guess people want to debate the Michigan case, but that is really not the issue before us. The issue before us is an appropriations bill.

Eleven out of the thirteen appropriations bills have not been passed. We are trying to finish the appropriations bills. The chairman of the Appropriations Committee is trying to move the Senate forward. He has been asking for amendments. We are trying to consider amendments. We are getting ready to vote on an amendment, and the Democratic leader has a resolution that says: We want to adopt a position opposite that of the President of the United States on the Michigan case, without even advanced warning and without allowing the chairman of the Judiciary Committee, who also has a resolution taking a different position, to come forward.

There is a time and place to debate it, but this is not it. We should be doing the business we have not completed from last year, and that is the appropriations bill. I have a resolution, and I can do exactly what the Democratic leader did. I can ask unanimous consent that we take the plaintiff's side of this case and ask that it would pass. I know it would be objected to. It was actually drafted by Senator HATCH, so I will leave that to him to elect to do.

It is kind of a waste of the Senate's time for people to take a contentious issue and say: I am going to ask unanimous consent that we take one side of that issue and try to pass it, knowing it would not pass. I could make this same argument and know it would not pass. I think we would be wasting the Senate's time.

I urge our colleagues to stay with the regular order and finish the work we did not do last year, and that would be to deal with the amendments that are pending and pass the unfinished business of the appropriations bills.

I shall not ask unanimous consent at this point, but if people want to pursue this, we can.

I yield the floor.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2003—Continued

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. MCCAIN. Madam President, I ask for the regular order.

Mr. STEVENS. Madam President, there is a time agreement in effect.

The PRESIDING OFFICER. The regular order is 2 minutes of debate before a vote relative to the Senator's amendment.

Who yields time?

Mr. MCCAIN. I yield to the Senator from Hawaii for his 1 minute, and I will take 1 minute.

Mr. INOUYE. Madam President, I yield back my time.

Mr. MCCAIN. I yield back my time.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Madam President, I move to table the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second on the motion to table?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL, I announce that the Senator from Nebraska (Mr. HAGEL) is necessarily absent.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAUX), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

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

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

The result was announced—yeas 62, nays 33, as follows:

[Rollcall Vote No. 8 Leg.]

YEAS—62

Akaka	Domenici	Lott
Baucus	Dorgan	McConnell
Bayh	Durbin	Mikulski
Biden	Ensign	Murkowski
Bingaman	Feinstein	Murray
Bond	Frist	Nelson (FL)
Boxer	Gregg	Nelson (NE)
Burns	Harkin	Pryor
Byrd	Hollings	Reed
Campbell	Hutchison	Reid
Cantwell	Inouye	Roberts
Carper	Jeffords	Rockefeller
Chafee	Johnson	Schumer
Clinton	Kennedy	Snowe
Cochran	Kohl	Specter
Collins	Landrieu	Stabenow
Conrad	Lautenberg	Stevens
Corzine	Leahy	Talent
Daschle	Levin	Warner
Dayton	Lieberman	Wyden
Dodd	Lincoln	

NAYS—33

Alexander	DeWine	Lugar
Allard	Dole	McCain
Allen	Enzi	Miller
Bennett	Feingold	Nickles
Brownback	Fitzgerald	Santorum
Bunning	Graham (FL)	Sessions
Chambliss	Graham (SC)	Shelby
Coleman	Grassley	Smith
Cornyn	Hatch	Sununu
Craig	Inhofe	Thomas
Crapo	Kyl	Voinovich

NOT VOTING—5

Breaux	Hagel	Sarbanes
Edwards	Kerry	

The motion was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, what is the regular order now?

The PRESIDING OFFICER. Under the previous order, the Senator from Delaware has 20 minutes.

Mr. STEVENS. Madam President, under the agreement he has 20 minutes to speak. Following that, for the information of the Senate, Senator BROWNBACK has 5 minutes.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, if I may ask the chairman of the Appropriations Committee, Senator STEVENS, a question.

Mr. STEVENS. Yes.

Mr. BIDEN. Although I have been waiting a while, I can refrain from doing that if we are likely to move on to other votes. I do not want to hold people up on Friday afternoon. But if we don't have something we are going to go to right away—in other words, I don't want to get in the chairman's way. But, otherwise, I would like to speak. But I know it is Friday afternoon. I see people with topcoats on their laps, and they have places to go. I can make this the last order of business today. But I don't want to yield to others who are not going to speak on an amendment. But I will yield if you really think we are going to move to something and we are going to act on it. That is my point.

I ask the Senator from Alaska if he can tell me what the plans are.

Mr. STEVENS. Madam President, the Senator from Delaware has given us a chance to think. This is a good time to think. So we are happy to give him 20 minutes right now.

The PRESIDING OFFICER. The Senator from Delaware.

THE UNIVERSITY OF MICHIGAN CASE

Mr. BIDEN. Madam President, I rise today to, quite frankly, compliment and add to the comments of my friend from West Virginia, Senator BYRD—although I will not be as eloquent—who spoke today on Iraq and Korea and national security policy.

Before I do, there was an intervening comment exchange that was made on the floor earlier relating to the Michigan University cases.

I rise at this moment not to speak on whether or not the merits of the Michigan cases or the merits of the Michigan admissions policies are constitutional or unconstitutional. My instinct, in what little I know about it, is that it seems to be constitutional because there is a two-pronged equal protection test that has to be met; and that is, does the University's consideration of race as one of many factors in making admissions decisions constitute a compelling Government interest, and if it does, is it narrowly tailored. It appears, from what I have read in the press, that it is.

But I want to respond in the next 2 minutes to something my friend from Pennsylvania, my neighbor, Senator SANTORUM, said. He talked about this point system. I just want to remind everyone how the University of Michigan's policy works, which is like many other universities.

Under the University's undergraduate admissions process, every applicant can get up to 150 points in seeking admission. My assumption is, what the university does, it reviews all of the applications from applicants. No one gets 150 points, necessarily, but there are methods by which you can get up to 150 points.

Madam President, 110 of the 150 points are strictly related to academic criteria. They relate to GPA, the school you went to, the high school you went to, the curricula you took, your SAT scores, et cetera. Forty points are up for grabs, and they relate to nonacademic factors.

It is possible for a minority to get 20 points because of his minority status. People are pointing to that as saying that is unfair. Well, forget the constitutional detailed arguments for just a moment, because we will have plenty of time to make those on the floor. I want everyone to remind themselves what the rest of the University of Michigan policy allows.

If you are the son or daughter of alumni, you get 4 points. If you come from an underrepresented county within the State of Michigan, you can get up to 16 points. If you are a Michigan resident, you get 10 points. If you are from an underrepresented State, you get 2 points.

Let me translate this. And I do not mean this as a criticism of anybody else's State. The most competitive, the most difficult place to gain admission, the most difficult geographic States to gain admission to the most elite colleges are Delaware, Pennsylvania, New Jersey, and New York. It is harder to get into competitive colleges if you're a resident of those States.

If you are from Mississippi or Alabama or Alaska and have the same scores as students from these northeast states—like my son or daughter from Delaware, and my nephew from Pennsylvania—and everything else is equal, the child from Mississippi or Alabama or Alaska will get into the school before the child from Delaware, Pennsylvania, New Jersey, or Maryland. That's because—rightly or wrongly—the academic standards in these latter States are considered to be higher, and the competition is more intense.

So that is a literal fact of life. You say: OK, well, why in God's name would some child who does not have quite the same marks, or has the same marks, from the Midwest or Alaska or the Deep South have an advantage over a child from a New England State or a mid-Atlantic State? The reason is not to benefit the child. It is to benefit all the other students in the university. Because we have made a judgment, historically, in this Nation that it is better for my child to go to school with someone from Alaska, Mississippi, South Carolina, North Carolina—all across the Nation—than it is to go to school with everybody being from Pennsylvania, New Jersey, and Delaware. It has been a judgment educators have made. And the more elite the university, the more diversity, geographically, they seek.

It is the same way, I might add, that Rhodes Scholarships are, in fact, awarded. It is a heck of a lot harder to get a Rhodes Scholarship as a resident from New York State than it is from South Dakota. That is a fact—a fact. It is the competition pool. Why? More money per pupil tends to be spent in those richer States than in the States that are not as wealthy.

So what have we done? In everything we do about education, we seek, as a goal, not to reward the student, the diverse student who is coming in, but the goal is to reward the student body that is there to expose them to diversity.

It is good that my middle-Atlantic State daughter is in a school with people who talk to you like this—you know what I mean—like y'all do in the South. It is a good thing. She should be exposed to that. It is good your southern son or daughter knows and has someone in class that talks like they are from Brooklyn. It is a good thing. Some may disagree, but that has been a national consensus.

Like geography, race is one of those factors colleges do and should consider. The only generic point I want to make to people, as a Senator who opposes quotas—that is not hyperbole; I oppose quotas; and I have a 30-year voting record about that—but what is good for the goose is good for the gander.

All of you who tell me this is a level playing field, give me a break. If your daddy happened to go to that school, it is not wrong that you get a preference. But at least admit you are getting a preference. Stop this game, this silly little game.

If, in fact, you come from a State that is poor, stop pretending to me that it is a level playing field for a kid from Mississippi to get to Harvard versus a kid from Westchester County, NY to get to Harvard.

Give me a break. Let's stop being phony around here. I am not suggesting anybody is phony. I am just trying to inform those of you who have not had a chance to think of this how things actually work, how they actually work.

And, by the way, even on the academic side, you get somewhere between zero and 10 points based on the school you went to.

The school I went to is a Catholic prep school, with mostly middle class kids. My daughter, who is now a senior in college, graduated from that same school several years ago. If my memory serves me correctly, I believe that out of 114 kids in her graduating class, 69 passed five or more advanced placement tests, meaning that they tested out of their entire first semesters at the universities they attended—69 out of 114 passed five or more AP tests.

According to what was then put out by the SAT outfit out of New Jersey, these kids represented the highest number in the region to test out of their first semester classes, and one of the highest in the country—this little old Catholic school I went to. Guess what. It costs 14 grand a year to go to that school. Now, my daughter, I am confident, were she applying to Michigan, could have gotten up to 18 points—up to 10 for the quality of the school and up to an additional 8 for the quality of her curriculum. And not because of anything she had, but because her old man was able to borrow the money with her mother to pay for her to go to that school and expose her to that. She may have gotten B's and my sons who went there or I who went there may have gotten B's, while a kid from a little one-room schoolhouse—some States still have one-room schoolhouses, not many—from a small school in, say, North Dakota, where you have 20 kids in a senior class, that kid got a B, same grade point. My daughter may have gotten up to 18 points; the kid from North Dakota, with the same grade point average, may get no added points.

How does it really work? A Black kid in west Philadelphia, he might have gotten B's from a school we all acknowledge isn't that great a school. My daughter gets an 18-point bump on the academic side because she went to a school that costs—guess what, when I went there, it cost $900 a year, now it is 15, 14 grand. How many middle-class Black kids out there are able to pay 14 grand, or Hispanic, Latino kids? So I just think we should be honest about this.

There is a legitimate constitutional argument to make and a test that Michigan is going to have to prove, and they should have to prove. There is a two-prong test here. When you are in a suspect category—race is a suspect category—there are two tests: One, is there a compelling Government interest in using race as one of many factors to achieve a diverse class, and, two, is that use narrowly tailored. I think

Michigan can prove that. I haven't done all the work. I teach constitutional law; I think I know a little about it. I can't say to the Chamber, I am guaranteeing I know the Michigan test is constitutional. They should have to prove it. No problem. I think they will. But let's not kid each other. OK? Level playing fields? I will conclude this part and get on to what I was going to speak about and just look at it.

Of the total 150 points an applicant to the University of Michigan can get, 40 points are for non-academic factors. You can get 20 points if you're an underrepresented minority, but also if you're a scholarship athlete, or if you're a kid who is socio-economically disadvantaged; you can get 10 points if you're a Michigan resident, 16 points if you live in 2 particular counties in Michigan; 4 points if your parents are alumni; 3 points for your required personal essay; 5 points for personal achievement; 5 points for leadership and service and, guess what—I say to my friend who went to a great, great university, the Presiding Officer, Duke University, one of the great universities in America; this will not surprise her, I suspect—the provost has 20 points of discretion. How about that one? The provost has 20 points of discretion.

Do you think the provost is more likely to receive a phone call from the chairman of the board of General Motors, or do you think the provost is likely to take a phone call from Rashid's mother in Detroit? My colleagues, as the kids used to say, let's get real. Let's acknowledge the truth of this. There is no absolutely totally blind test out there.

I am not criticizing. Universities have a reason for giving alumni preference. How do you think Harvard was built? There is a little red book on how Harvard's endowment was built. You build loyalty to a university. People then do things for the university. That is a good thing, not a bad thing. It is a good thing. There is geographic diversity. It is a good thing that there is discretion built in.

But if you are going to take this purest view that race can never be considered, that minority status can't be considered and you want to be fair, be fair. Cash in your senatorial credentials when you start writing recommendations. OK? Don't write a recommendation.

You want to be really fair? Be like every other person out there, do you know what I mean? Maybe it is because I come from a place called Claymont. I come from an Irish Catholic family. I am the first one in my family to go to college—no Horatio Alger story.

I once got in an argument during the Thomas hearings which I don't like to recall very often. Someone was saying to me that there was no preference given to the Justice getting in the Yale University Law School. And I looked at this particular guy, who wasn't happy with me over another issue about logging roads through Federal lands. He was really mad at me about that. I looked at him and I said: Where did you go to school?

He said: I went to Yale.

I said: You are the guy who took my spot at Yale.

He said: What do you mean?

I said: We are the same age. You took my spot at Yale. I know you are the one.

He said: What are you talking about?

This guy happened to be from Alaska. I come from Delaware. If I'm not mistaken, you got points at Yale for being from Alaska. And probably his marks were better than mine, but I joked with him. He didn't know.

I said: I bet my marks were better than yours. I said: I'll make you another bet. I bet your daddy went to Yale.

He said: Yes, what difference does that make?

It makes a difference. Assume my marks had been the same as his. I am from Claymont, Delaware. My father is making 17,000 bucks a year, and I applied to Yale. He is from a geographically underrepresented area and his daddy went to Yale.

I mean this sincerely, I understand the anger of working-class and middle-class White people like me, my background. I can remember when my dad, who was an automobile salesman, I remember my dad being so angry when he was trying to borrow the money to get a student loan to send me to the local university and my sister almost at the same time. He was $800 over the limit. It was like 18,000 bucks he made that year, over the limit to be able to borrow.

The guy who worked on the lot came in really happy one day, and my dad was good friends with him. But the guy was the laborer who cleaned the cars. And he said: My son is getting in. I got the loan.

And my dad thought it was so unfair that this guy made one-third less than he did and he was able to get the loan, but my dad couldn't afford to send us all without the loan.

So I am not in any way belittling the legitimate concern and anxiety of middle class and lower middle class White folks who feel they are pushed out of the way. That is why I think we should give them all a $12,000 tax deduction to get to school which I have been pushing for 8 years now.

But it amazes me how some of our friends in this Chamber and in the body politic political elite really will bleed over the 1 or 2 or whatever percent of the White children who really do get bumped out of the way. Where is their bleeding for the 10, 20, or 30 percent of the Black kids or Latino kids who get pushed out of the way a thousand ways? Is anybody suggesting to me the injustice done to middle White class or any White student is anywhere nearly equivalent to the injustices done or the lack of opportunity available to minorities?

There is such an imbalance about this. That doesn't mean we should justify a wrong when it is only done to 1 percent of the people because there is a greater wrong done to another group of people. We ought to be able to figure out how to deal with this.

I will end with this: I respectfully suggest we should be making it a lot easier for kids to get to college, period, across the board. One of the things we should do is what my friend from Connecticut has devoted his career to, and he knows more about it than I do by a long shot, and that is making elementary and secondary education truly equal. He had an amendment that said, on this big bill we passed on education, by the way, if you are going to test people equally, make sure you spend equal amounts of money on them.

If you are a kid in west Philadelphia and you are a kid in Marion, which is one of the wealthiest areas just 4 miles away, I don't remember exactly what the numbers are, but it is like two or three to one resources spent on the kid in Marion to educate him than the kid in west Philadelphia. We are going to give them the same test. It reminds me of the old separate but equal stuff. So there is a lot we can do to make sure no child, White or Black, is bumped out of the way because they are qualified, but otherwise they do not suffer from one of the litany of things listed as being able to be taken into consideration in admission.

I am not making the case on the merits. I don't know enough about the Michigan policy. I hope we have a honest discussion about this when we talk about it because there are preferences built in across the board, absolute preferences.

I know, as a middle-class White kid—lower middle class economically—growing up, who did relatively well, I knew that the kid who had a lot more money, whose parents had gone to college, had more of an advantage. I didn't begrudge them the advantage. It is just there. It is just there. Let us at least admit to that and acknowledge that. Let's stop this—and nobody has done this in the Chamber, but let's not start demagoging this notion that all these White kids are being discriminated against and so-called reverse discrimination is killing opportunities for White children.

NORTH KOREA AND IRAQ

Mr. BIDEN. Madam President, we can't afford to put either Iraq or North Korea on the back burner. Both need our immediate and sustained attention. But the crisis on the Korean peninsula, and it is a crisis—is our most urgent priority.

The situation in North Korea has gone from bad to worse. They've thrown out the international inspectors. They've turned off cameras that tracked thousands of canisters of weapons grade plutonium. They've withdrawn from the Nuclear Non-Proliferation Treaty.

The irony here is that the very rationale some in the administration cite for regime change in Iraq is an emerging reality in North Korea: A rogue regime and one of the world's worst proliferators is on the verge of becoming a plutonium factory. It will sell anything it develops to the highest bidder.

We know it doesn't take much plutonium to make a nuclear threat real. You only need something the size of the bottom of a water glass, about an eighth of an inch thick, two pieces. With a crude operation to ram it together at high speed, you have a 1 kiloton bomb in a homemade nuclear device.

My colleagues from New York will remember this: our national laboratories produced what could be a homemade nuclear weapon. They made it off the shelf with easily obtainable materials. Everything except the plutonium. I asked Senators CLINTON and SCHUMER to bring that homemade weapon up to S. 407 and they walked it right in.

The threat of proliferation exists in North Korea as we speak, right now, not tomorrow or next week or next month or next year, but right now.

And by the way, if President Clinton had not completed the Agreed Framework, North Korea would already have material for dozens of nuclear weapons.

If North Korea continues down this path, we also risk an arms race in Asia. Think about it. North Korea, South Korea, Japan. And if that happens, China will build up its nuclear weapons arsenal, India will get nervous and do the same, and Pakistan will follow suit. Everything we've been working to present for decades—a nuclear arms race in Asia and beyond—will become a reality. And that could have a terrible impact on economic stability, too.

The regime in Pyongyang is first and foremost to blame for this crisis. But frankly, two years of policy incoherence on our part has not helped matters. We have see-sawed back and forth between engagement and name-calling.

And the last two weeks of taking options off the table—especially talking—has made matters worse. It tied our own hands and added tension to our already strained relationship with a key ally, South Korea. We need a clear—and clear eyed—strategy for dealing with this danger.

I'm pleased the administration now seems to be on the right track. As several of us have argued for weeks, direct talks are the best way out of this impasse.

Some claim that talking is appeasement. Well, we know that not talking could result in North Korea having the material to build up to a half dozen nuclear weapons in six months—and dozens more in the months and years to follow.

We know that taking out North Korea's plutonium program must be a course of very last resort. Pyongyang has more than 10,000 heavily protected artillery pieces just miles from Seoul—it could devastate the city, its inhabitants and many of our troops before we could respond.

We know that for additional sanctions to bite, we would need the participation of South Korea and China, neither of whom so far, wants to pursue that path.

And we know that talking is not appeasement. It is the most effective way to tell North Korea what it must do if it wants more normal relations with us. In fact, in dealing with an isolated regime and a closed-off leader, talking clearly and directly is critical if we want to avoid miscommunication and miscalculation.

We cannot and should not buy the same carpet twice. We won't if we insist on getting more from North Korea than we got last time. This should include giving up the plutonium and spent fuel it already has produced and forsaking the production of plutonium and uranium in the future—all of this verified by international inspectors and monitoring.

In turn, we should hold out the prospect of a more normal relationship, including energy assistance, food aid and a ''no hostility pledge.''

IRAQ

As we contend with Korea, we also must deal with Iraq. The administration was mistaken to suggest North Korea could be put on the back burner. But so are those who suggest Iraq is not a major problem. It is, and we must continue to deal with it on its own merits, but on our own timetable.

It's no secret that the State Department, the Defense Department, and the Joint Chiefs of are at odds on the best course of action in Iraq.

We have Hans Blix and the IAEA saying that the inspectors need more time to accomplish their mission—that they will have to stay in Iraq much longer to get the job done.

Secretary Rumsfeld is saying, if we get ourselves locked in for four more months we will lose our weather window and be forced to wait until the fall.

Secretary Powell is saying, look, we must make it a priority to maintain the support of the French and the Germans and everyone else, not to mention the American people. The President was right to make Iraq the world's problem, not just our own. Let's keep it that way.

In my view, the President has shown restraint on Iraq. He has gone to the United Nations. He has allowed inspectors to begin. Now he must allow them to take their course. I would say to the President, keep it going. In the eyes of the world, you're doing it right.

Inspectors are not a permanent solution and neither is our massive troop presence. But so long as the inspectors are doing their work in Iraq, backed up by the threat of our forces, it is highly unlikely Iraq could pursue a nuclear program undetected or would run the risk of selling chemical or biological weapons to terrorists. And we will sustain international support. Meanwhile, the pressure will build on Saddam. Unlike in North Korea, times is on our side, not his.

Of course, this massive deployment is costly and hard on our men and women in uniform. But going to war would be far more costly in terms of troops and treasure. It must remain a last resort.

If we do go to war, we better be absolutely certain that our friends and allies are all in the game at the outset.

Not because we cannot prevail against Saddam Hussein without them. We can—though it certainly makes sense to spread the risk and share the cost. But because without the support of other nations, we will be left with a political, financial, and, potentially, a regionally destabilizing burden after we take down Saddam. We will have to deal with the ''day after'' Saddam—or more accurately the decade after—on our own.

In the weeks ahead, if we move to war, I hope the President will tell the American people what he has not yet told them: How much will the war cost? How will the balance his guns and butter rhetoric with the bottom-line budget realities we face? How many troops will have to stay in Iraq after Saddam and for how long? How much will it cost to rebuild Iraq? Who will help us foot the bill? The American people deserve answers to these and other key questions?

The PRESIDING OFFICER. Under the previous order, the Senator from Kansas has 5 minutes.

TRIBUTE TO REVEREND DR. MARTIN LUTHER KING, JR.

Mr. BROWNBACK. Madam President, I wish to focus the body for a few minutes on January 20, 2003, when we will pause to remember Dr. Martin Luther King, Jr., a man who changed the course of history and America's conscience.

Dr. King is really one of those few individuals throughout history who has so nobly exemplified the principles of sacrificial love and devotion. He changed a country, and he gave his life in the process.

I want to read a short excerpt from a speech he gave the night before he was assassinated. On April 3, 1968, 1 day before he was killed, Dr. King said the following in a speech:

> I don't know what will happen now. We've got some difficult days ahead, but it doesn't matter with me now. I've been to the mountaintop and I don't mind. Like anybody, I would like to live a long life; longevity has its place, but I am not concerned about that now. I just want to do God's will. And he's allowed me to go up to the mountain, and I have looked over and I have seen the promised land. I may not get there with you, but I want you to know tonight that we as a people will get to the promised land.

He said that April 3, 1968, the day before he was killed. I want to particularly focus on that last sentence:

> . . . but I want you to know tonight that we as a people will get to the promised land.

In order for our Nation to reach the promised land Dr. King referenced, we must see a racial understanding, a racial reconciliation. We are still working at it and we still have a ways to go. We need to do it through education, through cooperation, through communication, and we need to do it every way we can.

For several years now, several of us have been working together—I have particularly worked with Congressman JOHN LEWIS on the House side to create a national museum of African-American history and culture on The Mall here in Washington—in our front yard. I am proud to say that I have had the support of many Members of this Chamber on this issue, including Senators SESSIONS, SPECTER, DODD, and CLINTON.

I am confident that when the Presidential commission, which we created, submits their report on the creation of this much needed piece of American history, this body will vote to create this museum—a museum that not only means a great deal to African Americans, but to this whole Nation as well.

I don't pretend that the creation of a museum will be a cure-all for racial reconciliation. It is, however, an important and, I think, a very productive step toward healing our Nation's racial wounds. I hope it can be a museum of reconciliation at the end of the day, and that we will be expanding on Dr. King's philosophy of understanding the plight of one another through education.

As we celebrate the life and legacy of one of our greatest national leaders, we need to return to those basic values which Dr. King promoted. His values are work, family, charity for our fellow man, and, most importantly, the recognition of a higher moral authority, which empowered his life so much.

I had the opportunity last year to meet in Atlanta with Dr. King's wife, Coretta Scott King. She brought up again that point of view that empowered him, which was the power of faith that was evident in all that he did. Only through those qualities he expressed and lived by will we become a nation truly worthy of Dr. King's legacy.

According to Dr. King, I will quote again:

> The ultimate measure of a man is not where he stands in moments of comfort and convenience, but at times of challenge and controversy. A true neighbor will risk his position, his prestige, and even his life for the welfare of others. Indeed Dr. King exemplified those qualities in his life, and I invite all of my colleagues to join me in continuing this legacy.

We will be introducing—probably within a month—the bill on the national African American museum. I hope my colleagues will join us in supporting this. I think it is going to be an important statement. We have tried now for some 73 years to get this sort of museum—I have not personally, but a number of groups have. It is time that this happens in order to tell the difficulties, trials, tribulations, and triumphs of the African-American people. It is my hope that through this understanding we will start to improve and create bonds and a racial reconciliation in our land.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NATURAL DISASTERS IN NORTH DAKOTA

Mr. CONRAD. Madam President, I rise to talk about a matter that is of urgent concern to the people I represent in the State of North Dakota, where we have been hit by a series of natural disasters, both drought and flood.

In northeastern North Dakota, we have had nearly a decade of overly wet conditions and, as a result, very severe crop damage, a dramatic loss in production. Ironically, in the other corner of the State, the southwestern corner, we have had the most severe drought since the 1930s. This combination has been a devastating blow to producers in my State, as it has been to producers in Montana, where they have suffered from terrible drought. Right down the core of the country, State after State has experienced overly dry conditions. On the other hand, States to our east have experienced overly wet conditions, with dramatic crop losses, and substantial damage to the economy as a result.

In the last farm bill, we passed in the Senate on a bipartisan basis a disaster relief package. When we went to conference with the House of Representatives, we were told there were two things that could not be negotiated. One was opening up Cuba to trade. The second was disaster assistance. We were told that both had to go to the Speaker of the House. When the Speaker of the House was contacted, he said that the answer on both of those questions—opening up Cuba for trade and disaster assistance—was a firm no.

The administration, in open session in the conference committee, indicated they would not support disaster assistance.

Madam President, we now come to this juncture, and we have another opportunity to respond to the extraordinary natural disasters that have been felt in various parts of the country. And the question is: What do we do? Some have suggested in this legislation an across-the-board cut of 1.6 percent in all domestic programs, and then to take some of that money and give a bonus payment to all farmers, whether they have been hit by natural disaster or not.

As much as I would like to see a bonus payment to all farmers, I really do not think it can be justified before we provide a disaster program for those who have been hit by natural disasters.

The hard reality is that this is something we have always done, whether it was floods in other parts of the country—Missouri—or hurricanes in Florida or earthquakes in California. Every year I have been here, 16 years, we have responded to natural disasters. Last year, for the first time ever, we failed. There was no program to respond to natural disasters.

I do not think we are going to look very good to the American people or very responsive to those who have suffered from natural disasters if our answer is to cut programs across the board and give a bonus to all farmers whether they suffered from natural disaster or not. I just do not think that can be defended. I believe such an approach is going to create very hard feelings, and I do not think it is fair.

The drought we are experiencing in southwestern North Dakota has now crept across the State. We just received the latest information from the U.S. Drought Monitor. It shows that the drought is now covering virtually all of our State and, of course, it shows the terrible and prolonged drought to our west in Montana, Wyoming, Colorado, and down into Arizona. This is a drought that is expanding, that is growing, and that is devastating everything in its wake. That has to be responded to, and always before, we have had a program of natural disaster assistance.

Some have said: Just take it out of the farm bill. There are no provisions for disaster assistance in the farm bill. The administration opposed it. It is not there.

Some say it is not fiscally responsible to have a program of natural disaster assistance. We have never taken that position in the whole 16 years I have been here. We have helped every part of the country that suffered from natural disaster. Every year, we have helped those who have been hurt. I do not think we should do any less this year.

The fact is, I wrote the Congressional Budget Office and asked them: What are the savings in the farm bill because of these disasters? They wrote back to me and said: Senator, the savings, because of these natural disasters, are approaching $6 billion this year. Why? If you have natural disasters, you have less production; less production, higher prices; higher prices, lower farm program payments.

The distinguished occupant of the chair is married to a gentleman with whom I served for many years. Senator Dole, the former Republican leader, represented Kansas in the Senate. He and I worked together many times on disaster assistance in the Agriculture Committee and on the floor of the Senate. Whether it was a problem in Kansas or a problem in North Dakota or a

problem outside of our States, we sought to be responsive to those who suffered from natural disaster, and I believe we should do that again.

The proposal in this appropriations bill was not done in consultation with the Agriculture Committee members, and it borders on bizarre. I do not know how else to say it. To cut every other domestic program by 1.6 percent and then give a bonus payment to every farmer, whether they have suffered losses or not, whether they have had natural disaster or not, I do not think can be justified.

We just passed a farm bill. I fought very hard for it. It is a good farm bill. It is not perfect, but it is a good farm bill, substantially stronger than the previous farm bill. For us to cut every other program 1.6 percent and give a bonus payment to every farmer in the country whether they suffered from a disaster or not, I do not think can be justified, I do not think can be supported.

Sign me up to give help to those who have suffered a natural disaster. Whether it is in the State of Kentucky, the State of North Carolina, the State of New Mexico, the States of North or South Dakota, Montana, or Colorado, we ought to have a disaster package, disaster assistance for those suffering from disaster. We should not cut everybody else and give bonus payments to those who have had no disaster.

How can that be justified? What are we going to do, cut law enforcement to give bonus payments to those who had no disaster? I do not believe that will be sustained. I do not believe that will be carried through the process. I do not believe the President of the United States would sign such legislation. Most of all, it is not right.

Let's take the resources that are available, the substantial savings that are in the farm bill because of these disasters. Because we had natural disasters, there is less production; as a result of that, there were higher prices; as a result of that, there were lower farm program payments to the tune of $6 billion, maybe more. The CBO is about to release new estimates. They may show even greater savings. I think a portion of those savings ought to be allocated to help those who suffered from natural disasters, and goodness knows those losses were widespread in 2002.

I conclude by asking my colleagues to think carefully about the precedent we are setting because always before, when others suffered natural disaster, we responded. We ought to do no less now.

Mr. SARBANES. Madam President, it is appropriate that, on the eve of the Martin Luther King, Jr. holiday, I rise today to pay tribute to a great Marylander and civil rights leader in his own right, former Baltimore Mayor Clarence ''Du'' Burns.

From humble beginnings in East Baltimore, Du Burns began a lifetime of public service and great accomplishments, eventually becoming the first African-American mayor of Baltimore. Born on September 13, 1918, in East Baltimore, Du attended Frederick Douglas High School and the Larry London School of Music, where he developed a love of jazz that would stay with him through his lifetime. At the age of 21, he married Edith Phillips, and soon thereafter joined the United States Army Air Corps. Du served in the Air Corps for 3 years before returning to Baltimore and embarking on a long career of service to the city.

For 20 years, Du Burns worked at Paul Laurence Dunbar High School as a recreational and youth hygiene counselor. In 1971, he first entered the political arena, serving as 2nd district councilman from 1971 until 1982, and later became both Vice President and the first African-American President of the city council. Then, on January 26, 1987, Du was sworn in to complete the term of Governor William Donald Schaefer, becoming the 45th mayor of Baltimore and the first African-American mayor in the history of the city.

This simple list of Du's career positions does not come close to expressing all he accomplished and all he meant to Baltimore. Du Burns got his nickname because he was always ''doing'' things for others. He made his life's work the improvement of our city, particularly those areas that others had written off as beyond help. Among his many accomplishments were the creation of the new Dunbar High School Complex; the East Baltimore Medical Plan, the first community-based HMO in the Nation; and Ashland Mews, a 372 town home community for first time homeowners. Du was one of the founding members and later a long-time chairman of the board of the East Baltimore Corporation, a nonprofit organization that provides substance abuse services, job training and placement, and numerous other services to people that desperately needed assistance in order to revitalize the community. Du likewise was a founder and chairman of the Eastside Democratic Organization. But most central in his life was his family and his church. Du was an active member of the St. Francis Xavier Roman Catholic Church for 45 years, and devoted to his wife Edith, daughter Cheryl, granddaughter, and extended family.

Like Dr. King, Du Burns serves as an example that one person can move mountains and change the world for the better with selfless service to the community. I was privileged to attend the funeral mass for Du yesterday, which was a touching celebration of his life and legacy. I think the homily given by Father Edward Miller at that service was a wonderful tribute to the spirit that guided his life, and which we should all strive to emulate. In honor of Du Burns, I ask unanimous consent that a copy of that homily now be printed in the RECORD.

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

EULOGY FOR CLARENCE ''DU'' BURNS

(By Father Edward Miller)

Extraordinary people are ordinary people, who allow Gods's Amazing Grace to touch them and transform, them.

Extraordinary people are ordinary people, who, if you hinted that they were extraordinary, would deny it, with all Christian Honesty and Humility.

Extraordinary people are ordinary people, who, are graceful in life's victories, and gracious in life's defeats, because they know the God who makes the sun to shine on the just and unjust, the rain to fall on the good and not so good.

Extraordinary people are ordinary people, who, when they are 'the first' to do something, simply say that somebody had to be first, but then look out for those who come after them, knowing that ''if I can help somebody . . .''

This morning we come in faith to commend the soul of our brother in the Lord, and an extraordinary man, Clarence Du Burns, to Almighty God.

I'll bet even God calls him Du.

When I went to the hospital to give him the Last Rites of our Catholic Church, his much loved grandchild Lisa, trying to wake him up, kept calling in his ear, ''Du - Du - Du - wake up!''

Now, I come from the old school, and cannot ever imagine calling either of my grandfathers John.

But I am sure that Du would have had it no other way!

He was proud of that name! And he will probably be the only Baltimorean to ever carry it. He got it the old fashioned way: he earned it.

When you speak it, and we had better tell his story to our children and children's children, speak his name with reverence, and with respect.

Du Burns embodied what was good about politics, what was good about life, what was good about Baltimore, the city he loved.

He loved his country, which he served for 4 years in the army.

He loved his Catholic Faith, and as a convert to Catholicism 45 years ago, was a member of St. Francis Xavier Catholic Church, itself a first, the first African American Catholic Parish in the US.

It was the only church he was a member of as an adult, those 45 years, although he was known to sneak over to St. Bernardine's from time to time with Cheryl and Lisa, and soon stopped standing up when visitors stood to be recognized.

He served at St. Francis Xavier as an usher, but not in an official, usher board capacity; he stepped in when needed, when the ushers were short-handed.

That was Du.

The Sun editorial on Tuesday said ''when he ascended in 1987 to become the first Black mayor of Baltimore, Mr. Burns knew a thing or two about how to make things work. He knew how to run an organization, he knew how to look after people.''

Cardinal Keeler, that sounds like the definition of an effective pastor! And he might have made a great Catholic priest and pastor, except that God called him to another vocation, to say ''I do'' to Miss Edith 63 years ago, and to travel through life together for these past 63 years.

Du loved his family, his wife, daughter and granddaughter, as the family pictures that literally cover every square inch of the living room walls attest.

Much was always made of Du's humble beginnings, of the locker room at Dunbar. And I say, ''Tell it, tell it, tell it some more; tell it to our children, who flippantly dismiss flipping burgers, because it is beneath them.''

Our youth need to know that if you have nothing, then nothing is below you. You can't be the CEO, if you have Zero!!! We need to tell them that in life, you do, and you keep doing; and if God gives you a lemon, you make the best lemonade anyone ever drank. That was Du's way!

Tell them that if you do what is right, God will make a way, somehow! That was Du's faith!

His being present and available back then at Dunbar, led to so many other developments.

Du became a youth counselor—to shape and guide young lives; a teacher—who shared his street smarts, and mentored aspiring politicians in East Baltimore; a developer—as the Dunbar Complex rose up; this uneducated man!; an architect—of the East Baltimore Community Development; a builder—as new housing rose up for first time home owners; a negotiator—as his skills built city council coalitions; this uneducated man!; a doctor—as the East Baltimore Medical Plan came to be; a wise man—who knew that you don't hang your dirty laundry out for all to see; but you clean it up in the back room, and hang it out clean, so no one would be embarrassed; a mathematician—who knew that ''10'' was the magic number; 10 votes, you win! This uneducated man!

But most of all, Du Burns was a servant of God!

The First Letter of John tells us that we cannot say we love the God we cannot see, if we do not love the sisters and brothers we do see.

Du knew that; he saw situations, he recognized needs, and he served. The phrase ''too busy'' was not in his vocabulary.

People were housed, fed, educated, given a chance, at his initiative. That is not irrelevant; that is life-giving, that is service; and to a believer, that is living the Gospel of Jesus Christ.

Baltimore is better, because Du Burns, an ordinary man, took what God gave him, used it for others' good, and became extraordinary, and forever a piece of Baltimore history.

Too many people spend their lives climbing the ladder of success, and when they reach the top, they find out it has been leaning against the wrong building all the time.

Not so for Du.

Most important: Du knew what God would do.

He knew that it mattered not if your name appeared in Who's Who at the library; it only mattered if your name was written in the Book of Life.

Sunday afternoon, Our Father God sent an escort named Jesus, to take Du home.

As lovingly as Lisa had called his name the Sunday before, Jesus now called his name.

The man who rode to many city appointments in a city limo, now had his best ride ever, as that heavenly chariot swung down to take him to that home on the other side, to that land where he will never grow old.

And he heard the Lord say, Du, you did! You understood that, whatever you did to the least of your s/b, you did to me! Now, rest in the green pasture, sit beside the cool water, take your place at the banquet table.

On Du's tombstone will soon be inscribed his name, dates of birth and death, and a dash in between them.

What he did in that dash through life made all the difference.

The psalmist says that 70 is the sum of our years, or 80 if we are strong.

So we place a strong man, tenderly, lovingly, into God's unchanging hands.

We are better, Baltimore is better, because Du passed through.

Thank You, Lord, for Du. Give him, we pray you, the reward that his good labors deserve.

Eternal Rest grant unto him, O Lord . . .

Mr. BREAUX. Madam President, I rise today to pay tribute to a great humanitarian and a great American, Dr. Martin Luther King, Jr. This week, as our Nation honors Dr. King on what would have been his 74th birthday, we have an opportunity to reflect on his courage, his legacy, and his dream for a better and more equal America.

To honor his legacy and to more fully realize Dr. King's dream, we in public service must support an agenda that reflects what is most important in the lives of all Americans, policies that emphasize economic opportunity, improved education, an enhanced healthcare system, election reform and protection of basic civil rights.

First, as we commemorate the legacy of Dr. King and his dream for our Nation I would like to take an opportunity to recognize the brave contribution of the African-American community in my own state of Louisiana, men and women who have been true leaders and pioneers in our shared journey for equality, justice and human dignity for all Americans.

Our country's first bus boycott, before Rosa Parks' courageous stand in Montgomery, occurred in Baton Rouge. Dr. King's national civil rights organization, the Southern Christian Leadership Conference, was inaugurated and chartered in New Orleans. And the bravery exhibited by students at Southern University was responsible for the landmark Supreme Court case that desegregated the entire interstate commerce facilities.

Dr. King's dream for equality and opportunity is reflected in recent work here on the floor of this body.

Last year, Congress and President Bush worked together to improve education for all students in our public schools with increases in Federal incentives for the lowest performing schools. To that end, I intend to pursue increased funding for the TRIO and GEAR UP programs, and for Historically Black Colleges and Universities, HBCUs.

Congress has passed comprehensive election reform legislation to begin to correct the problems and prevent the abuses of the 2000 election that led to the disenfranchisement of African-Americans and other minorities.

Our country struggles through an economic slowdown with high levels of unemployment, particularly in the African-American community. Congress has acted and passed an extension of unemployment benefits.

In 1996, we changed the way welfare works to help families escape the cycle of poverty and achieve independence. This year we must reauthorize those landmark reforms, but do so with more funding for childcare, healthcare and transportation. Children should not be the victims of welfare reform, and no mother should be forced to choose between her job and the care of her child.

There is much more to do. Today there are more than 40 million Americans without health insurance. As health care costs rise, we need a new approach to health care in this country, an approach that aspires to universal access for every man, woman, and child.

It is also past time to engage in a sustained and serious dialogue on racial profiling with an eye toward more public education and antiprofiling legislation.

Our country has come a long way in working to end the plague of discrimination and prejudice. Are things better? Yes, but they can be better still. We can do better, and we must.

Mr. LEVIN. Madam President, all across America preparations are being made to commemorate the life and legacy of Dr. Martin Luther King, Jr. On Monday, January 20, we will memorialize a man who sought to protect the dignity of a people and awaken the conscience of a Nation.

Dr. King's death is 35 years behind us now. To some extent, deeply felt passions and the frustration, anguish, and bitterness with which the Nation was consumed during the tragic year of 1968 have cooled. But what remains with us and what is indelibly woven into the fabric and history of our Nation is the vision which Dr. King lived for and the dream for which he died. Dr. King embraced all Americans in his quest to make a living reality of equality of opportunity and economic and social justice for all humankind, those fundamental principles in our Constitution.

This great warrior, whose battlefield was the hearts and minds of those who did not feel that justice and dignity were meant for all people, whose shield and armor was a strong determination and an unassailable character and whose ammunition was moral conviction and self-sacrifice, continues to deserve the fullest honor of this Nation.

Dr. King gave a number of famous speeches during his time, most notably in Montgomery, Birmingham, Selma, Chicago, Detroit, and several other cities. He came to Detroit on June 23, 1963, the day after his first meeting with President Kennedy. Introduced as ''America's beloved freedom fighter,'' he called the ''Freedom Walk'' that day in Detroit ''the largest and greatest demonstration for freedom ever held in the United States.'' Dr. King went on to say, '' . . . I can assure you that what has been done here today will serve as a source of inspiration for freedom-loving people of this nation.''

Dr. King spoke about Birmingham and the vision that had been broadcast to the entire world just two months earlier, when dogs and fire hoses were turned against peaceful marchers. He said, and I quote, ''Birmingham tells us something in glaring terms—it says that the Negro is no longer willing to accept racial segregation in any of its dimensions.'' It is said that the Freedom Walk in Detroit was in many respects a rehearsal for the upcoming March on Washington and Dr. King's I Have a Dream speech, two months

later on August 28, in our Nation's Capital.

Dr. King gave the people of this Nation an ethical and moral way to engage in activities designed to perfect social change without bloodshed and violence; and when violence did erupt it was that which is potential in any protest which aims to uproot deeply entrenched wrongs. Dr. King preached, ''Do not be overcome by evil, but overcome evil with good.''

He believed in a united America. He believed that the walls of separation brought on by legal and de facto segregation and discrimination based on race and color, could be eradicated. His quest was to make a living reality our fundamental principles, that ''all men are created equal,'' and with a right to ''life, liberty, and the pursuit of happiness.''

Few have dedicated their life so tirelessly in the struggle for equality as Dr. King. From the bus boycott in Montgomery to the sanitation workers in Memphis, his unyielding commitment to improve the lot of all Americans was demonstrated—he achieved significant goals by peaceful and nonviolent actions. To Dr. King, those means were beneficial to those in the struggle as the ends they were seeking.

With reference to the 11-month long successful Montgomery bus boycott, he said:

> Nonviolence had tremendous psychological importance to the Negro . . . This method was grasped by the Negro masses because it embodied the dignity of struggle, of moral conviction and self-sacrifice. The Negro was able to face his adversary, to concede to him a physical advantage and to defeat him because the superior force of the oppressor had become powerless . . . I am convinced that the courage and discipline with which Negro thousands had accepted non-violence healed the internal wounds of Negro millions who did not themselves march in the street or sit in the jails of the South. One need not participate directly in order to be involved . . . to have pride in those who were the principals . . . to restore to them some of the pride and honor which had been stripped from them over the centuries. We have come a long way toward achieving justice and equality for all.

When the Supreme Court order to end segregation on buses was delivered to Montgomery, Dr. King proudly told an overflow crowd at a local church:

> We came to see that, in the long run, it is more honorable to walk in dignity than ride in humiliation. So in a quiet dignified manner, we decided to substitute tired feet for tired souls, and walk the streets of Montgomery until the sagging walls of injustice have been crushed.

We have come a good distance in fulfilling Dr. King's dream, but there is still a ways to go. Let us rededicate ourselves today, in his name, to continuing the struggle for human rights for all, for which he lived and died.

Mr. SMITH. Madam President, I rise today to celebrate the life and remarkable work of Dr. Martin Luther King, Jr. In remembering Dr. King, I think we should all hold close to our hearts these words, spoken by Dr. King in May 1944:

> So as we gird ourselves to defend democracy from foreign attack, let us see to it that increasingly at home we give fair play and free opportunity for all people.

Even as we continue to fight the war on terrorism abroad, we are reminded of the injustice that still exists here, and we must be equally diligent to root out violence and discrimination at home.

The racial profiling and hate crimes that have occurred in the wake of September 11 are a blight on our Nation; but, we know that hate crimes are not new. June will mark the 5th anniversary of the murder of James Byrd, Jr. in Jasper, TX. James Byrd was dragged to his death for no other reason than hatred of the color of his skin. This is shameful, and our government must do more to protect all its citizens regardless of skin color, religion, gender, national origin, or sexual orientation.

As all of my colleagues know, I have been working to pass hate crimes legislation that will eliminate the bureaucratic jurisdictional hurdles that hinder our efforts to prosecute hate crimes, and give federal prosecutors new resources for cases involving race. I know that this will be the year to finally pass this legislation in the U.S. Senate. It is high time that we act to end the specter of hate across our Nation.

So as we pause to remember Dr. King next week, let us continue to look for opportunities to try to create change. We can all work a little bit harder to create the kind of world he dreamed about, a world in which things are the way they ''ought'' to be rather than the way they are.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. 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. NELSON of Florida. Mr. President, on the occasion of the day that honors Dr. Martin Luther King, Jr., I offer a couple of thoughts. I will share with the Senate a couple of stories.

I think of what Dr. King and his band of brothers and sisters meant to this Nation and their extraordinary success under extremely difficult circumstances and under a great deal of duress. One of his young lieutenants is a member of this Congress, Congressman JOHN LEWIS of Atlanta. He was one of the youngest of Dr. King's lieutenants, having been a very young preacher from Alabama who had joined Dr. King, a young preacher who, by the way, has regaled so many in this Congress with the stories of how he learned to preach in a rural area of Alabama, on a dirt farm, where JOHN LEWIS as a child would go out to the henhouse, and there, with an audience of hens perched on their perch in the henhouse, JOHN LEWIS would start to practice his oratory that ultimately brought him to be such a great preacher, to be such a great lieutenant of Dr. King's, or now, as we know, a great public servant, having been a Member of the House of Representatives for a number of years.

But the story I wanted to share about JOHN LEWIS, I asked him one day, there was something very special about what you and Dr. King and the rest of Dr. King's group would do because you were always together and there was not a lot of discord. How was it, in the face of all of that physical threat and at times physical brutality, you were able to be so successful and so single-minded of purpose that you ultimately achieved your goal?

He said: Bill, we always met together as a covenant group in prayer and we always prayed together that divine providence would watch over us, and that gave us the strength.

That was an insight for me into that extraordinary part of American history where they were so very successful. So, on this eve of Dr. Martin Luther King's holiday, I not only give the reverence and the respect to Dr. King, but to those who were with him, like our friend, our colleague here in the Congress, Congressman JOHN LEWIS.

But there is another story I wanted to tell you about. It is illustrative of some of the obstacles that have had to be overcome, particularly by minorities and people of color, for whom Dr. King fought so successfully. I want to tell you the story about Charlie Bolden from Columbia, SC.

One day I was down in my State and a very distinguished retired gentleman approached me. He said, You don't know me, but we know someone in common and that's Charlie Bolden. He knew that the relationship I had with Charlie Bolden was that Charlie was my pilot on the 24th flight of the space shuttle. Both of us were rookies. That is the same Charlie Bolden who went on to command two more flights, ultimately retired from the astronaut office, went back in the active duty Marines, and has just recently retired with a second star—General Charlie Bolden.

But the story this gentleman wanted to tell me was the extraordinary success story of Charlie Bolden from Columbia, SC, whose father was a football coach, whose mother was a librarian who had always taught him the value of an education and the value of hard work. Yet when this outstanding high school student applied to the Naval Academy, his representative from the South Carolina congressional delegation would not nominate him because of the color of his skin. So this gentleman I met in Florida wanted to tell me the story.

He was an Assistant Secretary of Defense under the administration of President Johnson, and one of his specific duties, in addition to his Department of Defense duties, was to go

around the country and find promising minority students and try to get them married up with a sponsor who would nominate them to the service academies. This gentleman found Charlie Bolden, who could not get a nomination from his congressional representative in his home State. But Senator Hubert Humphrey of Minnesota nominated Charlie.

Charlie went to Annapolis. He was promptly elected president of the freshman class and continued as class president, interestingly, alternating as class president in that Annapolis class with another very distinguished American, the just retired Adm. Blaire, the Commander in Chief of the Pacific for the United States. Charlie, at the end of graduation, chose the Marines. He chose aviation, he became a marine test pilot, and then he applied for the astronaut office. Fate brought the two of us together on the flight that had to be scrubbed four times on the pad, delayed over the better part of a month. On the fifth try, almost a month later, we were launched into an almost flawless 6-day mission, with Charlie having to correct a helium leak immediately after launch, only to return to Earth from a very successful mission and, 10 days later, Challenger launches and blows up 10 miles high in the Florida sky.

An extraordinary success story about a fellow, an African American, who wanted to achieve, who obviously had the right stuff, who could not get in because of the color of his skin in a nomination process, who was given a break and who soared in his personal achievement and his contributions to our society. This is another example of the principles for which Dr. King fought.

I want to tell one more story. This is a story that has nothing to do with American history, but it is one of my favorite political heroes in history. A British parliamentarian by the name of William Wilburforce came to the Parliament in the 1790s and served there for almost 4 decades. He came to the Parliament at age 21. He came at the same time as his good friend, William Pitt the younger, who, 3 years later, at age 24, was elected Prime Minister and, of course, William Wilburforce, one of Pitt's best friends, could have been a part of the government. But he had an experience and he decided to devote his life to the elimination of the established economic order of the day in England at that time, the English slave trade.

Just to give you an idea of the enormous economic power of the slave trade at that time, in the 1790s and early 1800s, it would be as if you would take half of the American Fortune 500 companies, combining all of that economic power, and that was the power that invaded the whole country of England at that time. That was how much money was being made by the shipping companies, by the captains, by the seamen, by the insurance companies. They would go under the flag of truce, down off the African coast—sometimes with the complicity of some of the tribal chieftains and sometimes not—taking natives as slaves against their will and forcing them into the holds of ships, separating them from families and shipping them to the new world where they would be sold.

Wilburforce, at age 24, and a Parliamentarian, said this is wrong; it is against God's law, and he devoted himself to the abolition of the English slave trade. Time after time, again he was beaten in vote after vote, but he persevered. He overcame, and 20 years later his bill passed the Parliament. As a matter of law, the English slave trade was abolished. Some 20 years later—literally 3 days before William Wilburforce died, news was brought to him on his deathbed that the Parliament had abolished slavery, a full 2 or 3 decades before slavery was abolished in the United States.

He also had as one of his great crusades not only the English slave trade, but what he called ''The Reformation of Manners''—what we term today a moral and spiritual revitalization of the country. He did that for England in that day and was exceptionally successful, particularly after he wrote a book, which would be at the top of the New York Times best seller list today, called ''A Practical View''—written by William Wilburforce.

On this eve of Dr. King's birthday I wanted to reflect on these giants—JOHN LEWIS, a contemporary among us, a lieutenant of Dr. King; Charlie Bolden, a contemporary today, a just retired Marine two-star general, former astronaut; and William Wilburforce, one of the great leaders who singlehandedly as a single member of Parliament—not in the government—changed the course of history of the world by his persistence in establishing a law to abolish the English slave trade.

What do those three people have in common, JOHN LEWIS, Charlie Bolden, and William Wilburforce? What they had in common was clearly they were courageous, clearly they were persistent, and clearly they were talented. But they also were ''overcomers''—to overcome the established order of the day, to make things different, and to make things more right.

This is my testimony to Dr. King.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I thank the Senator from Florida for a moving and insightful tribute to William Wilburforce, someone I never heard of before I came to the Senate. Now many of our colleagues have talked about him in the same vein as the Senator from Florida has.

Picking up from the theme he has established, I would like to talk briefly about the legacy of Martin Luther King. I was in Washington when the great march took place that led to Dr. Martin Luther King's moving address ''I Have a Dream'' occurred.

One of the interesting things about that address from which I take some comfort is Dr. King left his established transcript in the speech. He started out sticking to the transcript, and as the speech built he became overcome with the spirit of what he was doing, and extemporaneously launched into the soaring phrases that he outlined of ''I Have a Dream,'' and he described to America what he saw.

One of the interesting ironies of today's debate about civil rights is the dream Martin Luther King, Jr. saw in the eyes of many is being turned on its head. He saw a country where color would make no difference, where it would make no difference in employment, where it would make no difference in academic admission, where people would be judged on the basis of anything but their skin color. He had a dream that that time would come.

I will not go into detail about the current fight that is going on with respect to the University of Michigan, but I do wonder aloud how you can square what has been going on at the University of Michigan with Dr. King's dream. If at the time he had given that speech the University of Michigan had a rating system for all of its applicants and said if you are white we will give you an automatic 20 points on our rating system, but we will deny those points to anyone who is Hispanic, Asian, or African in heritage, I think Dr. King would have had a few things to say about the inequities of that. I think clearly he would have condemned that, and he should have condemned that.

Now some of those who claim to be his spiritual heirs are applauding that when it is applied in reverse. I will leave that matter to the courts. I will let that play itself out however it happens.

But I want to make this one further observation.

What does that tell us about Dr. Martin Luther King, Jr.? That tells us he had parents who were married to each other, who were stable in their family, who loved him, and who raised him in a family circumstance.

The African-American woman who has achieved perhaps the highest degree of success in contemporary society is Condoleeza Rice. What do we know about Condoleeza Rice and her rise in this struggle? We know that she was born in Birmingham, AL where Dr. King wrote the letters from a Birmingham jail. We know at the time Birmingham, AL was regarded as the most heavily segregated city in the United States. We know that is where the riots were. That is where Dr. King was arrested. That is where he wrote his letters from that jail. That is where Condoleeza Rice grew up.

We know this about Condoleeza Rice. She had parents who were married to each other, who loved each other, and who provided her with a home in which she learned.

One of the things she learned, as outlined in her biography, was because she

was black and female she would have to be twice as good and work twice as hard in order to make it in the white world. Instead of protesting that, instead of taking to the streets and complaining about that inequity, Condoleeza Rice determined she would indeed be twice as good and work twice as hard as any of her contemporaries.

The story is told that when she was at school at the college level, one of her professors began to lay out the case that blacks are inherently inferior to whites. Condoleeza Rice as a young student spoke up and said, We are the ones who play Beethoven and speak French. What about you? She is an accomplished concert pianist. She went on to a Ph.D. and she became the youngest and first female provost at Stanford University with an outstanding career as she worked twice as hard to be twice as good as anybody else.

Some would argue that the most successful black African-American of our time is Secretary Colin Powell. I have read his biography. I find, among other things, that what he talks about, in his experience dealing with segregation and discrimination in America and growing up following the contributions of Dr. Martin Luther King, Jr, is his family. He had parents who were married to each other and who provided him with a loving and nurturing home situation. He describes that in his biography.

I suggest this because I think there is a clear thread here. Martin Luther King, Jr., came from a stable family. Condoleezza Rice came from a stable family. Colin Powell came from a stable family. And in the same period that Martin Luther King, Jr., was making his contribution, a young staffer in the Johnson administration named Daniel Patrick Moynihan wrote prophetically of the breakup of Black families in America and talked about what would happen to the African-American community if the family cohesion that had been there before was somehow not preserved.

The predictions and implications of former Senator Moynihan's work have come true, tragically. Today, over two-thirds of the children born to African-American mothers are born outside of a formal marriage, outside of a stable family, outside of that one constant that provided the launching pad for the careers of those who have been successful among us.

Of course, the lack of a family, the lack of loving parents who are married to each other and provide a nurturing circumstance—the devastation of that lack knows no racial boundaries. White students, Asian students, Hispanic students—whoever it might be—who come out of a circumstance where they do not have a stable family relationship are statistically at far greater risk educationally, economically, socially—every other way—than those who come from a family background.

So as we celebrate rightly Dr. Martin Luther King and his contribution to this country, we should also recognize the importance of sustaining traditional family values in this country for everyone, regardless of race. And I would think that adding to Dr. Martin Luther King's dream, we should have a dream of a time when no child is reared in a circumstance where there is not a loving support system.

Now, it need not always be blood relatives. Clarence Thomas, who sits on the Supreme Court, has written movingly of his family, but his family was a family of Catholic nuns who gathered around him and provided surrogate parenthood and gave him the kind of nurturing opportunity as a young man that he needed if he was going to succeed.

We should understand that there is no substitute in Government programs for that kind of nurturing background. And we should look around us at the role models who have overcome discrimination and segregation and achieved greatness and recognize that the common thread throughout most of their lives is some kind of family background, family stability; nurturing, supporting activities when they were in their formative years.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. VOINOVICH. 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.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2003—Continued

Mr. VOINOVICH. Mr. President, to my colleagues who have known me and who have heard me speak on spending issues before, what I am about to say may be very shocking, and it shocks me as well. I am going to vote for this appropriations bill. It contains only a 3-percent increase in total spending—can you believe that; that is mandatory and nondiscretionary domestic spending, a 3-percent increase—and a 2.4-percent increase in discretionary spending.

All of us should congratulate the President for sticking to his guns and keeping his promise that he was going to restrain spending while he was President.

We also should thank Appropriations Chairman TED STEVENS and his colleagues on the committee who have done a good job in putting this package together. It is time for us to move on.

I would first like to comment on why we are here. Why are we here today? We would not be here today if we had passed a budget last year and had not wasted so much time debating bills on the floor of the Senate that should have been taken care of properly in committee.

Last year was the first time the Senate did not pass a budget resolution since the Budget Act of 1974. Think of that. For 29 years we passed a budget, but last year we were not able to muster up the votes to get a budget passed. In addition, we have spent so much time debating bills on the floor of the Senate that should have been handled properly in the committees where those bills originated. In so many instances where the leader was unhappy with the results of the committee work, he yanked the bills out of committee, took it into his office, rewrote the bill, put it on the floor, and we debated it. For example, the energy bill, where we spent 8 weeks debating it, when it could have been taken care of in the Energy Committee. The energy bill, the farm bill, the economic stimulus bill, we spent so much time last year dealing with things that should have been done in committee.

I am hoping the new leader gives more emphasis to the importance of committees in the Senate. I cannot understand why the previous majority party's committee chairmen were not up in arms about so many bills that should have been handled in their committees, but were pulled. We wasted a lot of time last year, and the chickens have now come home to roost. We have operated on a continuing resolution for 4 months—October, November, December, and January.

The executive branch is already one-third through the fiscal year, and the President wants us to finish our work. The American people want us to finish our work. There are so many Federal agencies today that are providing services not knowing what their budget is going to be for this year. Starting this week, executive branch agencies must absorb a 3.1-percent pay raise within fiscal year 2002 funding levels. I know what that is like. I know, as a former governor and mayor, the pressure that puts on agencies. Many agencies will be unable to effectively allocate funds, particularly competitive grant funds, prior to the end of the fiscal year without a final appropriation in the next 20 to 30 days.

In other words, consider the many agencies that have competitive grant programs. These agencies will not be able to get their requests for grant applications out this year, nor the grant applications back in unless we get things done in the next few days. Also thousands of people, like my nephew, are out of work because companies they work for that have government contracts don't know if the projects that are being funded by the Federal Government will continue. Government programs have been on hold for the past 4 months and won't move forward until we pass an appropriations bill.

One of the things hurting our economy today is uncertainty. We have contributed to it because we haven't been doing our work.

My constituents ask me: Do you guys in Washington get it? Do you get it? Do

you understand what is going on? We are at war. The President of the United States has more on his plate than perhaps any President in my memory. Some say FDR; some say Abraham Lincoln. The economy is sputtering. Our constituents believe we are behaving like Nero, fiddling around while Rome is burning. They continue to ask, don't you get it?

We have to understand that we cannot tolerate business as usual. In fact, business as usual looks pretty good compared to what we have been doing the last year or so, and the way we have been behaving.

If corporate executives in the private sector took this much time to implement their budgets, they would never bring any projects to market or create any new jobs and our economy would collapse.

Let's get appropriations done now. None of us are happy with everything in it, and everyone would like to add something, a pet project, a pet constituent request. All of us have them. Hopefully, some will be taken care of and smoothed out in conference. But if not, they will have to be handled in the 2004 budget.

Remember we are in this pickle because we did not do our work last year. Let's get it over so we can begin to do our work this year. Let's get on with the budget, so that we can have an aggressive effort to do the 2004 appropriations bills and the other urgent business of the American people.

God only knows what the budget environment will be if we go to war with Iraq. As all of us in this body understand, even if we do not go to war, there are likely to be supplemental expenditures for whatever the final settlement with Iraq will be.

Let's look at this proposal before us. This bill represents a compromise between true fiscal discipline and Congress' desire to spend. It is made up of 11 bills. Passage of this bill will bring non-defense discretionary spending up to $385 billion, an increase of 2.4-percent over the fiscal year 2002 level. It provides everything the President asked for except the $10 billion defense contingency fund. Although this low number is something to rejoice about, we had better understand that one of the reasons it is low is that we have had a continuing resolution for the past 4 months and we have been spending money at FY 2002 levels.

Included in the package is a 1.6-percent across-the-board cut in all domestic spending, in order to accommodate some high-priority items. Let's not forget about that. Some are talking about amending this bill. The bill already contains an across-the-board reduction so we could provide $3.1 billion for drought aid for farmers in counties that have been declared disasters. In my particular case, we have 88 counties in Ohio that have been declared disasters. Mr. President, the bill includes $1.5 billion for election reform; which is not as much as we promised the states when we passed the election reform legislation, but it is a substantial amount of money that will help the states. And the bill includes $1.6 billion for a Medicare physician's fee fix. All of us have heard from our physicians in terms of the Medicare situation they are confronted with, when every year the amount of reimbursement is going down and down.

Inflation this year is only about 2.4 percent, nevertheless, all but two appropriations bills in this package are getting increases above that rate.

The Labor-HHS appropriation has grown an average of 12.4 percent every year since I have been here and will grow another 5.4 percent in this bill. So this bill does not represent draconian restrictions on Federal spending.

In fact, the proposed $750 billion budget the President wants can fund critical priorities within the limits of fiscal discipline. That $750 billion represents an increase of over 11 percent in discretionary spending in just the last 2 fiscal years. I don't know anybody who has had those kinds of increases. If you look at our spending during the last 5 years, you see we have increased spending in most of the 13 annual appropriations bills by about 7.1 percent each year. That is about a 43-percent increase in spending since I came to the Senate. During the same period of time we have had inflationary growth of only about 11.4 percent.

The projected deficit for fiscal year 2002 was $314 billion, which included using Social Security, and the projected deficit for 2003 is already $315 billion. Someone said at a meeting I attended yesterday that it could go up to about $370 billion because we are going to have to borrow more money than what we originally expected.

We just increased the debt ceiling last June and will probably need to increase it again before the end of this year. Therefore, we need to endorse this fiscally responsible approach presented to us by the Appropriations Committee today. All these amendments proposed in the last couple days would keep adding money and adding money to the deficit. That is what it is about. I cannot understand it.

I hear arguments on the other side expressing concern about the deficit, and these same people are on the floor trying to amend this appropriations bill. That would be fiscally irresponsible and would add to the deficit. The Appropriations Committee proposal is the lowest increase in spending I have seen since I have been in the Senate.

As I said, I have to take my hat off to the President for holding the line on spending, and I take my hat off to my friend, Appropriations Committee Chairman TED STEVENS. He and I have had some strong words over the last several years. But as Humphrey Bogart said in ''Casablanca'': ''This could be the start of a beautiful friendship.''

I want the Appropriations chairman to know I look forward to working with him and his colleagues on the committee on the 2004 budget and hope by the end of this year we can point to another set of appropriation bills with the same type of responsible and restrained growth.

Over the last 2 days, some people have come to the floor and said we need more money for various good programs. As I mentioned before, these programs are on hold until we pass an appropriations bill. In other words, nothing is happening in some of these programs until we pass an appropriations bill.

I agree that there are many things we all want money for, but I want to point out to my colleagues what we have done during the past few years in terms of the money we have put in the pipeline—I will repeat it so everybody gets it.

Since I have been in the Senate, we have increased discretionary spending by 10 percent in 1999, 15 percent in 2001, and 9 percent in 2002. We have allocated so much additional money to Federal agencies that many of them have had difficulty spending all of it. For example, the Department of Housing and Urban Development has consistently recaptured $1.5 billion to $2 billion in unallocated section 8 housing vouchers.

Mr. President, what we are doing here is fiscally responsible. Let's get it done. Let's get on with it. Let's finish the work of the 107th Congress so we can get on with the work of the 108th, starting with the 2004 budget. And we need to move aggressively with the appropriations bills, so that we can get on with an energy bill, and do something about some of the other pressing issues facing the American people.

Mr. HATCH. Mr. President, I rise to express my strong support for the Medicare provisions contained in H.J. Res. 2. These provisions would prevent unwise reductions in physician payments from taking effect by freezing Medicare reimbursement rates for doctors at the 2002 level. They would also provide much-needed, increased funding for rural hospitals.

Enacting these important provisions has been at the top of my agenda, and I am pleased that the committee was able to include them in the omnibus appropriations bill for fiscal year 2003. After extensive conversations with constituents throughout Utah, it became obvious to me that Congress must act to support Medicare providers and patients by ensuring that payments are made more fair.

In 2002, physicians' Medicare reimbursements were reduced by approximately 5 percent. And, on March 1, 2003, Medicare reimbursement rates for physicians are scheduled to be reduced by another 4.4 percent. The provisions in H.J. Res. 2 that I strongly support will protect physicians across the country by preventing the 4.4 percent cut in physician Medicare payment from going into effect in March.

It is apparent to me that Medicare constraints have made it more and more difficult for hard-working physicians to provide the level of patient

care that they and their patients expect. Physicians in Utah with whom I have consulted over the past year have showed me the lasting, negative impact that the 2003 reductions would have on patient care. In addition, I have been dismayed to learn from several physicians that these unwarranted reductions would cause them to think twice about remaining in the Medicare Program.

In fact, as representatives of the Utah Medical Association have pointed out to me, Medicare's flawed reimbursement system has made it increasingly difficult for Utah physicians to accept new Medicare patients, putting many seniors who seek care in a quandary. This is not fair to the physicians, and it is not fair to the patients.

While the Centers for Medicare & Medicaid Services, CMS, reports that Medicare physician participation rate was 89.3 percent in January 2002, figures from Utah portray a dramatically different picture. In a recent survey conducted by the Utah Medical Association, the Medicare participation rate among physicians was significantly lower. The UMA found that only 77 percent of Utah's primary care physicians participated in the Medicare Program. I am hopeful that once Utah physicians see that we in Congress are listening and serious about supporting them, other doctors will consider participating in the Medicare Program once again.

I am also pleased that this legislation contains a provision which will provide additional funding for rural hospitals, something that is desperately needed in my home state of Utah. More specifically, the hospital provision contained in H.J. Res. 2 would raise the inpatient base rate upon which payments are calculated for hospitals in rural and small urban areas to the same rate as that in large urban areas for 6 months. This provision will provide both patients and hospitals in my state with necessary and welcomed relief.

Many of us who worked last year to enact needed changes such as this have been dismayed that, despite our best efforts, Congress could not find a collective way to rectify these problems that are doing so much to hurt patient care throughout Utah. It is high time we take this action.

I urge my colleagues to support these two important provisions because both will provide Medicare patients with access to quality and affordable health care across the country. Let's do the right thing and pass this legislation as quickly as possible, this issue is much too important to both Medicare beneficiaries and providers. Medicare providers, and most importantly, the beneficiaries they serve, are depending on us to get the job done.

Mr. GRASSLEY. Mr. President, I am pleased to have submitted an amendment dealing with the Total Information Awareness Program at the DOD. Many of my colleagues may know about this program designed to test technologies that collect information from public and private databases and try to find trends that could signal threats against the United States. Like many people, I have been concerned that this program could be used to invade the privacy of Americans by snooping around in our bank accounts, personal internet computers, phone records, and the like. In November of last year, I asked the DOD Inspector General to look into the purposes of TIA and to make sure that there are appropriate controls in place to ensure that it is used only for foreign intelligence purposes to protect us against terrorism and foreign threats, but not on Americans or for domestic crime fighting. I am told that the IG investigation is proceeding, and that the IG has ordered a formal audit of TIA.

This amendment limits the use of the TIA funds appropriated by Congress to foreign intelligence purposes. DOD will be required to tell Congress what it is doing regarding TIA, and keep us in the loop on developments. It also provides that TIA can't be used on U.S. citizens once it is up and running.

But the amendment allows development of TIA to continue for foreign terrorism purposes. So it is a great compromise in that it allows the development of TIA to help track international terrorism, but protects against abuses that could violate the privacy of our own people. I encourage my colleagues to support this amendment.

Mrs. FEINSTEIN. Mr. President, as an appropriator, I come to the floor this afternoon to express my opposition to this omnibus appropriations bill.

The $385 billion omnibus appropriations bill cuts almost $10 billion from what the Senate Appropriation Committee approved last year.

On top of these Draconian cuts, the bill before us includes a 2.9 percent across the board cut, to nonmilitary programs, and will affect critical programs such as homeland security, education, and job training.

This bill is a major mistake and represents a short-sided approach to solving our Nation's problems.

What is happening is the administration's effort to starve domestic programs in order to save dollars for a $674 billion tax cut. If this effort is successful, we will see interest rates rise, the deficit balloon, and a 10-year cumulative deficit of $2 to $3 trillion.

Americans don't know it yet, but soon will learn that this bill makes a house of cards out of homeland security, which loses $1 billion which were already requested, authorized, and appropriated.

How many Americans know that this bill will likely cut 1,175 FBI agents, 490 food safety engineers, and 1,600 customs inspectors who are vital if we are to protect our homeland from contraband and those that would do us harm.

How many Americans know that the Head Start cut of $107 million could prevent 2700 youngsters from a Head Start experience, or leave 224,000 needy individuals without the meals provided by WIC, or 230,000 veterans without medical services.

To make matters worse, this bill is being offered at a time when our Nation continues to face significant challenges in protecting homeland security, increasing school achievement, and strengthening our workforce.

Essentially what this bill does is cut the money from a number of critical projects so this body can pass a tax cut of $674 billion, which will lead to a $2 trillion deficit over the next 10 years.

Every day this body is faced with tough choices. But in my decade in the Senate, I believe that this bill represents one of the worst pieces of legislation to pass this Senate.

MURDER OF AMERICANS IN INDONESIA

Mr. ALLARD. Mr. President, let us commend the chairman of the Foreign Operations Subcommittee for the strong report language on Indonesia. I particularly appreciate the reference to the Americans murdered in Papua in August 2002, and the demands that justice be served for these crimes. I share this sentiment completely and believe that inaction by Indonesia on these murders will result in a negative reaction by both the congress and the Administration.

Mr. MCCONNELL. I appreciate my friend's comments, and believe he is right that the absence of a credible investigation into these murders will have repercussions. While we all recognize that Indonesia continues on a difficult path of political and economic reform—at the same time being a frontline state on the war on terrorism—the Government of Indonesia cannot and should not underestimate the seriousness of the crimes committed in Papua and the need to bring justice to the victims and their families.

Mr. ALLARD. I understand that the Federal Bureau of Investigations may be in Indonesia in the very near future to assist in investigating this crime. Does the chairman share my support for the FBI's involvement in this case?

Mr. MCCONNELL. Absolutely. The FBI should pursue all leads, and determine whether the reports of the Indonesian military's involvement in the ambush are accurate and credible.

For the benefit of my colleagues, let me take a moment to describe the Indonesia provisions in the fiscal year 2003 bill. We earmark funds for Indonesia, including $10 million for the fragile peace agreement in Aceh and $5 million for reconstruction efforts in Bali. The bill does not contain restrictions on the International Military Education and Training program for that country but maintains the conditions on assistance under the Foreign Military Financing program. The fiscal year 2003 request for IMET is $400,000,

which is slightly less than that requested for Sri Lanka.

Mr. ALLARD. The Foreign Operations bill strikes an appropriate balance between our national security interests in that vast archipelago and the realities of a developing Indonesia. I want to be on record that I will continue to closely follow the investigation into the murder of Americans in Papua last year and I encourage the Chairman and all my colleagues to pay attention to that case.

I also recommend that the administration report to Congress on a regular and ongoing basis into the progress the Government of Indonesia is making into resolving these murders.

Mr. MCCONNELL. My friend from Colorado's advice is excellent, and I hope that Secretary Powell will take note to the request for regular briefings into the murder of American citizens in Indonesia.

SCAAP FUNDING

Mrs. FEINSTEIN. Mr. President, I rise with a number of my colleagues and the chairman of the Commerce, Justice, State Subcommittee, the Senator from South Carolina, to discuss funding for the State Criminal Alien Assistance Program, popularly know as SCAAP. As my colleagues know, States and localities across the Nation are facing extraordinary costs associated with incarcerating criminal illegal aliens.

Since the September 11th terrorists attacks, State and local governments have borne unprecedented costs that the Nation's critical infrastructure and public are protected. As a result, State and local governments are facing tremendous budget deficits. Moreover, the budgets of local law enforcement agencies are stretched to the limit. California, for one, is estimated to face a shortfall of at least $26 billion over the next 18 months.

In the face of these new challenges, the burden placed on States by the Federal Government's long-standing inability to control illegal immigration continues to grow. States like California continue to shoulder extraordinary criminal alien incarceration costs. One out of every seven prison beds in California is occupied by an illegal criminal alien.

SCAAP funding helps all States that are experiencing increasing costs from incarcerating undocumented felons—both low-impact and high-impact States. Last year, more than 400 local jurisdictions, including all 50 States, received SCAAP funding. With States facing budget deficits reimbursement for the costs they have incurred will be even more important. Congress must continue to support communities that must shoulder the burden of what is, in essence, a Federal responsibility. Given the rising costs associated with criminal alien incarceration, I had hoped that the Senate would see fit to increase the funding for this important program to $650 million, or at minimum, at last year's level of $565 million.

I understand that the House-passed Commerce, Justice, State appropriations bill provides $500 million for the SCAAP program. Given that fact, I would like to inquire of my friend from New Hampshire if there is something that can be done to increase funding for this bill for SCAAP to at least the funding level approved by the House.

Mr. KYL. Mr. President, I wish to associate myself with the remarks of my good friend, the Senator from California, and also look forward to working with the chairman and ranking member of the subcommittee to resolve the funding disparity in the State Criminal Alien Assistance Program (SCAAP).

Before I begin my comments about this important program and the level of funding in the Senate Commerce-Justice-State Appropriations bill, I want to state my full support for what I have been told will be a $500 million funding level for SCAAP in the House fiscal year 2003 bill.

Through the Crime Control Act of 1994, the Congress created SCAAP to reimburse States and localities for the costs they incur incarcerating criminal illegal aliens. Such costs, it has been made clear, are the responsibility of the Federal Government. Previously, SCAAP was authorized at $650 million, although total expenditures of the States and localities exceeds $1.6 billion per year. Last year, the Congress reauthorized the program for the next 2 fiscal years at an open-ended level.

Though the financial burden to process and incarcerate criminal illegal aliens overwhelms the budgets of many States and localities, SCAAP has never even been allocated to its full authorization. Over the past 5 years, SCAAP has usually been funded at levels between $500 million and $600 million, which has provided States and localities reimbursement of about 30 cents for each dollar spent on incarceration.

The Congress would be doing the right thing if it allocated $1.6 billion. In fiscal year 2002, the State of Arizona and its localities incurred costs of well over $305 million to incarcerate criminal illegal aliens, and received $24 million in Federal reimbursement—when SCAAP was funded at $565 million overall.

To reduce the total 2003 SCAAP funding from its $565 million to zero is unacceptable. Should the funding be eliminated, all 50 States, D.C. and the increasing number of localities that incur costs, which now receive an unacceptable 30 cents for each dollar spent, will receive nothing, if Congress were to eliminate funding altogether.

Mr. President, I very much hope that Senators GREGG, HOLLINGS, FEINSTEIN, SCHUMER, and I can work to resolve these issues before this bill is signed into law.

Mr. SCHUMER. Mr. President, I rise today with my colleagues from California and Arizona to ask for support for the State Criminal Alien Assistance Program (SCAAP) and to ask that it be funded, at the very least, at last year's level of $565 million in fiscal year 2003 in the Commerce, Justice, State Appropriations Report. Before I continue, I want to thank my colleagues for their hard work and dedication to the upkeep of this program.

SCAAP reimburses States and counties for the costs associated with the incarceration of undocumented criminal aliens. Unfortunately, Federal efforts are often not adequate to combat illegal immigration. By some estimates, the total annual cost to States and local governments exceeds $1.6 billion. The broad principle on which the SCAAP Program is based is simple: the control of illegal immigration is a Federal responsibility. When the Federal Government falls short in its efforts to control illegal immigration, it must bear the responsibility for the financial and human consequences of this failure. Thus, the ''State Criminal Alien Assistance Program Reauthorization Act'' would properly vest the Federal Government the fiscal burden of incarcerating illegal immigrants who commit crimes in our communities.

Southwestern States are not the only ones shouldering the extraordinary financial burdens of this type of incarceration. Northern border and interior States are increasingly bearing these costs, too. SCAAP funding has been on the rise even in historically low immigration States and counties. It is important to note that SCAAP receives widespread bipartisan and bicameral support. I encourage my colleagues on the Commerce, Justice, and State Subcommittee to support this very important program to help alleviate the impact of these unfunded Federal mandates on State, and in particular, county governments.

Mr. GREGG. Mr. President, I thank my friends from California, Arizona, and New York for their efforts in relieving the burden of illegal immigration on our State and local governments. I know that they have been tireless in their efforts to secure both an end to illegal immigration and to ensure that the Federal Government assume a share of the financial responsibility for its inability to control illegal immigration.

I know, as well, Mr. President, that my colleagues from California and Arizona were among the principal authors of the SCAAP Program when it was created by the 1994 crime bill, and that they both worked very hard to help secure the $565 million which was appropriated last year. They have also worked to ensure that the program remains authorized over the next 2 fiscal years.

Knowing of the great need for adequate funding for SCAAP, I assure the Senators that I will make it a high priority during the conference between the House and Senate.

Mr. HOLLINGS. I concur with my colleague from New Hampshire. I understand the importance of this funding for the States affected by the high

rates of criminal alien incarceration and I am hopeful we can provide an adequate funding level for SCAAP during conference.

Mrs. FEINSTEIN. I thank the Senator for his encouraging words. As I am sure he knows, the SCAAP reimbursements provided in prior years did not nearly cover the costs States and localities incurred do incarcerate illegal aliens in their jurisdictions.

The cost for States and localities amounted to more than $11 billion. Thus, last year's funding level of $565 million covered a mere 5.1 percent, of the actual costs.

Failing to fund the program altogether would be devastating to our States. The State of Wisconsin, for example, would lose more than $3.5 million in funding; Massachusetts would lose over $13 million; Pennsylvania would lose over $2.6 million; Virginia would lose more than $6.4 million; North Carolina would lose $5.2 million; Michigan would lose $2.9 million; Minnesota would lose $1.8 million. Thus, even States that have not traditionally had to confront the growth in illegal immigration are now bearing the costs of this Federal responsibility.

When the Federal Government fails in its responsibility to control our Nation's borders, local taxpayers should not have to foot the bill for incarcerating undocumented criminal aliens in State and local jails. I will work closely with the Senators from New Hampshire and South Carolina and my colleagues in both bodies ensure that this bill adequately funds SCAAP.

PROSTHETIC AND SENSORY AIDS DEVICES

Mr. GREGG. Mr. President, I have come to the floor today to compliment the Chairman of the VA–HUD Appropriations Subcommittee Senator BOND and the Ranking Member Senator MIKULSKI on an excellent job of balancing all the very important programs in the VA–HUD Appropriations bill, included as part of the omnibus bill now pending before the body. I know the spending limitations imposed on the Subcommittee do not permit the chairman and other members of the Subcommittee to address each and every issue as fully as they would like to but nonetheless the chairman has achieved a balanced and good result.

Earlier this year, I contacted the subcommittee to express the view that the Veterans Health Administration be as proactive as possible to help ensure that disabled veterans have the most advanced prosthetic and sensory aids devices made available to them, as would be medically appropriate. In this regard, I was pleased to see that the committee approved the administration's fiscal year 2003 budget request for $739.1 million for prosthetic and sensory aids devices providing an increase of $60.3 million over the last year.

One of the exciting new prosthetic and sensory aids devices known as the iBOT was invented in my home State of New Hampshire. It is a mobility device that climbs stairs, traverses all terrain and balances the seated user at standing eye-level. It would be my view that some portion, at least one percent, of the approximately 25,000 veterans with service connected spinal cord injuries should have access to this advanced mobility device. In fact, at the request of Congress, the VHA conducted a study of this mobility device last year that concluded with the finding that ''the subjects were unanimous in their recommendations that the Veterans Health Administration should provide iBOTs to veterans''—and that—''the iBOT could improve integration and work performance.'' Additionally, as Secretary Principi has established a priority of ''restoring the capability of disabled veterans to the extent possible'' it is my expectation that such devices will be actively considered and provided to disabled veterans as medically appropriate.

Mr. LEVIN. Mr. President, I want to add my praise for the job done by Senators BOND and MIKULSKI and associate myself with the comments just made by Senator GREGG. I am also familiar with the mobility device which Senator GREGG mentioned. I also believe that some of the veterans with service connected spinal cord injuries could benefit from, and should be assisted by, making these devices available to them. Therefore, it is also my expectation that the Department will aggressively pursue, within available funds and current policy, making this mobility device and other state of the art assistive technologies available to disabled veterans as medically appropriate.

RUM COVER-OVER TAX PROVISION

Mr. GRASSLEY. It has recently been brought to my attention that there has been a controversy over a Puerto Rican excise tax on beer. Unfortunately, the Omnibus Appropriations bill is an inappropriate forum to address this issue. But we realize the importance of ongoing negotiation.

Mr. BAUCUS. Mr. President, I cosponsored your amendment because I agree that inclusion of a tax provision in this bill is inappropriate. In 1983, under the Caribbean Basin Economic Recovery Act, the excise tax collections on imported rum are transferred or rebated to the treasuries of Puerto Rico and the Virgin Islands. The tax code provides a rebate of $13.25 of the $13.50 excise tax to Puerto Rico and the Virgin Islands for the excise tax collected on rum imported into the United States (without regard to the country of origin). The amount of the rebate is scheduled to decrease to the 1983 level of $10.50 after December 31st, unless Congress extends the current $13.25 rebate.

Perhaps the expiration of the increased amount transferred provides time for resolution of the dispute?

Mr. GRASSLEY. I commit to working together with those concerned to address this issue through the Finance Committee, which is the appropriate jurisdiction for resolution of this matter.

Mr. CAMPBELL. I thank the Senator for his time and efforts to work on this issue with us. This issue is a horribly excessive tax that needs to be discussed immediately, which was my motivation towards working with Senator STEVENS in addressing this issue in the appropriations bill. I agree with Senators GRASSLEY and BAUCUS that resolving this issue prior to the end of this year is very important. As such. I accept the amendment offered by Senators GRASSLEY and BAUCUS which strikes this provision from the Omnibus Appropriations bill, Title I, Section 128.

We want to encourage all parties involved to immediately come to the table to begin working together to solve this issue. As I have previously stated, this excise tax on beer hurts producers, farmers, and working people, and has to be resolved.

Mr. GRASSLEY. I look forward to working with the Senator and his staff on this issue.

CIVIL EDUCATION

Mr. MCCONNELL. One area in the Foreign Operations portion of this omnibus bill where I have had particular interest is the section entitled Democracy Programs. We have worked closely in our approach to this section where we have addressed the funding needs for democracy programs, including in predominantly Muslim countries.

The bill we are considering today will increase funding in Section 524(b) of the Foreign Operations portion from $15,000,000 to $20,000,000 and correspondingly adds ''civic education'' as a program and activity under this section that the subcommittee wishes to fund.

Does the Ranking Member agree with me that this increase of $5,000,000 is intended to ensure that democracy programs, including civic education programs, receive additional funding?

Mr. LEAHY. I agree with my friend from Kentucky, the chairman of the Foreign Operations Subcommittee. The additional $5,000,000 in section 524(b) will ensure that these programs are expanded, including through the establishment of civic education programs in countries with a significant Muslim population, and where such programs and activities would be important to United States efforts to respond to, deter, or prevent acts of international terrorism.

Is it the understanding of my friend from Kentucky that funds made available under Section 524(b) for civic education are intended to be awarded as a grant or grants to—among other eligible applicants—educational organizations with experience working in other countries, including organizations in the fields of democracy education, civic education, community service, global education and learning through interactive Internet-based technologies and experience in the field of civic and international elementary and secondary education?

Mr. MCCONNELL. The Senator from Vermont is correct, and I thank him for this useful exchange.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FRIST. Mr. President, I ask unanimous consent that all first-degree amendments to H.J. Res. 2 be filed at the desk by 6 p.m. on Tuesday, January 21, with the exception of the managers' amendments which are cleared by both managers.

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate be in 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.

TRIBUTE TO PETER ARAPIS

Mr. REID. Mr. President, Peter Arapis, Jr. was born in Nevada at the Las Vegas Hospital Clinic on 8th Street. His father, Peter Arapis, Sr., was born in Greece and was heavily involved in the Las Vegas Greek community throughout his life. Peter Arapis, Sr. was the Head Chef at the Nevada Test Site for many years beginning in the early 1950s. Peter Arapis, Sr. was active in the election of Michael O'Callaghan as the Governor of Nevada in 1970. He always helped me whenever I ran for public office.

It was probably due to his father's involvement in politics that Peter Arapis, Jr. was quickly drawn in as well. As a student at Rancho High School, Peter volunteered to walk the neighborhoods, hanging campaign information on doors. All Peter's hard work paid off because O'Callaghan was elected as Governor, and I was elected as Lieutenant Governor. Little did I know that Peter would one day become an invaluable member of my senior staff and a trusted friend.

After graduating from Rancho High School in Las Vegas, NV, Peter worked as a car valet for a few years before attending college at UNLV. In 1985, he received a Bachelor of Arts in Political Science. This same year, Peter was the recipient of the L.B.J. Scholarship which afforded him the opportunity to come and work in my office in the House of Representatives as a congressional fellow. This is when Peter got his first taste of politics on Capitol Hill.

Thereafter, Peter returned to Las Vegas and worked as part of my campaign staff the first time I ran for the U.S. Senate. In 1986, I was fortunate to be elected to serve my first term in the Senate, and from that date until now, Peter has been an indispensable part of my team.

One of Peter's first lessons in Nevada politics came shortly after my first Senatorial campaign. He was hiking in Nevada, east of Ely in White Pine County, and planning to camp up on top of Mt. Moriah. Mt. Moriah had a wilderness area at the top whose preservation had been an issue during the campaign. While hiking, Peter was confronted by ranchers who were trying to keep people off the mountain. They made it quite clear to him that no one was welcome on the mountain. Unbeknown to Peter, the ranchers were the very same ranchers that had been extremely cooperative with respect to the wilderness issue during the campaign. Reason being, the ranchers were mountain lion hunting guides, and they had surrounded the entire mountain. The only way to get to the roads to gain access to the wilderness area up on top was to cross over their private property. By surrounding the mountain they had in essence turned the wilderness area into their own private property to help their guide service flourish. Peter later made the connection.

After working on the 1986 election, Peter earned a master's degree in Political Science from UNLV in 1987 where he also served as a teaching assistant.

Over the years, Peter has held nearly every position in my office. He worked for 4 years, 1987 to 1991, in my Las Vegas office as a state representative. In 1992, he decided that he wanted to return to Washington, DC, and he came to work as a Legislative Assistant responsible for Appropriations for Energy and Water, Interior and Related Agencies, Commerce-Justice-State, and Military Construction. Shortly thereafter, he served as a Deputy Legislative Director.

Peter returned to Nevada to work as a deputy campaign manager in my 1998 Senate race. He was a vital part of my team in a very close re-election. Realizing that he had caught the ''Potomac Fever,'' and having met Lynn Breaux at her restaurant, the famous Tunni Cliffs Tavern, Peter once again returned to Washington, DC.

From 1999 to today, Peter has diligently worked for me as my floor manager and senior policy adviser, aiding me daily in my capacity as Democratic whip. I am thankful to have had such a loyal and dedicated employee, but more importantly, I am thankful that I can call him my friend.

I say to Peter: Good luck, I will miss you, but always remember you are a Nevadan.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement 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.

I would like to describe a terrible crime that occurred October 6, 2001 in Topeka, KS. A 21 year-old man from Bangladesh was attacked in a convenience store. Police say that the victim entered the store when three men began asking him questions about his national origin and religion. One of the men used a racial slur and then started punching the victim. The victim was treated at a local hospital for injuries sustained during the attack.

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.

A REPORT CARD ON STATE GUN SAFETY LAWS

Mr. LEVIN. Mr. President, this week the Brady Campaign to Prevent Gun Violence, in partnership with the Million Mom March and State gun safety groups, released its 6th Annual Report Card on State Gun Laws Protecting Children. According to the report, the Centers for Disease Control and Prevention data showed a welcome decrease in the number of children killed by guns. However, children continue to be at great risk from gun violence.

The Brady Campaign State Report Cards evaluate each State on several criteria: Does the State have juvenile possession laws or juvenile sale and transfer laws? Does the State have child access prevention laws? Does the State have gun safety lock and safer design standards? Does the State allow cities to regulate guns? Does the State provide secondary private sales background checks? Does the State have carrying concealed weapons laws? In addition to these criteria, States can also receive extra credit and/or demerits for a variety of gun safety measures such as permits for handguns.

This year, according to the Brady Campaign, 11 States were awarded Sensible Safety Stars. These States resisted efforts to weaken gun safety laws and/or enacted gun safety laws that protect children from guns. I am disappointed to report that my home State of Michigan was not among them.

According to the Bureau of Alcohol, Tobacco, and Firearms and the Brady Campaign, seven states, all of whom received poor grades, were major sources of crime guns. Further, the ATF found that gun traffickers seek out States that allow criminals to purchase firearms without background checks at gun shows.

The Congress has the ability to pass legislation that will further reduce

child firearm deaths and automatically improve the grade of many States. I urge my colleagues to take up and pass commonsense gun safety legislation that will close the gun show loophole and improve child gun access prevention laws so that we might prevent kids from gaining access to guns, and improve the quality and safety of our communities.

PROMOTING DIVERSITY IN INSTITUTIONS OF HIGHER EDUCATION

Mrs. CLINTON. Mr. President, I ask unanimous consent that the following letter to the President, regarding his Administration's decision to file a brief opposing the University of Michigan's use of affirmative action, 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, January 17, 2003.

Hon. GEORGE W. BUSH,
President of the United States,
Washington, DC.

DEAR MR. PRESIDENT: On Wednesday, as your Administration prepared to file its Supreme Court brief opposing the University of Michigan's use of affirmative action to achieve diversity in its student body, you reiterated your commitment to increasing the number of minorities on college campuses. I applaud this commitment, but do not believe that replacing traditional affirmative action with ''race neutral'' percent plans will fully accomplish our shared goal of promoting diversity throughout our institutions of higher education. I am especially concerned that such plans necessarily depend on racial segregation in high schools and, further, that a Court decision banning traditional affirmative action could trigger a domino effect undermining our nation's anti-discrimination laws.

The Michigan cases are among the most important ever to confront the Court since Brown v. Board of Education. Over the past several decades, the story of American higher education has been a story of gradually expanding opportunity for historically excluded or marginalized groups. Anti-discrimination laws and financial aid policies have opened the doors of higher education for millions of minority students. But as you said on Wednesday, ''We should not be satisfied with the current numbers of minorities on Americans college campuses. Much progress has been made; much more is needed.''

At the very top schools in this country, including Michigan, significant racial diversity is largely attributable to affirmative action. By traditional affirmative action, I do not mean quotas, and neither does the University of Michigan. I mean the use of race as one of many factors—along with geography, socioeconomic status, and other life-shaping attributes or experiences—to achieve an educationally diverse student body. Michigan's affirmative action policies work this way, and for 25 years such policies have been constitutional, just as they are today.

If our best colleges, law schools, and medical schools were to end traditional affirmative action today, without adopting any alternative, minority enrollments would drop by two-thirds or more. So a critical question, as you suggested, is whether there are alternatives to traditional affirmative action that might do as good a job—or better—at keeping the doors of selective institutions open to qualified minority students.

You applauded the innovation of states that have adopted ''percent plans'' guaranteeing college admission to top high school graduates. I agree with you that after five years, the Texas ''10 percent plan,'' where all students who graduate in the top 10 percent of their high school class are guaranteed admission to a state university of their choosing, has shown some impressive results. After an initial drop in 1997, minority enrollment at UT-Austin, one of the state's flagship schools, has rebounded almost to the levels achieved under traditional affirmative action.

In addition, UT-Austin is now drawing students from a larger number of high schools and from a wider geographic area, a change that benefits white as well as minority students. The entering class of 2000 included students from 135 schools that had not been represented there before 1996. Those schools included predominantly minority, inner-city schools as well as predominantly white, rural schools. And, despite worries that 10-percenters from poor high schools might not be prepared for the academic rigor of UT-Austin, the most recent evidence is that 10-percenters of all races are performing as well as other students who scored 200 or 300 points better on the SAT. Retention is generally higher among 10-percenters than among other students.

Notably, these results have occurred despite the fact that average SAT scores—the often cited measure of merit among opponents of traditional affirmative action—have decreased, not increased, among 10-percenters and among black and Hispanic students at UT-Austin. Like traditional affirmative action, the 10 percent plan admits qualified students with lower test scores over students with higher scores, recognizing that test scores are not the ''be all and end all'' of an applicant's merit, potential, or character.

The early evidence is very encouraging, and I am cautiously optimistic that for some schools, racial diversity can be achieved through alternatives like this one. Even so, I think it would be a mistake to shut the door on traditional affirmative action and treat percent plans as a panacea for increasing minority enrollments. While they hold promise, they also come with pitfalls.

As I am sure you are aware, Texas's other flagship institution, Texas A&M-College Station, continues to struggle with raising black and Hispanic enrollments, even under the 10 percent plan. California's 4 percent plan and Florida's 20 percent plan, though similar in concept, differ from the Texas plan in one crucial respect: They do not guarantee top graduates admission to a state university of their choosing. As a result, minority enrollment in California has increased at less selective schools like UC-Irvine and UC-Riverside, but not at the most selective schools. Between 1997 and 2001, the number of black freshmen dropped from 252 to 138 at UC-Berkeley and from 204 to 125 at UCLA. Florida's 20 percent plan, after its first year, has kept minority enrollment in the state system steady. But the flagship school, the University of Florida, saw a 40 percent drop in black enrollment and a 7.5 percent drop in Hispanic enrollment.

My primary concern, however, is that the very success of percent plans in enrolling substantial numbers of minority students is entirely dependent on racial segregation at the high school level.

For the past 30 years, the Supreme Court has turned its back on remedying inequality in elementary and secondary schools based on race or income, even going so far as to say that ''at least where wealth is involved, the Equal Protection Clause does not require absolute equality or precisely equal advantages.'' As a result, 50 years after Brown, racial segregation is increasing in our public schools. Seventy percent of black students now attend predominantly minority schools, up from 63 percent in 1980. Forty-six percent of Hispanic students in Texas, 42 percent in California, and 59 percent in New York go to schools that are 90 to 100 percent minority. And racially segregated schools, except predominantly white schools, are almost always schools with high poverty. The average black or Hispanic student goes to school with more than twice as many poor classmates as the average white student.

Any policy of college access that is in tension with efforts to integrate public schools cannot be the best option. Instead of motivating improvement in poor and segregated high schools, percent plans give minority parents an incentive to keep their children in those schools, instead of transferring them to integrated and more academically competitive schools. And no parent should have to make a trade-off between college access and high school quality.

In fact, the Texas 10 percent plan exposes the depth of inequality that can exist in a single state. Texas has 1,500 high schools. In the year 2000, nearly half the 7,600 freshman at UT-Austin came from 74 high schools, around 50 students per school. The other half came from 718 high schools, roughly 5 students per school. Approximately 700 high schools sent no student to UT-Austin in 2000.

Just as traditional affirmative action should never distract us from the task of strengthening our elementary and secondary schools, neither should percent plans. If we are serious about expanding minority access to higher education, then we should not only take a closer look at traditional affirmative action and its alternatives; we should also fully fund Title I and increase the maximum Pell Grant. The 10 percent plan will never reach students in the poorest schools unless we commit the resources to turn those schools around and make college more affordable. These are commitments we should already be making to help the 90 percent of students not covered by the 10 percent plan.

Moreover, although percent plans have been somewhat successful in sustaining minority enrollments at the undergraduate level, none of them has proven effective at graduate or professional schools. In 1995, for example, before traditional affirmative action was eliminated at the University of Texas Law School, 7.4 percent of first-year students were black and 12.5 percent were Mexican-American. But today, only 4 percent are black and 8 percent are Mexican-American. Similarly, at UC-Berkeley's law school, Boalt Hall, there were 14 blacks and 17 Hispanics in the 2001 entering class, down from 20 blacks and 28 Hispanics in 1996. At UCLA Law School, the 10 blacks and 26 Hispanics in the 2001 entering class were substantially fewer than the 19 blacks and 45 Hispanics in 1996.

Between 1997 and 2001, the number of blacks fell from 10 to 6 at UCLA Medical School and from 12 to 7 at UC-San Francisco Medical School. In the MBA program at UC-Berkeley, there were 3 blacks and 5 Hispanics in the 2001 entering class, down from 11 blacks and 15 Hispanics in 1996. And at UCLA, there were 9 blacks and 13 Hispanics in the 2001 first-year MBA class, compared to 13 blacks and 18 Hispanics in 1996.

The fact is, at the graduate level, there are few options for sustaining minority enrollments besides traditional affirmative action. Percent plans will not achieve graduate student diversity unless the undergraduate institutions they draw from are segregated.

And preferences for socioeconomic disadvantage will not help very much. Although minorities are more likely than whites to come from low-income backgrounds, the vast majority of low-income people are still white.

Finally, there is little if any evidence that percent plans provide an effective substitute for traditional affirmative action at our leading private institutions. Under Title VI of the Civil Rights Act, virtually every private institution in the country is subject to the same legal standards regarding traditional affirmative action as public institutions. Any Supreme Court decision finding traditional affirmative action unconstitutional at public universities would likely end affirmative action at private universities as well—with very troubling results.

It is one thing for Florida to guarantee top 20 percenters admission to one of the state's 11 public universities, or for the University of California to guarantee top 4 percenters admission to one of 10 campuses. But what about schools like Harvard or Stanford or Columbia? Given how small and selective these schools are, even a plan guaranteeing admission to the top half of one percent of high school graduates would not work, nor would it necessarily make good sense.

While some may think it odd to worry about racial diversity at private schools, since our public university systems serve far more students, these schools have long been regarded by the American public—indeed, the world—as the very best of what higher education can offer. And those schools generate a disproportionate number of our nation's leaders in government, business, and academia. As Justice Lewis Powell said 25 years ago in the Bakke case, which featured Harvard's affirmative action policy as the gold standard for selective admissions: ''It is not too much to say that the Nation's future depends upon leaders trained through wide exposure to the ideas and mores of students as diverse as this Nation of many peoples.''

The bottom line, then, is that although percent plans and other approaches may hold promise for some institutions, they are not effective substitutes for traditional affirmative action at all institutions. There is no ''one-size-fits-all'' alternative to traditional affirmative action that works at every school, in every system, in every state. I agree with you, Mr. President, that we need to take a closer look at ways to achieve diversity besides traditional affirmative action. But I do not agree that we should foreclose traditional affirmative action as an option for pursuing diversity where the alternatives do not work.

Finally, let me mention two additional concerns. First, no one doubts that the percent plans in Texas, Florida, and California were designed to achieve exactly what traditional affirmative action was designed to achieve, namely, increased opportunity for qualified minority students. And the barometer of success has been whether these plans are keeping minority enrollments at levels achieved under traditional affirmative action. Where percent plans have been judged successful-at UT-Austin, for example-they have lowered, not raised, average SAT scores among former beneficiaries of traditional affirmative action. The fact is that percent plans, in their motivation, design, and effect, look a lot like traditional affirmative action. If the Court agrees with your Administration that traditional affirmative action is unconstitutional, aren't percent plans simply the next shoe to drop? If we accept the constitutionality, and sometimes the wisdom, of percent plans, then logic and law dictate that we also accept the constitutionality and wisdom of affirmative action

This is especially true for public universities like Michigan that strive to serve a student body representative of the taxpayers who support the system. As you said yesterday, ''America is a diverse country, racially, economically, and ethnically. And our institutions of higher education should reflect our diversity.'' I see nothing wrong with a public university doing directly what Texas, California, and Florida have been forced to do indirectly, indeed what we have applauded them for doing.

Second, I am very concerned about the unintended consequences of making a constitutional distinction between percent plans and traditional affirmative action. If admissions policies must be scrubbed clean of race, then shouldn't they also be scrubbed clean of gender? Women have made great strides in higher education, but they continue to lag behind men in areas like engineering and computer science. In fact, women are awarded 25 percent of doctoral degrees in math and the physical sciences, and only 15 percent of doctorates in engineering. Percent plans cannot solve these problems of gender inequality, just as they cannot solve every problem of racial inequality. But percent plans teach us what supporters of traditional affirmative action have long known: that there are considerations important to the distribution of educational opportunity in America other than a standardized test score.

Traditional affirmative action, whether based on race or gender, stands or falls on similar logic. And if traditional affirmative action falls, I worry it is only a small step to rolling back our most basic antidiscrimination laws, like Title VII and Title IX. Given unconscious stereotypes and structural inequalities that persist in our society, there is a very fine line between taking deliberate steps to ensure access to higher education for minorities and women, and protecting them from unlawful discrimination.

Mr. President, I urge you to carefully consider the implications of eliminating traditional affirmative action in the absence of alternatives that effectively promote, and do not work against, diversity and integration in all of our public high schools, colleges, and graduate programs. And I urge you to consider the consequences your Administration's position may have for the vigorous enforcement of our nation's anti-discrimination laws.

Sincerely yours,

HILLARY RODHAM CLINTON.

21st CENTURY NANOTECHNOLOGY RESEARCH AND DEVELOPMENT ACT

Mr. ALLEN. Mr. President, I rise today in support of the 21st Century Nanotechnology Research & Development Act. I want to thank my colleague from Oregon, Senator WYDEN, for his leadership on this important issue. I have enjoyed working with Senator WYDEN on nanotechnology for the past several years. I would also like to thank the other cosponsors on this legislation, the Senior Senator from Virginia—Mr. WARNER, Senators LIEBERMAN, MIKULSKI, HOLLINGS, LANDRIEU, CLINTON, LEVIN, and BAYH.

Today, our scientists and visionaries are quickly learning that there is a whole New Frontier of promise and human endeavor literally right under our eyes, at the nanoscale, when magnified for us to see.

The potential for nanotechnologies and the exciting work taking place in the nanoscience field are by all accounts revolutionary. Nanotechnology is still very much in its infancy, but as the technology matures it will undoubtedly have a tremendous impact on our daily lives.

Nanoscience is quickly transforming almost every aspect of our modern world and is already significantly improving our quality of life. From computer and electronic devices, to health care and pharmaceuticals, to agriculture, energy and our national defense, nanoscience will be the foundation of many of the revolutionary advances and discoveries in the decades to come and will soon occupy a major portion of the technology economy.

Through nanoscience, researchers and scientists are already beginning to develop technologies that years ago were thought to be impossible. Memory and processing chips the size of a sugar cube have the ability to store all the information in our Nation's National Archives and the Library of Congress combined. Nanoscientists are also exploring ways nanomaterials can travel through the human body to detect and cure diseases, such as target cell therapy where limited amounts of chemotherapy drugs can, cell by cell, attack individual cancer cells and leave healthy cells intact.

As production and innovation of nanotechnologies becomes easier, faster, more efficient and less costly, every market sector in the economy will begin to feel its impact. The NanoBusiness Alliance estimates that the global market for nanotechnology related products and services will reach more than $225 billion by 2005. The National Science Foundation conservatively predicts a $1 trillion global market in a little over a decade.

While nanotechnology is typically defined by size—that is 1 nanometer equaling 1 billionth of a meter—the science of nanotechnology is really the ability to pick and place or manipulate atoms 1/100,000 the width of a human hair, and eventually generate materials with properties that are fundamentally new and superior to the bulk form of the same materials.

It is the promise and potential that impels the Congress to act and introduce legislation that assures this Nation remains at the forefront of the nanoscience revolution. The United States has been the leader of virtually every important and transformative technology since the Industrial Revolution, and this legislation ensures we will continue to lead the world in this new frontier.

The 21st Century Nanotechnology Research & Development Act authorizes appropriations for the coordination of an interagency and interdisciplinary program to support long-term nanoscale research in the fields of nanoscience, nanotechnology and nanoengineering as part of the National Nanotechnology Research Program. The legislation authorizes $676 million for fiscal year 2004—a 15 percent increase from the President's budget request for fiscal year 2003—in

all nine civilian Federal agencies currently conducing nanotechnology research.

The goal of the legislation is to provide an organized, structured and collaborative approach to nanotechnology research that will ensure America's leadership and economic competitiveness internationally. This legislation provides grants to support nanoscience research centers that will bring together experts from various disciplines, agencies, industries and universities.

I have wanted the Commonwealth of Virginia to recognize nanotechnology as a key element in the future of high technology and economic development and commend the establishment of the Initiative for Nanotechnology in Virginia to serve as a facilitator in the nanoscience community. This legislation takes the work being done at the State level and encourages increased collaboration with State-led initiatives like the one in Virginia as well as universities and industry led projects.

As our scientist and researchers adventure boldly into this New Frontier of nanoscience and chart new waters in lands not yet discovered, this legislation will serve as a guide and hopefully a catalyst to the nanotechnology community. The work being done in the nanoscience field is invigorating; it's exciting, and it's important for our future health, the economy and millions of jobs.

I hope my colleagues will work with Senator WYDEN and me to pass this important legislation in a nanosecond, but recognizing the deliberative process of the Senate, passage in a nanoyear will suffice.

ADDITIONAL STATEMENTS

BETTY HAGEL BREEDING

• Mr. NELSON of Nebraska. Mr. President, on Monday, a colleague of ours lost his mother and, as always, when tragedy hits one member of our Senate family, we all feel like we have lost a member of our extended family.

Not every American is recognized for the way they lived their lives. Most Americans pass through time making contact with those around them, leading good and decent lives, praying to God for forgiveness and salvation, and leaving behind a modest legacy.

Betty Hagel Breeding was just like each one of us. She strived to live her life well; she endured life's unexpected twists and survived its tragedies for 79 years. She passed away this week, a true Nebraskan and a beloved matriarch, grandmother and mother of our colleague and friend Senator CHUCK HAGEL.

Life doesn't prepare you for much, especially the loss of your parents. It's especially difficult to lose someone who has played such an instrumental role in shaping your life, like most parents do.

According to her sons, Betty Hagel Breeding was ''the glue'' in the Hagel family, even more so after the death of her husband in 1962 and later her youngest son, Jim. From that point on, she alone faced the realities of life, the uncertainty of the future, and the wonder of fate as she guided her boys as they became young men.

When you lose someone like that, there is a bottomless hole in your life. When you reflect on the influence of your parents it crystallizes the role they played in the development of who you are and what you believe.

Our parents are the people who teach us how to be, how to treat others and how to live our lives. Betty Hagel Breeding passed away on Monday, but the lessons she taught her children and her children's children will live on through her sons. Her legacy lives today in Nebraska in those who have survived her and the lives of the Nebraskans touched by each one of them.

Senator HAGEL is in Nebraska today with his friends and family. They are reliving the memories they share of Betty Hagel Breeding and celebrating her life and how she led it. I know many Nebraskans and many in the Senate community join me in sending heartfelt condolences to the Hagel family.

In times like these, when Nebraskans reach out to support fellow Nebraskans, it reminds me of why our State motto is ''the good life;'' because neighbor to neighbor, town to town, city to city, Nebraska is home to great men and women, like Betty Hagel Breeding.•

GRAND VALLEY UNIVERSITY WINS NATIONAL FOOTBALL CHAMPIONSHIP

• Mr. LEVIN. Mr. President, I want to bring to the attention of my colleagues the recent accomplishments achieved by Grand Valley State University's, GVSU, football team who on December 14, 2002, became the 2002 National Collegiate Athletic Association, NCAA, Division II Football Champions. This championship was the first in Grand Valley's history, and completes a perfect season in which the GVSU Lakers went 14–0 maintaining their position atop the Division II football rankings for the entire season. Even more impressive is the fact that the Lakers are 33–1 in their last 34 games with their only loss coming in the 2001 title game.

Preceding their National Championship, the GVSU Lakers won the Great Lakes Intercollegiate Athletic Conference, GLIAC, Football Championship with a perfect record in league play. The Laker's depth was evidenced by their placing 18 players on the All-GLIAC team. Quarterback Curt Anes was named the GLIAC Player of the Year for the second straight season, and received the Harlon Hill Trophy as NCAA Division II's most outstanding player. In addition, head coach Brian Kelly was recently named the American Football Coaches Association Division II Coach of the Year. Coach Kelly has led the GVSU Lakers to a 104–34–2 record during his 12 years as head coach, and includes five GLIAC titles and five NCAA Division II playoff appearances.

The championship game, which I was lucky enough to see on television, was a true nail-biter. The game matched the top ranked Grand Valley State Lakers against the second ranked Valdosta State University Blazers. After marching through the playoffs with relative ease, the Lakers found a formidable opponent in Valdosta State, and the game was appropriately close to the very end. GVSU sealed the game when All-American quarterback Curt Anes tossed a 10-yard pass to fellow All-American wide receiver and his primary target David Kircus with 1 minute and 4 seconds remaining securing a 31–24 victory.

Over the last 2 years, the GVSU Lakers have demonstrated great strength, skill, unity, and perseverance. Their ability to regroup after last season's loss and maintain their top ranking all season bears witness to the focus and common purpose shared by the entire team. I commend them for their hard work and dedication. I know that my colleagues will join me in congratulating the GVSU Lakers on winning the 2002 NCAA Division II Football Championship.

I ask unanimous consent that a list of the players and coaches be printed in the RECORD.

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

Players:
Curt Anes, Kentwood, MI
Ryan Balcom, Allendale, MI
Joe Ballard, Chesaning, MI
Mike Banaszak, Detroit, MI
Terrance Banks, Gary, IN
Matt Beaty, Detroit, MI
DeJuane Boone, Detroit, MI
Josh Bourke, Tecumseh, Ontario, Canada
Kevin Boyd, Highland, IN
Ryan Brady, Chesaning, MI
Marvis Bryant, Miami, FL
Brent Burleson, Carmel, IN
Kirk Carruth, Saginaw, MI
Roberto Cepero, Miami, FL
Justin Cessante, Dearborn Heights, MI
Dion Charity, Kentwood, MI
Michael Christmon, Pontiac, MI
Jeremy Cochrane, Montrose, MI
Dustin Cole, Mattawan, MI
Phil Condon, Fraser, MI
Kyle Daisy, Stevensville, MI
Louis Dauser, Grand Rapids, MI
Chad Day, Lake Orion, MI
Todd DeVree, Hudsonville, MI
Orlando Dickerson, Allen, TX
Jamel Dillard, Saginaw, MI
Marcel Dillard, Saginaw, MI
Jeff Dock, Stevensville, MI
Melvin Estes, Chicago, IL
Sean Ferguson, Wyoming, MI
Cullen Finnerty, Brighton, MI
Eric Fowler, New Haven, MI
William Gray, Kalamazoo, MI
Scott Greene, Hartland, MI
Lucius Hawkins, Inkster, MI
Aaron Hein, Hartland, MI
Antwaan Henderson, Stevensville, MI
David Hendrix, Stevensville, MI
Tyrone Hibbler, Flint, MI
Mike Hoad, Farmington, MI
Mike Holloway, Chelsea, MI

Boomer Hoppough, Ionia, MI
Dan Hosford, Belmont, MI
Tom Hosford, Belmont, MI
Ryan Hukill, Midland, MI
Kevin Jacksom, Grand Rapids, MI
David Kircus, Imlay City, MI
Matt Koss, Goodrich, MI
Brandon Langston, Northville, MI
Brent Lesniak, Dowagiac, MI
Sidney Lewis, Bellwood, IL
Mario Locricchio, Clinton Township, MI
Brian Lydigsen, Orlando Park, IL
Scott Mackey, Bay City, MI
Keyonta Marshall, Saginaw, MI
Scott Martin, Sterling Heights, MI
Michael McFadden, Saginaw, MI
Brian McGeath, Petoskey, MI
Chris McInally, Grand Blanc, MI
Justin McNamara, Rochester, MI
Josh Meerman, Coopersville, MI
Kevin Parsons, Detroit, MI
Colin Peterson, Grand Haven, MI
Mike Pinter, Mishawaka, IN
Robert Pratt, Kalamazoo, MI
Michael Rahn, Grosse Ile, MI
Ryan Rainwater, Grand Blanc, MI
Matt Regnery, Fenton, MI
Mark Remmler, Grand Rapids, MI
Shad Risk, Eaton Rapids, MI
Joe Rivard, Marine City, MI
Ashea Roberson, Ann Arbor, MI
Bob Roesner, Pontiac, MI
Sean Roland, Detroit, MI
Brandon Ryan, Grand Blanc, MI
Matt Sammond, Crystal Falls, MI
Ramon Scott, Redford, MI
Darren Smith, Traverse City, MI
John Smith, Southfield, MI
Jordan Soper, Midland, MI
Reggie Spearmon, Inkster, MI
Marcus Spencer, Kalamazoo, MI
Micah Staley, Concord, MI
Chris Stoddard, Hubbardston, MI
Greg Stoddard, Hubbardston, MI
James Streit, Sterling Heights, MI
Adam Sullivan, Rochester, MI
Michael Tennessee, Sterling Heights, MI
Leon Thomas, Detroit, MI
Ross VanderKamp, Holland, MI
Dan Vaughn, Stevensville, MI
Nicholas Viau, Cheboygan, MI
Derek Washington, Detroit, MI
Dale Westrick, Grand Ledge, MI
Orlando Williams, Maywood, IL
Troy Williams, Battle Creek, MI
Luke Winstrom, Zeeland, MI
Todd Wojciechowski, Clinton Township, MI
Jason Wynn, Detroit, MI
Matt Yoches, Dearborn Heights, MI
Coaches:
Brian Kelly—Head Coach
John Jancek—Defensive Coordinator/Linebackers
Jeff Quinn—Assistant Coach/Offensive Coordinator
Ron Burton—Defensive Line
Greg Forest—Wide Receivers
Chuck Martin—Defensive Backs
Jeff Duvendeck—GA Offensive Line
Cal Fox—Defensive Assistant
Todd Kolster—GA Running Backs
Jack Prince—Offensive Assistant.●

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–478. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, the report entitled ''Report on TRICARE Reimbursement of Professional Providers'' received on January 2, 2003; to the Committee on Armed Services.

EC–479. A communication from the Acting Deputy Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter Federal-State Joint Board on Universal Service (Doc. 96–45)'' received on January 6, 2003; to the Committee on Commerce, Science, and Transportation.

EC–480. A communication from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Textile Rules, 16 C.F.R. 303, Textile Corporate Leniency Policy (RIN3084–OI01)'' received on January 2, 2003; to the Committee on Commerce, Science, and Transportation.

EC–481. A communication from the Director, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Quota and Fishing Areas; Trade Monitoring (I.D. 070201A)'' received on January 2, 2003; to the Committee on Commerce, Science, and Transportation.

EC–482. A communication from the Senior Legal Advisor, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rule and Policies (FCC02–303)'' received on January 6, 2003; to the Committee on Commerce, Science, and Transportation.

EC–483. A communication from the Assistant General Counsel for Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Energy Efficiency Program for Certain Commercial and Industrial Equipment: Extension of Time for Electric Motor Manufacturers To Certify Compliance With Energy Efficiency Standards (RIN1901–AB11)'' received on December 18, 2002; to the Committee on Energy and Natural Resources.

EC–484. A communication from the President of the United States, transmitting, pursuant to law, the report relative to the Department of Homeland Security Reorganization Plan, notification that the functions, personnel, assets, and liabilities of the life sciences activities related to microbial pathogens of the Biological and Environmental Research Program of the Department of Energy, shall be transferred to the Secretary of Homeland Security on March 1, 2003, received on January 2, 2003; to the Committee on Energy and Natural Resources.

EC–485. A communication from the Assistant Secretary of the Interior, Office of Regulatory Affairs, Bureau of Land Management, transmitting, pursuant to law, the report of a rule entitled ''43 subpart 1864, Recordable Disclaimers of Interest. Final Rule (RIN1004–AD50)'' received on January 6, 2003; to the Committee on Energy and Natural Resources.

EC–486. A communication from the Assistant Secretary of the Navy, Installation and Environment, transmitting, pursuant to law, the report relative to a study on certain functions at Marine Corps Bases, Camp Pendleton, California and Camp Lejeune, North Carolina, performed by military and civilian personnel in the Department of the Navy for possible performance by private contractors; to the Committee on Armed Services.

EC–487. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report relative to a list of state advisory committees recently rechartered by the Commission; to the Committee on the Judiciary.

EC–488. A communication from the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Adjustment of Status for Certain Aliens from Vietnam, Cambodia, and Laos in the United States (RIN1115–AG14)'' received on January 2003; to the Committee on the Judiciary.

EC–489. A communication from the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Waiver of Criminal Grounds of Inadmissibility for Immigrants (RIN1115–AG90)'' received on January 2, 2003; to the Committee on the Judiciary.

EC–490. A communication from the Secretary of Labor, transmitting, pursuant to law, the report entitled ''Trade and Employment of the Andean Trade Preference Act'' received on January 2, 2003; to the Committee on Finance.

EC–491. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Republican of Rev. Proc. 2002–6 (Rev. Proc. 2003–6)'' received on January 6, 2003; to the Committee on Finance.

EC–492. A communication from the Director, Regulatory Review and Foreign Investment Disclosure Group, Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Final Rule: Skip Row and Strip Crops (RIN0560–AG55)'' received on January 2, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–493. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Lambda-cyhalotrin, Pesticide Tolerance for Emergency Exemptions (FRL7285–2)'' received on January 6, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–494. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Mesotrione; Pesticide Tolerance (FRL7282–4)'' received on January 6, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–495. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''S-metoachlor, Pesticide Tolerances for Emergency Exemptions (FRL7283–2)'' received on January 6, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–496. A communication from the Deputy Secretary, Division of Market Regulation, Securities Exchange Commission, transmitting, pursuant to law, the report of a rule ''Trade-Through Disclosure Rule (RIN3235–AI52)'' received on December 20, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–497. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Financial Crimes Enforcement Network; Anti-Money Laundering Requirements—Correspondent Accounts for Foreign Shell Banks; Recordkeeping and Termination of Correspondent Accounts for Foreign Banks (RIN1506–AA35)'' received on December 20, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–498. A communication from the Deputy Secretary, Division of Corporation Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule

entitled ''Exemption for Standardized Options from Provisions of the Securities Act of 1933 and from the Registration Requirements of the Securities Exchange Act of 1934 (RIN3235–AI55)'' received on January 2, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–499. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations 67 FR70699 11/26/02 (44 CFR 67)'' received on January, 2, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–500. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations 67 FR70700 11/26/02 (44 CFR 67)'' received on January 2, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–501. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations 67 FR70696 11/26/02 (Doc. No. FEMA–P–7618)'' received on January 2, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–502. A communication from the Senior Paralegal, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Savings Associations—Transactions with Affiliates (RIN1550–AB55)'' received on January 2, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–503. A communication from the Deputy Congressional Liaison, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Regulation C (Home Mortgage Disclosure)'' received on January 2, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–504. A communication from the President of the United States, transmitting, pursuant to law, the report relative to the continuation of the national emergency to deal with the unusual and extraordinary threat to national security constituted by Libya declared by Executive Order 12543 and 12544 to be in effect beyond January 7, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–505. A communication from the President of the United States, transmitting, pursuant to law, a Periodic Report on the National Emergency with Respect to Libya; to the Committee on Banking, Housing, and Urban Affairs.

EC–506. A message from the President of the United States, transmitting, pursuant to law, the Periodic Report on the National Emergency with Respect to the Risk of Nuclear Proliferation Created by the Accumulation of Weapons-Usable Fissile Material in the Territory of the Russian Federation; to the Committee on Banking, Housing, and Urban Affairs.

EC–507. A communication from the Senior Vice President, Congressional Affairs, Export-Import Bank, transmitting, pursuant to law, the report entitled ''Export-Import Bank of the United States Annual Report FY 2002''; to the Committee on Banking, Housing, and Urban Affairs.

EC–508. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D Airspace; Rome, NY; docket no. 02–AEA–13 [11–25/1–1](RIN2120–AA66)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–509. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E5 Airspace; Middlesboro, KY; Docket no. 02–ASO–20 [12–2/1–2]'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–510. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E5 Airspace; Newport, TN; Docket no. 02–ASO–21 [12–2/1–2]((RIN2120–AA66)(2003–0004))'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–511. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E5 Airspace; Taxewell, TN; Docket No. 02–ASO–23 [12–2/1–2] ((RIN2120–AA66) (2003–0005))'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–512. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Flint, MI; Docket No. 02–AGL–11 ((RIN2120–AA66) (2003–0001))'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–513. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E5 Airspace; Memphis TN; Docket No. 02–ASO–26 [11–2/1–2] ((RIN2120–AA66) (2003–0009))'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–514. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Indianapolis, IN; Docket No. 02–AGL–09 (RIN2120–AA66) (2003–0008)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–515. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D Airspace; Knob Noster, Whiteman AFB, MO; Modification of Class E Airspace; Knob Noster, Whiteman, AFB, MO; Correction; Doc. No. 02–ACE–7 (RIN2120–AA66) (2003–0007)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–516. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E5 Airspace; Rockwood, TN; doc. No. 02–ASO–22 (RIN2120–AA66) (2003–0006)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–517. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''I-G Stalling Speed as a Basis for Compliance With Part 25 of the Federal Aviation Regulations; Doc. No. 28404; (RIN2120–AD40)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–518. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: General Electric Company CF34–8CI Turbofan Engines; Docket No. 02–NE–13 (RIN2120–AA64) (2003–0001)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–519. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Security Consideration for the Flightdeck on Foreign Operated Transport Category Airplanes; Request for Comments; Docket No. FAA2002–12504 (RIN2120–AH70) (2003–0001)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–520. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD11 and MD11F Airplanes Equipped with Collins LRA 900 Radio Altimeters; Docket No. 200–NM406 (RIN2120–AA64) (2003–0006)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–521. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Cessna Model 50 Airplanes; Docket No. 99–NM218 (RIN2120–AA64) (2003–0002)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–522. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: MT Propeller Entwicklung ZGMBH Models MTV 9 B C and MTV 3 B C Propellers; Docket No. 99–NE–35 (RIN2120–AA64) (2003–0007)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–523. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: MD Helicopters, Inc. Model MD900 Helicopters; Docket No. 2001–SW–26 (RIN2120–AA64) (2003–0005)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–524. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Cameron Balloons Lrd Mk1 (BRI), and Mk2 (Mistral) Burners; Docket No. 2000–CE–50 (RIN2120–AA64) (2003–0004)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–525. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Aircraft Company 200, 300, and 1900 Series, and Models F90 and A100–1 Airplanes; Docket No. 2001–Ce–21 (RIN2120–AA64) (2003–0003)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–526. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes, A300 B4–600, B4, 600R, and F4–600R Series Airplanes; and Model A310 Series Airplanes; docket No. 2002–NM–40 (RIN2120–AA64) (2003–0008)'' received on January 8, 2003; to the

Committee on Commerce, Science, and Transportation.

EC–527. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dassault Model Falcon 900EX and Mystere Falcon 900 Series Airplanes; docket No. 200–NM–418 (RIN2120–AA64) (2003–0009)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–528. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dassault Model Falcon 2000 Series Airplanes; doc. No. 2000–NM–417 (RIN2120–AA64) (2003–0010)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–529. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes; docket No. 2002–NM–24 (RIN2120–AA64) (2003–0011)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–530. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives General Electric Company CF34–8c1 Turbofan Engines; Correction; Docket No. 2002–NE–13 (RIN2120–AA64)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–531. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D Airspace; Norfolk NAS, VA; Docket No. 02–AEA–12 (RIN2120–AA66)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–532. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS355E, F, F1, F2, and N Helicopters; Docket No. 2002–SW–48 (RIN2120–AA64)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–533. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Honeywell International Inc. TPE331–3,5,6,8,10, and 11 Series Turboprop and TSE331 3 Series Turboshaft Engines; Docket No. 2001–NE–11 (RIN2120–AA64)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–534. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls Royce plc RB211–535 Turbofan Engines; CORRECTION; Docket No. 2002–NE–16 (RIN2120–AA64)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–535. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standards Instrument Approach Procedures; Miscellaneous Amendments; Amdt. No. 3038 (RIN2120–AA65)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–536. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments; Amdt. No. 3037 (RIN2120–AA65)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–537. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments; Amdt. No. 3035 (RIN2120–AA65)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–538. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments; Amdt. No. 3036 (RIN2120–AA65)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–539. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Philadelphia, PA; Docket No. 02–AEA–03 (RIN2120–AA66)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–540. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedure; Miscellaneous Amendments; Amdt. No. 3034 (RIN2120–AA65)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–541. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Milbank, SD; Docket No. 02–AGL–10 (RIN2120–AA66)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–542. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: San Francisco Bay, California ((RIN2115–AA97) (2002–0210))'' received on January; to the Committee on Commerce, Science, and Transportation.

EC–543. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: (Including 2 regulations) Lake Michigan, Chicago, IL [CGD09–02–526]; James River, Newport News, Virginia [CGD05–02–097] (RIN2115–AA97) (2002–0209)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–544. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Mississippi River, Dubuque, IA [CGD08–02–042] (RIN2115–AE470) (2002–0105)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–545. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Mississippi River, Burlington, IA [CGD08–02–043] (RIN2115–AE47) (2002–0106)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–546. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Mississippi River, Iowa and Illinois [CGD08–02–044] (RIN2115–AE47) (2002–0107)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–547. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Port of San Diego, CA [COTP San Diego 02–026] (RIN2115–AA97) (2003–0002)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–548. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Drilling and Blasting Operations, Hubline Project, Captain of the Port Boston, Massachusetts [CGD01–02–131] (RIN2115–AA97) (2003–0001)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–549. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. Ardmore, Brilliant, Brookwood, Gadsden, Hoover, Moundville, New Hope, Pleasant Grove, Russellville, Scottboro, Troy, Tuscaloosa and Winfield, Alabama, Okolona and Vardaman, Mississippi, Linden and Walden, Tennessee) (MM Doc. No. 01–62)'' received on January 10, 2003; to the Committee on Commerce, Science, and Transportation.

EC–550. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Fort Myers, FL (MM Doc. No. 00–180, RM–9956)'' received on January 10, 2003; to the Committee on Commerce, Science, and Transportation.

EC–551. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotment, FM Broadcast Stations Emmetsburg and Sanborn, Iowa (Doc. No. 01–65, RM–10078)'' received on January 10, 2003; to the Committee on Commerce, Science, and Transportation.

EC–552. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.2002(b), Table of Allotments, FM Broadcast Stations Encinal, Texas (MB Doc. No. 02–188, RM–10462)'' received on January 10, 2003; to the Committee on Commerce, Science, and Transportation.

EC–553. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Clarksdale and Friars Point, Mississippi) (MM Doc. No. 02–119)'' received on January 10, 2003; to the Committee on Commerce, Science, and Transportation.

EC–554. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Boonville, California) (MB Doc. No. 02–105)'' received on January 10, 2003; to the Committee on Commerce, Science, and Transportation.

EC–555. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Chillicothe and Ashville, OH) (MM Doc. No. 99–322)'' received on January 10, 2003; to the Committee on Commerce, Science, and Transportation.

EC–556. A communication from the Staff Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law the report of a rule entitled ''Harmonization with the United National Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions; Incorporation by Reference (RIN2137–AD41)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–557. A Communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Material: Temporary Reduction of Registration Fees (RIN2137–AD53)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–558. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Federal Motor Vehicle Safety Standards; Occupant Crash Protection (RIN2127–AI85)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–559. A communication from the Assistant Administrator for Fisheries, Office of Sustainable Fisheries, Domestic Fisheries Division, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Surf Clam and Ocean Quahog Fisheries; Final Specifications for 2003 (RIN0648–AQ31)'' received on January 10, 2003; to the Committee on Commerce, Science, and Transportation.

EC–560. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''The NMFS announce Halibut and red king crab bycatch rate standards for the first half of 2003. Publication of these bycatch rate standards is necessary under regulations implementing the vessel incentive program (VIP). This action is necessary to implement the bycatch rate standards for trawl vessel operators who participate in the Alaska groundfish trawl fisheries. The intent of this action is to avoid excessive prohibited species bycatch rates and promote conservation of groundfish and other fishery resources'' received on January 10, 2003; to the Committee on Commerce, Science, and Transportation.

EC–561. A communication from the Assistant Chief Counsel, Office of Security Regulation and Policy, Transportation Security Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Aviation Security: Private Charter Security Rules (RIN2110–AA05)'' received on January 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–562. A communication from the Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report containing the four issues of the Quarterly Journal that compromise the 2001 annual report; to the Committee on Banking, Housing, and Urban Affairs.

EC–563. A communication from the Assistant Secretary of Defense, International Security Policy, transmitting, pursuant to law, the report entitled ''Cooperative Threat Reduction Annual Report to Congress Fiscal Year 2003''; to the Committee on Armed Services.

EC–564. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report entitled ''To Walk the Earth in Safety the United States Commitment to Humanitarian Demining''; to the Committee on Foreign Relations.

EC–565. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of International Agreements other than Treaties entered into with Australia, Indonesia, Federal Republic of Yugoslavia, Mexico and Croatia; to the Committee on Foreign Relations.

EC–566. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of International Agreements other than Treaties entered into with Pakistan, Italy, Japan and the Philippines; to the Committee on Foreign Relations.

EC–567. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of International Agreements other than Treaties entered into with Taiwan by the American Institute in Taiwan; to the Committee on Foreign Relations.

EC–568. A communication from the Program Analyst, Directorate of Civil Works, Operations Divisions, Army Corps of Engineers, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''United States Navy Restricted Area, Narragansett Bay, East Passage, Coddington Cove, Naval Station Newport, Newport, RI''; to the Committee on Environment and Public Works.

EC–569. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, the report relative to a lease prospectus for the Department of Homeland Security in the Washington, DC, metropolitan area; to the Committee on Environment and Public Works.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Ms. COLLINS for the Committee on Governmental Affairs.

*Thomas J. Ridge, of Pennsylvania, to be Secretary of Homeland Security.

By Mr. WARNER for the Committee on Armed Services.

Army nomination of Lt. Gen. George W. Casey, Jr.

Army nomination of Lt. Gen. John P. Abizaid.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they may 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 Ms. LANDRIEU:

S. 193. A bill to direct the Secretary of Energy to carry out a program to evaluate and demonstrate the operation of radiation detection systems for use at seaports in the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. CORZINE (for himself, Mr. JEFFORDS, and Mr. LIEBERMAN):

S. 194. A bill to amend the Clean Air Act to establish an inventory, registry, and information system of United States greenhouse gas emissions to inform the public and private sector concerning, and encourage voluntary reductions in, greenhouse gas emissions; to the Committee on Environment and Public Works.

By Mr. CHAFEE (for himself, Mr. INHOFE, Mr. JEFFORDS, Mr. CARPER, and Mr. WARNER):

S. 195. A bill to amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ALLEN (for himself, Mr. MCCAIN, Mr. STEVENS, Mr. HOLLINGS, and Mr. MILLER):

S. 196. A bill to establish a digital and wireless network technology program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER:

S. 197. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a program to help States expand the education system to include at least 1 year of early education preceding the year a child enters kindergarten; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. CORZINE (for himself and Mr. WARNER):

S. Con. Res. 2. A concurrent resolution expressing the sense of the Congress that the United States Postal Service should issue commemorative postage stamps honoring Americans who distinguished themselves by their service in the armed forces; to the Committee on Governmental Affairs.

ADDITIONAL COSPONSORS

S. 17

At the request of Mr. JEFFORDS, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 17, a bill to initiate responsible Federal actions that will reduce the risks from global warming and climate change to the economy, the environment, and quality of life, and for other purposes.

S. 85

At the request of Mr. LUGAR, the names of the Senator from Georgia (Mr. MILLER) and the Senator from

Ohio (Mr. DEWINE) were added as cosponsors of S. 85, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 120

At the request of Mr. BAYH, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 120, a bill to eliminate the marriage tax penalty permanently in 2003.

S. 145

At the request of Mr. KYL, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 145, a bill to prohibit assistance to North Korea or the Korean Peninsula Development Organization, and for other purposes.

S. 173

At the request of Mrs. BOXER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 173, a bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund.

S. 185

At the request of Mr. LEAHY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 185, a bill to authorize emergency supplemental assistance to combat the growing humanitarian crisis in sub-Saharan Africa.

AMENDMENT NO. 31

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of amendment No. 31 proposed to H.J. Res. 2, a joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

AMENDMENT NO. 31

At the request of Mr. SCHUMER, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from North Dakota (Mr. DORGAN), the Senator from Delaware (Mr. BIDEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Florida (Mr. GRAHAM), the Senator from New York (Mrs. CLINTON) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 31 proposed to H.J. Res. 2, supra.

AMENDMENT NO. 32

At the request of Mr. HARKIN, the names of the Senator from North Carolina (Mr. EDWARDS), the Senator from New York (Mrs. CLINTON), the Senator from Florida (Mr. GRAHAM), the Senator from New York (Mr. SCHUMER) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of amendment No. 32 proposed to H.J. Res. 2, a joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

AMENDMENT NO. 33

At the request of Mr. CRAIG, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of amendment No. 33 intended to be proposed to H.J. Res. 2, a joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORZINE (for himself, Mr. JEFFORDS, and Mr. LIEBERMAN):

S. 194. A bill to amend the Clean Air Act to establish an inventory, registry, and information system of United States greenhouse emissions to inform the public and private sector concerning, and encourage voluntary reductions in, greenhouse gas emissions; to the Committee on Environment and Public Works.

Mr. CORZINE. Mr. President, I rise today to introduce a bill that represents an important step towards the goal of addressing the threats posed by global climate change. I am pleased to be joined on this bill by Senator JEFFORDS and Senator LIEBERMAN. They were cosponsors of this legislation in the 107th Congress, they are recognized environmental leaders in the Senate, and are long-standing, outspoken advocates for taking action to mitigate climate change. I appreciate their help in introducing this legislation today.

Climate change is a complex issue. Scientifically. Economically. Politically. But complexity is no excuse for inattention or inaction. Because the health and viability of the global ecosystems upon which we all depend are at stake. And the time to act is now.

In 2001, the Intergovernmental Panel on Climate Change released its Third Assessment Report. That report shows that climate change science is increasingly clear and alarming. We know that human activities, primarily fossil fuel combustion, have raised the atmospheric concentration of carbon dioxide to the highest levels in the last 420,000 years. We know that the planet is warming, and that the balance of the scientific evidence suggests that most of the recent warming can be attributed to increased atmospheric greenhouse gas levels. We know that without concerted action by the U.S. and other countries, greenhouse gases will continue to increase.

These findings were echoed by a National Academy Sciences report published later in 2001, which concluded that: ''Greenhouse gases are accumulating in Earth's atmosphere as a result of human activities, causing surface air temperatures and subsurface ocean temperatures to rise. Temperatures are, in fact, rising. The changes observed over the last several decades are likely mostly due to human activities, but we cannot rule out that some significant part of these changes is also a reflection of natural variability. . . . ''Despite the uncertainties, there is general agreement that the observed warming is real and particularly strong within the past 20 years.''

Climate science and climate modeling have improved. These models predict warming under all scenarios that have been considered. Even the smallest warming predicted by current models, 2.5 degrees Fahrenheit over the next century, would represent the greatest rate of increase in global mean surface temperature in the last 10,000 years.

If these trends continue, the results may be devastating. People in my State of New Jersey treasure their Jersey Shore. With the exception of the 50 mile northern border with New York, New Jersey is surrounded by water. The State's Atlantic coastline stretches 127 miles. Fourteen of 21 counties have estuarine or marine shorelines. Rising sea level is already having adverse impacts, by exacerbating coastal erosion, and causing inundation, flooding, and saline intrusions into ground water. The NJ coastal area also supports one of New Jersey's largest industries, tourism.

Sea level is rising more rapidly along the US coast than worldwide. Studies by EPA and others have estimated that along the Gulf and Atlantic coasts, a one-foot rise in the sea level is likely by 2050 and could occur as soon as 2025. In the next century, a two-foot rise is most likely but a four-foot rise is possible. The implications for New Jersey and many other coastal States are potentially very significant. I am concerned about this impact. And I am concerned about other climate change impacts across New Jersey, the country and the globe.

The time for inaction and delay is over. We need to take steps today to start dealing with this issue. This bill is a modest step. But I think it's an important one, and it's one that I believe we should be able to act on during the 108th Congress.

The main provisions of the bill establish a system that would require companies to estimate and report their emissions of greenhouse gases, and a place where companies can register greenhouse gas emissions reductions. In addition, the bill would require an annual report on U.S. greenhouse gas emissions. I'd like to go through each of these components in more detail.

First, the bill requires EPA to work with the Secretaries of Energy, Commerce and Agriculture, as well as the private sector and non-governmental organizations to establish a greenhouse gas emission information system. For the purposes of the bill, greenhouse gases are carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. EPA is directed to establish threshold quantities for each of these gases. The threshold quantities will trigger the requirement for a company to report to the system, and are included to enable EPA to exclude most small businesses from the reporting requirements.

Companies that emit more than a threshold quantity of each gas will be required to report their emissions on an annual basis to EPA. The requirements will be phased in, beginning with direct, stationary source emissions in 2004. The following year, in 2005, companies subject to the reporting requirements will need to submit to EPA estimates of other types of greenhouse gas

emissions, such as process emissions, fugitive emissions, mobile source emissions, forest product-sensor emissions, and indirect emissions from heat and steam. By reporting to the system, companies will be able to establish emissions baselines.

Perhaps more important than the reporting system is the greenhouse gas registry established by the bill. The bill requires EPA a greenhouse gas registry, which will enable companies to register greenhouse gas reductions. Many companies are voluntarily implementing projects to reduce emissions or sequester carbon. The registry would establish a place for companies to be able to put these projects on public record in a consistent and reliable way.

Taken together, these provisions of the bill will accomplish several important goals. First, they will create a reliable inventory of the sources of greenhouse gas emissions within our economy. But more importantly, these provisions will provide a powerful incentive for companies to continue to make voluntary greenhouse gas reductions. The reason is that the greenhouse registry will be a place where companies can register their greenhouse gas reductions in a consistent and uniform way. This will enable companies to publicly verify the actions they are taking to reduce their emissions. It also provides a place where farmers, ranchers and foresters can register their carbon sequestration projects. They can then trade these registered reductions with any companies that might wish to purchase them. This had the potential to create a new carbon market that our farmers can benefit from.

Prior efforts to provide ''future credits'' in a registry bill have run up against a Constitutional problem in that we cannot bind future Congresses in legislation. So the bill does not provide such credits, per se. But it does establish a robust and credible reporting system and registry. And if companies register their reductions in a strong registry, they will have as much assurance as we can provide them that their reductions will be taken into account if a mandatory greenhouse gas emission reduction program is enacted.

I believe that such a mandatory emissions reduction program will be necessary, and I already support such a program, for example, Senator JEFFORDS' Clean Power Act. I don't believe that a reporting and registry system such as I am proposing is a substitute for such a mandatory emissions reductions program. But a reporting and registry system is a necessary component of any such program, and is a step that Congress may be able to agree on now, despite differences of opinion about whether mandatory emissions reductions are necessary at this time. A greenhouse gas reporting system and registry is a step we ought to take now, because it would provide a structure that encourages companies to make voluntary reductions now. That's the main purpose of the bill.

In addition, the bill requires EPA to annually publish a U.S. greenhouse gas emissions inventory. This will be a national account of greenhouse gas emissions for our nation, and will incorporate the information submitted to the greenhouse gas information system and registry. EPA has issued a similar report for several years now, and this provision is intended to explicitly authorize and specify the scope of that report going forward.

I want to add that I think that many of the emissions measurement challenges have been worked out or are being worked out now. Many advances have been made in recent years, often in a cooperative way, with industry, environmental groups and governments at the table working towards measurement protocols, such as the GHG Protocol Initiative. It's my intent that in developing the systems and protocols developed under this bill that EPA take advantage of the best practices that have been and continue to be developed in this fashion.

I first introduced this bill in December 2001. Since that time, I think it's fair to say that the Bush Administration has done literally nothing of consequence to address the climate change threat. But I think that there are many in industry who disagree with the Bush policy. Last September 16, the Pew Center ran an ad in the Washington Post that was signed by 40 major companies, including energy producers such as American Electric Power, BP, Cinergy, Entergy, and Sunoco. In that ad, these companies stated their support for policies to ''disclose major sources of greenhouse gas emissions and recognize early action.'' In addition, ExxonMobil stated in their 2002 report, ''Corporate Citizenship in a Changing World,'' that they are ''working with governments and industry associations to promote development of procedures for mandatory reporting by all businesses, so that in the future we can report emissions for activities we operate and also those in which we share ownership with others.'' So there is a willingness on the part of many major U.S. corporations to move to emissions reporting. Congress needs to follow the leads of these companies.

I also want to note that I worked on a bipartisan greenhouse gas registry and reporting bill with Senator BROWNBACK last year. That bill passed the Senate by voice vote as a Brownback-Corzine amendment to the Senate energy bill. While it did not require reporting immediately, it ensured robust participation in the reporting and registry system in the near future through a trigger mechanism. And while I preferred a mandatory system, and still do, I am primarily concerned with getting results. And the Brownback-Corzine approach had the support of the full Senate. So while I still prefer a mandatory system, as this bill would create, I remain willing and open to work with Senator BROWNBACK on an alternative again in this Congress.

In closing, it's clear that it's up to Congress to lead on climate change. I urge my colleagues to work with me this Congress to create a credible greenhouse gas reporting and registry system that will encourage voluntary reductions. 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. 194

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Greenhouse Gas Emissions Inventory and Registry Act of 2003''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) human activities have caused rapid increases in atmospheric concentrations of carbon dioxide and other greenhouse gases in the last century;

(2) according to the Intergovernmental Panel on Climate Change and the National Research Council—

(A) the Earth has warmed in the last century; and

(B) the majority of the observed warming is attributable to human activities;

(3) despite the fact that many uncertainties in climate science remain, the potential impacts from human-induced climate change pose a substantial risk that should be managed in a responsible manner; and

(4) to begin to manage climate change risks, public and private entities will need a comprehensive, accurate inventory, registry, and information system of the sources and quantities of United States greenhouse gas emissions.

(b) PURPOSE.—The purpose of this Act is to establish a mandatory greenhouse gas inventory, registry, and information system that—

(1) is complete, consistent, transparent, and accurate;

(2) will create accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies;

(3) will encourage greenhouse gas emission reductions; and

(4) can be used to establish a baseline in the event of any future greenhouse gas emission reduction requirements affecting major emitters in the United States.

SEC. 3. GREENHOUSE GAS EMISSIONS.

The Clean Air Act (42 U.S.C. 1701 et seq.) is amended by adding at the end the following:

''TITLE VII—GREENHOUSE GAS EMISSIONS

''SEC. 701. DEFINITIONS.

''In this title:

''(1) COVERED ENTITY.—The term 'covered entity' means an entity that emits more than a threshold quantity of greenhouse gas emissions.

''(2) DIRECT EMISSIONS.—The term 'direct emissions' means greenhouse gas emissions from a source that is owned or controlled by an entity.

''(3) ENTITY.—The term 'entity' includes a firm, a corporation, an association, a partnership, and a Federal agency.

''(4) GREENHOUSE GAS.—The term 'greenhouse gas' means—

''(A) carbon dioxide;

''(B) methane;

''(C) nitrous oxide;
''(D) hydrofluorocarbons;
''(E) perfluorocarbons; and
''(F) sulfur hexafluoride.

''(5) GREENHOUSE GAS EMISSIONS.—The term 'greenhouse gas emissions' means emissions of a greenhouse gas, including—

''(A) stationary combustion source emissions, which are emitted as a result of combustion of fuels in stationary equipment such as boilers, furnaces, burners, turbines, heaters, incinerators, engines, flares, and other similar sources;

''(B) process emissions, which consist of emissions from chemical or physical processes other than combustion;

''(C) fugitive emissions, which consist of intentional and unintentional emissions from—

''(i) equipment leaks such as joints, seals, packing, and gaskets; and

''(ii) piles, pits, cooling towers, and other similar sources; and

''(D) mobile source emissions, which are emitted as a result of combustion of fuels in transportation equipment such as automobiles, trucks, trains, airplanes, and vessels.

''(6) GREENHOUSE GAS EMISSIONS RECORD.—The term 'greenhouse gas emissions record' means all of the historical greenhouse gas emissions and project reduction data submitted by an entity under this title, including any adjustments to such data under section 704(c).

''(7) GREENHOUSE GAS REPORT.—The term 'greenhouse gas report' means an annual list of the greenhouse gas emissions of an entity and the sources of those emissions.

''(8) INDIRECT EMISSIONS.—The term 'indirect emissions' means greenhouse gas emissions that are a consequence of the activities of an entity but that are emitted from sources owned or controlled by another entity.

''(9) NATIONAL GREENHOUSE GAS EMISSIONS INFORMATION SYSTEM.—The term 'national greenhouse gas emissions information system' means the information system established under section 702(a).

''(10) NATIONAL GREENHOUSE GAS EMISSIONS INVENTORY.—The term 'national greenhouse gas emissions inventory' means the national inventory of greenhouse gas emissions established under section 705.

''(11) NATIONAL GREENHOUSE GAS REGISTRY.—The term 'national greenhouse gas registry' means the national greenhouse gas registry established under section 703(a).

''(12) PROJECT REDUCTION.—The term 'project reduction' means—

''(A) a greenhouse gas emission reduction achieved by carrying out a greenhouse gas emission reduction project; and

''(B) sequestration achieved by carrying out a sequestration project.

''(13) REPORTING ENTITY.—The term 'reporting entity' means an entity that reports to the Administrator under subsection (a) or (b) of section 704.

''(14) SEQUESTRATION.—The term 'sequestration' means the long-term separation, isolation, or removal of greenhouse gases from the atmosphere, including through a biological or geologic method such as reforestation or an underground reservoir.

''(15) THRESHOLD QUANTITY.—The term 'threshold quantity' means a threshold quantity for mandatory greenhouse gas reporting established by the Administrator under section 704(a)(3).

''(16) VERIFICATION.—The term 'verification' means the objective and independent assessment of whether a greenhouse gas report submitted by a reporting entity accurately reflects the greenhouse gas impact of the reporting entity.

''SEC. 702. NATIONAL GREENHOUSE GAS EMISSIONS INFORMATION SYSTEM.

''(a) ESTABLISHMENT.—In consultation with the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Energy, States, the private sector, and nongovernmental organizations concerned with establishing standards for reporting of greenhouse gas emissions, the Administrator shall establish and administer a national greenhouse gas emissions information system to collect information reported under section 704(a).

''(b) SUBMISSION TO CONGRESS OF DRAFT DESIGN.—Not later than 180 days after the date of enactment of this title, the Administrator shall submit to Congress a draft design of the national greenhouse gas emissions information system.

''(c) AVAILABILITY OF DATA TO THE PUBLIC.—The Administrator shall publish all information in the national greenhouse gas emissions information system through the website of the Environmental Protection Agency, except in any case in which publishing the information would reveal a trade secret or disclose information vital to national security.

''(d) RELATIONSHIP TO OTHER GREENHOUSE GAS REGISTRIES.—To the extent practicable, the Administrator shall ensure coordination between the national greenhouse gas emissions information system and existing and developing Federal, regional, and State greenhouse gas registries.

''(e) INTEGRATION WITH OTHER ENVIRONMENTAL INFORMATION.—To the extent practicable, the Administrator shall integrate information in the national greenhouse gas emissions information system with other environmental information managed by the Administrator.

''SEC. 703. NATIONAL GREENHOUSE GAS REGISTRY.

''(a) ESTABLISHMENT.—In consultation with the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Energy, States, the private sector, and nongovernmental organizations concerned with establishing standards for reporting of greenhouse gas emissions, the Administrator shall establish and administer a national greenhouse gas registry to collect information reported under section 704(b).

''(b) AVAILABILITY OF DATA TO THE PUBLIC.—The Administrator shall publish all information in the national greenhouse gas registry through the website of the Environmental Protection Agency, except in any case in which publishing the information would reveal a trade secret or disclose information vital to national security.

''(c) RELATIONSHIP TO OTHER GREENHOUSE GAS REGISTRIES.—To the maximum extent feasible and practicable, the Administrator shall ensure coordination between the national greenhouse gas registry and existing and developing Federal, regional, and State greenhouse gas registries.

''(d) INTEGRATION WITH OTHER ENVIRONMENTAL INFORMATION.—To the maximum extent practicable, the Administrator shall integrate all information in the national greenhouse gas registry with other environmental information collected by the Administrator.

''SEC. 704. REPORTING.

''(a) MANDATORY REPORTING TO NATIONAL GREENHOUSE GAS EMISSIONS INFORMATION SYSTEM.—

''(1) INITIAL REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—Not later than April 30, 2004, in accordance with this paragraph and the regulations promulgated under section 706(e)(1), each covered entity shall submit to the Administrator, for inclusion in the national greenhouse gas emissions information system, the greenhouse gas report of the covered entity with respect to—

''(i) calendar year 2003; and

''(ii) each greenhouse gas emitted by the covered entity in an amount that exceeds the applicable threshold quantity.

''(B) REQUIRED ELEMENTS.—Each greenhouse gas report submitted under subparagraph (A)—

''(i) shall include estimates of direct stationary combustion source emissions;

''(ii) shall express greenhouse gas emissions in metric tons of the carbon dioxide equivalent of each greenhouse gas emitted;

''(iii) shall specify the sources of greenhouse gas emissions that are included in the greenhouse gas report;

''(iv) shall be reported on an entity-wide basis and on a facility-wide basis; and

''(v) to the maximum extent practicable, shall be reported electronically to the Administrator in such form as the Administrator may require.

''(C) METHOD OF REPORTING OF ENTITY-WIDE EMISSIONS.—Under subparagraph (B)(iv), entity-wide emissions shall be reported on the bases of financial control and equity share in a manner consistent with the financial reporting practices of the covered entity.

''(2) FINAL REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—Not later than April 30, 2005, and each April 30 thereafter (except as provided in subparagraph (B)(vii)), in accordance with this paragraph and the regulations promulgated under section 706(e)(2), each covered entity shall submit to the Administrator the greenhouse gas report of the covered entity with respect to—

''(i) the preceding calendar year; and

''(ii) each greenhouse gas emitted by the covered entity in an amount that exceeds the applicable threshold quantity.

''(B) REQUIRED ELEMENTS.—Each greenhouse gas report submitted under subparagraph (A) shall include—

''(i) the required elements specified in paragraph (1);

''(ii) estimates of indirect emissions from imported electricity, heat, and steam;

''(iii) estimates of process emissions described in section 701(5)(B);

''(iv) estimates of fugitive emissions described in section 701(5)(C);

''(v) estimates of mobile source emissions described in section 701(5)(D), in such form as the Administrator may require;

''(vi) in the case of a covered entity that is a forest product entity, estimates of direct stationary source emissions, including emissions resulting from combustion of biomass;

''(vii) in the case of a covered entity that owns more than 250,000 acres of timberland, estimates, by State, of the timber and carbon stocks of the covered entity, which estimates shall be updated every 5 years; and

''(viii) a description of any adjustments to the greenhouse gas emissions record of the covered entity under subsection (c).

''(3) ESTABLISHMENT OF THRESHOLD QUANTITIES.—For the purpose of reporting under this subsection, the Administrator shall establish threshold quantities of emissions for each combination of a source and a greenhouse gas that is subject to the mandatory reporting requirements under this subsection.

''(b) VOLUNTARY REPORTING TO NATIONAL GREENHOUSE GAS REGISTRY.—

''(1) IN GENERAL.—Not later than April 30, 2004, and each April 30 thereafter, in accordance with this subsection and the regulations promulgated under section 706(f), an entity may voluntarily report to the Administrator, for inclusion in the national greenhouse gas registry, with respect to the preceding calendar year and any greenhouse gas emitted by the entity—

''(A) project reductions;

''(B) transfers of project reductions to and from any other entity;

''(C) project reductions and transfers of project reductions outside the United States;

''(D) indirect emissions that are not required to be reported under subsection (a)(2)(B)(ii) (such as product transport, waste disposal, product substitution, travel, and employee commuting); and

''(E) product use phase emissions.

''(2) TYPES OF ACTIVITIES.—Under paragraph (1), an entity may report activities that reduce greenhouse gas emissions or sequester a greenhouse gas, including—

''(A) fuel switching;

''(B) energy efficiency improvements;

''(C) use of renewable energy;

''(D) use of combined heat and power systems;

''(E) management of cropland, grassland, and grazing land;

''(F) forestry activities that increase carbon stocks;

''(G) carbon capture and storage;

''(H) methane recovery; and

''(I) carbon offset investments.

''(c) ADJUSTMENT FACTORS.—

''(1) IN GENERAL.—Each reporting entity shall adjust the greenhouse gas emissions record of the reporting entity in accordance with this subsection.

''(2) SIGNIFICANT STRUCTURAL CHANGES.—

''(A) IN GENERAL.—A reporting entity that experiences a significant structural change in the organization of the reporting entity (such as a merger, major acquisition, or divestiture) shall adjust its greenhouse gas emissions record for preceding years so as to maintain year-to-year comparability.

''(B) MID-YEAR CHANGES.—In the case of a reporting entity that experiences a significant structural change described in subparagraph (A) during the middle of a year, the greenhouse gas emissions record of the reporting entity for preceding years shall be adjusted on a pro-rata basis.

''(3) CALCULATION CHANGES AND ERRORS.—The greenhouse gas emissions record of a reporting entity for preceding years shall be adjusted for—

''(A) changes in calculation methodologies; or

''(B) errors that significantly affect the quantity of greenhouse gases in the greenhouse gas emissions record.

''(4) ORGANIZATIONAL GROWTH OR DECLINE.—The greenhouse gas emissions record of a reporting entity for preceding years shall not be adjusted for any organizational growth or decline of the reporting entity such as—

''(A) an increase or decrease in production output;

''(B) a change in product mix;

''(C) a plant closure; and

''(D) the opening of a new plant.

''(5) EXPLANATIONS OF ADJUSTMENTS.—A reporting entity shall explain, in a statement included in the greenhouse gas report of the reporting entity for a year—

''(A) any significant adjustment in the greenhouse gas emissions record of the reporting entity; and

''(B) any significant change between the greenhouse gas emissions record for the preceding year and the greenhouse gas emissions reported for the current year.

''(d) QUANTIFICATION AND VERIFICATION PROTOCOLS AND TOOLS.—

''(1) IN GENERAL.—The Administrator and the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Energy shall jointly work with the States, the private sector, and nongovernmental organizations to develop—

''(A) protocols for quantification and verification of greenhouse gas emissions;

''(B) electronic methods for quantification and reporting of greenhouse gas emissions; and

''(C) greenhouse gas accounting and reporting standards.

''(2) BEST PRACTICES.—The protocols and methods developed under paragraph (1) shall conform, to the maximum extent practicable, to the best practice protocols that have the greatest support of experts in the field.

''(3) INCORPORATION INTO REGULATIONS.—The Administrator shall incorporate the protocols developed under paragraph (1)(A) into the regulations promulgated under section 706.

''(4) OUTREACH PROGRAM.—The Administrator, the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Energy shall jointly conduct an outreach program to provide information to all reporting entities and the public on the protocols and methods developed under this subsection.

''(e) VERIFICATION.—

''(1) PROVISION OF INFORMATION BY REPORTING ENTITIES.—Each reporting entity shall provide information sufficient for the Administrator to verify, in accordance with greenhouse gas accounting and reporting standards developed under subsection (d)(1)(C), that the greenhouse gas report of the reporting entity—

''(A) has been accurately reported; and

''(B) in the case of each project reduction, represents actual reductions in greenhouse gas emissions or actual increases in net sequestration, as applicable.

''(2) INDEPENDENT THIRD-PARTY VERIFICATION.—A reporting entity may—

''(A) obtain independent third-party verification; and

''(B) present the results of the third-party verification to the Administrator for consideration by the Administrator in carrying out paragraph (1).

''(f) ENFORCEMENT.—The Administrator may bring a civil action in United States district court against a covered entity that fails to comply with subsection (a), or a regulation promulgated under section 706(e), to impose a civil penalty of not more than $25,000 for each day that the failure to comply continues.

''SEC. 705. NATIONAL GREENHOUSE GAS EMISSIONS INVENTORY.

''Not later than April 30, 2004, and each April 30 thereafter, the Administrator shall publish a national greenhouse gas emissions inventory that includes—

''(1) comprehensive estimates of the quantity of United States greenhouse gas emissions for the second preceding calendar year, including—

''(A) for each greenhouse gas, an estimate of the quantity of emissions contributed by each key source category;

''(B) a detailed analysis of trends in the quantity, composition, and sources of United States greenhouse gas emissions; and

''(C) a detailed explanation of the methodology used in developing the national greenhouse gas emissions inventory; and

''(2) a detailed analysis of the information reported to the national greenhouse gas emissions information system and the national greenhouse gas registry.

''SEC. 706. REGULATIONS.

''(a) IN GENERAL.—The Administrator may promulgate such regulations as are necessary to carry out this title.

''(b) BEST PRACTICES.—In developing regulations under this section, the Administrator shall seek to leverage leading protocols for the measurement, accounting, reporting, and verification of greenhouse gas emissions.

''(c) NATIONAL GREENHOUSE GAS EMISSIONS INFORMATION SYSTEM.—Not later than January 31, 2004, the Administrator shall promulgate such regulations as are necessary to establish the national greenhouse gas emissions information system.

''(d) NATIONAL GREENHOUSE GAS REGISTRY.—Not later than January 31, 2004, the Administrator shall promulgate such regulations as are necessary to establish the national greenhouse gas registry.

''(e) MANDATORY REPORTING REQUIREMENTS.—

''(1) INITIAL REPORTING REQUIREMENTS.—Not later than January 31, 2004, the Administrator shall promulgate such regulations as are necessary to implement the initial mandatory reporting requirements under section 704(a)(1).

''(2) FINAL REPORTING REQUIREMENTS.—Not later than January 31, 2005, the Administrator shall promulgate such regulations as are necessary to implement the final mandatory reporting requirements under section 704(a)(2).

''(f) VOLUNTARY REPORTING PROVISIONS.—Not later than January 31, 2004, the Administrator shall promulgate such regulations and issue such guidance as are necessary to implement the voluntary reporting provisions under section 704(b).

''(g) ADJUSTMENT FACTORS.—Not later than January 31, 2004, the Administrator shall promulgate such regulations as are necessary to implement the adjustment factors under section 704(c).''.

By Mr. CHAFEE (for himself, Mr. INHOFE, Mr. JEFFORDS, Mr. CARPER, and Mr. WARNER.

S. 195. A bill to amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup, and for other purposes; to the Committee on Environment and Public Works.

Mr. CHAFEE. Mr. President, today I am introducing the Underground Storage Tank Compliance Act of 2003. While this bill is being introduced today, it already has a long history. The Superfund Subcommittee conducted two hearings on the bill last year. We have received solid testimony and input from interested parties throughout this process, and I believe that this measure goes a long way toward solving the problems we face with leaking underground storage tanks. In addition, the language in this bill was approved unanimously by the Environment and Public Works Committee in the 107th Congress.

The chief reason for pursuing this legislation today is to improve compliance with the December 22, 1998 deadline for tank owners and operators to upgrade, replace, or close tanks that didn't meet minimum Federal requirements. To assess the situation, I asked the U.S. General Accounting Office in April, 2000 to examine compliance of tanks with Federal requirements. GAO concluded in May, 2001 that approximately 76,000 tanks have never been upgraded to meet minimum Federal standards. In addition, GAO found that more than 200,000 tanks are not being operated and maintained properly due, in part, to infrequent tank inspections and limited funding.

Leaking tanks can have severe impacts on local communities. For example, the village of Pascoag, Rhode Island learned the hard way that the problems GAO outlined are real and have serious consequences. Twelve hundred households were without water with which to drink, bathe, or cook for over four months because MTBE contaminated fuel from a local gasoline station was leaking into the town's drinking water supply.

I believe the Underground Storage Tank Compliance Act of 2003 will assist communities that are grappling with these problems and will prevent such problems from recurring. The high cost of clean-up once a tank has leaked, demands the emphasis on prevention included in this legislation. The bill requires the inspection of all underground storage tanks every two years and for the first time focuses on the training of tank operators. It simply does not make sense to install modern, protective equipment if the people who operate them do not have the proper training. The bill also provides the Federal Government and States with the tools necessary to ensure that all parties are meeting Federal standards. In addition, the legislation emphasizes compliance of tanks owned by Federal, State, and local governments, and provides $125 million per year for cleanup of sites contaminated by MTBE.

This bill enjoys broad support, including the support of the regulated community and the environmental community. We have worked extensively with the Administration to address issues raised by the Environmental Protection Agency. I believe that this legislation goes a long way toward solving many of the problems relating to leaking tanks, and I thank all of my colleagues for working with me on this.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 195

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 ''Underground Storage Tank Compliance Act of 2003''.

SEC. 2. LEAKING UNDERGROUND STORAGE TANKS.

Section 9004 of the Solid Waste Disposal Act (42 U.S.C. 6991c) is amended by adding at the end the following:

''(f) TRUST FUND DISTRIBUTION.—

''(1) IN GENERAL.—

''(A) AMOUNT AND PERMITTED USES OF DISTRIBUTION.—The Administrator shall distribute to States not less than 80 percent of the funds from the Trust Fund that are made available to the Administrator under section 9014(2)(A) for each fiscal year for use in paying the reasonable costs, incurred under a cooperative agreement with any State, of—

''(i) actions taken by the State under section 9003(h)(7)(A);

''(ii) necessary administrative expenses, as determined by the Administrator, that are directly related to corrective action and compensation programs under subsection (c)(1);

''(iii) any corrective action and compensation program carried out under subsection (c)(1) for a release from an underground storage tank regulated under this subtitle to the extent that, as determined by the State in accordance with guidelines developed jointly by the Administrator and the State, the financial resources of the owner or operator of the underground storage tank (including resources provided by a program in accordance with subsection (c)(1)) are not adequate to pay the cost of a corrective action without significantly impairing the ability of the owner or operator to continue in business;

''(iv) enforcement by the State or a local government of State or local regulations pertaining to underground storage tanks regulated under this subtitle; or

''(v) State or local corrective actions carried out under regulations promulgated under section 9003(c)(4).

''(B) USE OF FUNDS FOR ENFORCEMENT.—In addition to the uses of funds authorized under subparagraph (A), the Administrator may use funds from the Trust Fund that are not distributed to States under subparagraph (A) for enforcement of any regulation promulgated by the Administrator under this subtitle.

''(C) PROHIBITED USES.—Except as provided in subparagraph (A)(iii), under any similar requirement of a State program approved under this section, or in any similar State or local provision as determined by the Administrator, funds provided to a State by the Administrator under subparagraph (A) shall not be used by the State to provide financial assistance to an owner or operator to meet any requirement relating to underground storage tanks under part 280 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

''(2) ALLOCATION.—

''(A) PROCESS.—Subject to subparagraph (B), in the case of a State with which the Administrator has entered into a cooperative agreement under section 9003(h)(7)(A), the Administrator shall distribute funds from the Trust Fund to the State using the allocation process developed by the Administrator.

''(B) REVISIONS TO PROCESS.—The Administrator may revise the allocation process referred to in subparagraph (A) with respect to a State only after—

''(i) consulting with—

''(I) State agencies responsible for overseeing corrective action for releases from underground storage tanks;

''(II) owners; and

''(III) operators; and

''(ii) taking into consideration, at a minimum—

''(I) the total tax revenue contributed to the Trust Fund from all sources within the State;

''(II) the number of confirmed releases from federally regulated underground storage tanks in the State;

''(III) the number of federally regulated underground storage tanks in the State;

''(IV) the percentage of the population of the State that uses groundwater for any beneficial purpose;

''(V) the performance of the State in implementing and enforcing the program;

''(VI) the financial needs of the State; and

''(VII) the ability of the State to use the funds referred to in subparagraph (A) in any year.

''(3) DISTRIBUTIONS TO STATE AGENCIES.—Distributions from the Trust Fund under this subsection shall be made directly to a State agency that—

''(A) enters into a cooperative agreement referred to in paragraph (2)(A); or

''(B) is enforcing a State program approved under this section.

''(4) COST RECOVERY PROHIBITION.—Funds from the Trust Fund provided by States to owners or operators under paragraph (1)(A)(iii) shall not be subject to cost recovery by the Administrator under section 9003(h)(6).''.

SEC. 3. INSPECTION OF UNDERGROUND STORAGE TANKS.

Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting before subsection (b) (as redesignated by paragraph (1)) the following:

''(a) INSPECTION REQUIREMENTS.—Not later than 2 years after the date of enactment of the Underground Storage Tank Compliance Act of 2003, and at least once every 2 years thereafter, the Administrator or a State with a program approved under section 9004, as appropriate, shall require that all underground storage tanks regulated under this subtitle undergo onsite inspections for compliance with regulations promulgated under section 9003(c).''.

SEC. 4. OPERATOR TRAINING.

Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by striking section 9010 and inserting the following:

''SEC. 9010. OPERATOR TRAINING.

''(a) GUIDELINES.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Underground Storage Tank Compliance Act of 2003, in cooperation with States, owners, and operators, the Administrator shall publish in the Federal Register, after public notice and opportunity for comment, guidelines that specify methods for training operators of underground storage tanks.

''(2) CONSIDERATIONS.—The guidelines described in paragraph (1) shall take into account—

''(A) State training programs in existence as of the date of publication of the guidelines;

''(B) training programs that are being employed by owners and operators as of the date of enactment of this paragraph;

''(C) the high turnover rate of operators;

''(D) the frequency of improvement in underground storage tank equipment technology;

''(E) the nature of the businesses in which the operators are engaged; and

''(F) such other factors as the Administrator determines to be necessary to carry out this section.

''(b) STATE PROGRAMS.—

''(1) IN GENERAL.—Not later than 2 years after the date on which the Administrator publishes the guidelines under subsection (a)(1), each State shall develop and implement a strategy for the training of operators of underground storage tanks that is consistent with paragraph (2).

''(2) REQUIREMENTS.—A State strategy described in paragraph (1) shall—

''(A) be consistent with subsection (a);

''(B) be developed in cooperation with owners and operators; and

''(C) take into consideration training programs implemented by owners and operators as of the date of enactment of this subsection.

''(3) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops and implements a strategy described in paragraph (1), in addition to any funds that the State is entitled to receive under this subtitle, not more than $50,000, to be used to carry out the strategy.''.

SEC. 5. REMEDIATION OF MTBE CONTAMINATION.

Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

(1) in paragraph (7)(A)—

(A) by striking ''paragraphs (1) and (2) of this subsection'' and inserting ''paragraphs (1), (2), and (12)''; and

(B) by striking '', and including the authorities of paragraphs (4), (6), and (8) of this subsection'' and inserting ''and the authority under sections 9005(a) and 9011 and paragraphs (4), (6), and (8),''; and

(2) by adding at the end the following:

''(12) REMEDIATION OF MTBE CONTAMINATION.—

''(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9014(2)(B) to carry out corrective actions with respect to a release of methyl tertiary butyl ether that presents a threat to human health or welfare or the environment.

''(B) APPLICABLE AUTHORITY.—The Administrator or a State shall carry out subparagraph (A)—

''(i) in accordance with paragraph (2), except that a release with respect to which a corrective action is carried out under subparagraph (A) shall not be required to be from an underground storage tank; and

''(ii) in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).''.

SEC. 6. RELEASE PREVENTION, COMPLIANCE, AND ENFORCEMENT.

(a) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) (as amended by section 4) is amended by adding at the end the following:

''SEC. 9011. USE OF FUNDS FOR RELEASE PREVENTION AND COMPLIANCE.

''Funds made available under section 9014(2)(D) from the Trust Fund may be used to conduct inspections, issue orders, or bring actions under this subtitle—

''(1) by a State, in accordance with a grant or cooperative agreement with the Administrator, of State regulations pertaining to underground storage tanks regulated under this subtitle; and

''(2) by the Administrator, under this subtitle (including under a State program approved under section 9004).''.

(b) GOVERNMENT-OWNED TANKS.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b) is amended by adding at the end the following:

''(i) GOVERNMENT-OWNED TANKS.—

''(1) IMPLEMENTATION REPORT.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection, each State shall submit to the Administrator an implementation report that—

''(i) lists each underground storage tank described in subparagraph (B) in the State that, as of the date of submission of the report, is not in compliance with this subtitle; and

''(ii) describes the actions that have been and will be taken to ensure compliance by the underground storage tank listed under clause (i) with this subtitle.

''(B) UNDERGROUND STORAGE TANK.—An underground storage tank described in this subparagraph is an underground storage tank that is—

''(i) regulated under this subtitle; and

''(ii) owned or operated by the State government or any local government.

''(C) PUBLIC AVAILABILITY.—The Administrator shall make each report received under subparagraph (A) available to the public on the Internet.

''(2) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops an implementation report described in paragraph (1), in addition to any funds that the State is entitled to receive under this subtitle, not more than $50,000, to be used to carry out the implementation report.

''(3) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.''.

(c) INCENTIVES FOR PERFORMANCE.—Section 9006 of the Solid Waste Disposal Act (42 U.S.C. 6991e) is amended by adding at the end the following:

''(e) INCENTIVES FOR PERFORMANCE.—In determining the terms of a compliance order under subsection (a), or the amount of a civil penalty under subsection (d), the Administrator, or a State under a program approved under section 9004, may take into consideration whether an owner or operator—

''(1) has a history of operating underground storage tanks of the owner or operator in accordance with—

''(A) this subtitle; or

''(B) a State program approved under section 9004;

''(2) has repeatedly violated—

''(A) this subtitle; or

''(B) a State program approved under section 9004; or

''(3) has implemented a program, consistent with guidelines published under section 9010, that provides training to persons responsible for operating any underground storage tank of the owner or operator.''.

(d) AUTHORITY TO PROHIBIT CERTAIN DELIVERIES.—Section 9006 of the Solid Waste Disposal Act (42 U.S.C. 6991e) (as amended by subsection (c)) is amended by adding at the end the following:

''(f) AUTHORITY TO PROHIBIT CERTAIN DELIVERIES.—

''(1) IN GENERAL.—Subject to paragraph (2), beginning 180 days after the date of enactment of this subsection, the Administrator or a State may prohibit the delivery of regulated substances to underground storage tanks that are not in compliance with—

''(A) a requirement or standard promulgated by the Administrator under section 9003; or

''(B) a requirement or standard of a State program approved under section 9004.

''(2) LIMITATIONS.—

''(A) SPECIFIED GEOGRAPHIC AREAS.—Subject to subparagraph (B), under paragraph (1), the Administrator or a State shall not prohibit a delivery if the prohibition would jeopardize the availability of, or access to, fuel in any specified geographic area.

''(B) APPLICABILITY OF LIMITATION.—The limitation under subparagraph (A) shall apply only during the 180-day period following the date of a determination by the Administrator that exercising the authority of paragraph (1) is limited by subparagraph (A).

''(C) GUIDELINES.—Not later than 18 months after the date of enactment of this subsection, the Administrator shall issue guidelines that define the term 'specified geographic area' for the purpose of subparagraph (A).

''(3) AUTHORITY TO ISSUE GUIDELINES.—Subject to paragraph (2)(C), the Administrator, after consultation with States, may issue guidelines for carrying out this subsection.

''(4) ENFORCEMENT, COMPLIANCE, AND PENALTIES.—The Administrator may use the authority under the enforcement, compliance, or penalty provisions of this subtitle to carry out this subsection.

''(5) EFFECT ON STATE AUTHORITY.—Nothing in this subsection affects the authority of a State to prohibit the delivery of a regulated substance to an underground storage tank.''.

(e) PUBLIC RECORD.—Section 9002 of the Solid Waste Disposal Act (42 U.S.C. 6991a) is amended by adding at the end the following:

''(d) PUBLIC RECORD.—

''(1) IN GENERAL.—The Administrator shall require each State and Indian tribe that receives Federal funds to carry out this subtitle to maintain, update at least annually, and make available to the public, in such manner and form as the Administrator shall prescribe (after consultation with States and Indian tribes), a record of underground storage tanks regulated under this subtitle.

''(2) CONSIDERATIONS.—To the maximum extent practicable, the public record of a State or Indian tribe, respectively, shall include, for each year—

''(A) the number, sources, and causes of underground storage tank releases in the State or tribal area;

''(B) the record of compliance by underground storage tanks in the State or tribal area with—

''(i) this subtitle; or

''(ii) an applicable State program approved under section 9004; and

''(C) data on the number of underground storage tank equipment failures in the State or tribal area.

''(3) AVAILABILITY.—The Administrator shall make the public record of each State and Indian tribe under this section available to the public electronically.''.

SEC. 7. FEDERAL FACILITIES.

Section 9007 of the Solid Waste Disposal Act (42 U.S.C. 6991f) is amended by adding at the end the following:

''(c) REVIEW OF, AND REPORT ON, FEDERAL UNDERGROUND STORAGE TANKS.—

''(1) REVIEW.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in cooperation with each Federal agency that owns or operates 1 or more underground storage tanks or that manages land on which 1 or more underground storage tanks are located, shall review the status of compliance of those underground storage tanks with this subtitle.

''(2) IMPLEMENTATION REPORT.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection, each Federal agency described in paragraph (1) shall submit to the Administrator and to each State in which an underground storage tank described in paragraph (1) is located an implementation report that—

''(i) lists each underground storage tank described in paragraph (1) that, as of the date of submission of the report, is not in compliance with this subtitle; and

''(ii) describes the actions that have been and will be taken to ensure compliance by the underground storage tank with this subtitle.

''(B) PUBLIC AVAILABILITY.—The Administrator shall make each report received under subparagraph (A) available to the public on the Internet.

''(3) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.

''(d) APPLICABILITY OF CERTAIN REQUIREMENTS.—Section 6001(a) shall apply to each department, agency, and instrumentality covered by subsection (a).''.

SEC. 8. TANKS UNDER THE JURISDICTION OF INDIAN TRIBES.

Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) (as amended by section 6(a)) is amended by adding at the end the following:

''SEC. 9012. TANKS UNDER THE JURISDICTION OF INDIAN TRIBES.

''(a) IN GENERAL.—The Administrator, in coordination with Indian tribes, shall—

''(1) not later than 1 year after the date of enactment of this section, develop and implement a strategy—

''(A) giving priority to releases that present the greatest threat to human health or the environment, to take necessary corrective action in response to releases from

leaking underground storage tanks located wholly within the boundaries of—

''(i) an Indian reservation; or

''(ii) any other area under the jurisdiction of an Indian tribe; and

''(B) to implement and enforce requirements concerning underground storage tanks located wholly within the boundaries of—

''(i) an Indian reservation; or

''(ii) any other area under the jurisdiction of an Indian tribe;

''(2) not later than 2 years after the date of enactment of this section and every 2 years thereafter, submit to Congress a report that summarizes the status of implementation and enforcement of the underground storage tank program in areas located wholly within—

''(A) the boundaries of Indian reservations; and

''(B) any other areas under the jurisdiction of an Indian tribe; and

''(3) make the report described in paragraph (2) available to the public on the Internet.

''(b) NOT A SAFE HARBOR.—This section does not relieve any person from any obligation or requirement under this subtitle.

''(c) STATE AUTHORITY.—Nothing in this section applies to any underground storage tank that is located in an area under the jurisdiction of a State, or that is subject to regulation by a State, as of the date of enactment of this section.''.

SEC. 9. STATE AUTHORITY.

Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) (as amended by section 8) is amended by adding at the end the following:

''SEC. 9013. STATE AUTHORITY.

''Nothing in this subtitle precludes a State from establishing any requirement that is more stringent than a requirement under this subtitle.''.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) (as amended by section 9) is amended by adding at the end the following:

''SEC. 9014. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Administrator—

''(1) to carry out subtitle I (except sections 9003(h), 9005(a), and 9011) $25,000,000 for each of fiscal years 2004 through 2008; and

''(2) from the Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986—

''(A) to carry out section 9003(h) (except section 9003(h)(12)) $150,000,000 for each of fiscal years 2004 through 2008;

''(B) to carry out section 9003(h)(12), $125,000,000 for each of fiscal years 2004 through 2008;

''(C) to carry out section 9005(a)—

''(i) $35,000,000 for each of fiscal years 2004 and 2005; and

''(ii) $20,000,000 for each of fiscal years 2006 through 2009; and

''(D) to carry out section 9011—

''(i) $50,000,000 for fiscal year 2004; and

''(ii) $30,000,000 for each of fiscal years 2005 through 2009.''.

SEC. 11. CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 9001 of the Solid Waste Disposal Act (42 U.S.C. 6991) is amended—

(1) by striking ''For the purposes of this subtitle—'' and inserting ''In this subtitle:'';

(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (10), (7), (4), (3), (8), (5), (2), and (6), respectively, and reordering the paragraphs so as to appear in numerical order;

(3) by inserting before paragraph (2) (as redesignated by paragraph (2)) the following:

''(1) INDIAN TRIBE.—

''(A) IN GENERAL.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community that is recognized as being eligible for special programs and services provided by the United States to Indians because of their status as Indians.

''(B) INCLUSIONS.—The term 'Indian tribe' includes an Alaska Native village, as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).''; and

(4) by inserting after paragraph (8) (as redesignated by paragraph (2)) the following:

''(9) TRUST FUND.—The term 'Trust Fund' means the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended in the table of contents—

(A) in the item relating to section 9002, by inserting ''and public records'' after ''Notification''; and

(B) by striking the item relating to section 9010 and inserting the following:

''Sec. 9010. Operator training.

''Sec. 9011. Use of funds for release prevention and compliance.

''Sec. 9012. Tanks under the jurisdiction of Indian tribes.

''Sec. 9013. State authority.

''Sec. 9014. Authorization of appropriations.''.

(2) Section 9002 of the Solid Waste Disposal Act (42 U.S.C. 6991a) is amended in the section heading by inserting ''AND PUBLIC RECORDS'' after ''NOTIFICATION''.

(3) Section 9003(f) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)) is amended—

(A) in paragraph (1), by striking ''9001(2)(B)'' and inserting ''9001(7)(B)''; and

(B) in paragraphs (2) and (3), by striking ''9001(2)(A)'' each place it appears and inserting ''9001(7)(A)''.

(4) Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended in paragraphs (1), (2)(C), (7)(A), and (11) by striking ''Leaking Underground Storage Tank Trust Fund'' each place it appears and inserting ''Trust Fund''.

(5) Section 9009 of the Solid Waste Disposal Act (42 U.S.C. 6991h) is amended—

(A) in subsection (a), by striking ''9001(2)(B)'' and inserting ''9001(7)(B)''; and

(B) in subsection (d), by striking ''section 9001(1) (A) and (B)'' and inserting ''subparagraphs (A) and (B) of section 9001(10)''.

SEC. 12. TECHNICAL AMENDMENTS.

(a) Section 9001(4)(A) of the Solid Waste Disposal Act (42 U.S.C. 6991(4)(A)) (as amended by section 11(a)(2)) is amended by striking ''sustances'' and inserting ''substances''.

(b) Section 9003(f)(1) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended by striking ''subsection (c) and (d) of this section'' and inserting ''subsections (c) and (d)''.

(c) Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended by striking ''in 9001(2) (A) or (B) or both'' and inserting ''in subparagraph (A) or (B) of section 9001(7)''.

(d) Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) (as amended by section 3) is amended—

(1) in subsection (b), by striking ''study taking'' and inserting ''study, taking'';

(2) in subsection (c)(1), by striking ''relevent'' and inserting ''relevant''; and

(3) in subsection (c)(4), by striking ''Evironmental'' and inserting ''Environmental''.

By Mr. ALLEN (for himself, Mr. MCCAIN, Mr. STEVENS, Mr. HOLLINGS, and Mr. MILLER):

S. 196. A bill to establish a digital and wireless network technology program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. ALLEN. Mr. President, today I rise with my colleagues—Senators MCCAIN, STEVENS, HOLLINGS and MILLER to introduce the Digital & Wireless Network Technology Program Act of 2003.

Access to the Internet is no longer a luxury, but a necessity. Because of the rapid advancement and growing dependence on technology, being digitally connected becomes more essential to economic and educational advancement. 60 percent of all jobs require information technology skills and jobs in information technology pay significantly higher salaries than jobs in non-information technology fields. People who lack access to information technology tools are at an increasing disadvantage. Consequently, it is important that all institutions of higher education provide their students with access to the most current information technology and digital equipment.

As Governor of Virginia, I implemented a technology plan that created a blueprint of technology resources throughout the Virginia Community College System, VCCS. All 38 community college campuses are wired and each community college has a dedicated Commonwealth Classroom for compressed video distance education classes. Arrangements with Old Dominion University, Christopher Newport University, Virginia Tech and other institutions are offering senior level courses through distance education that actually take place on the community college campus.

Minority Serving Institutions, however, still lack basic information and digital technology infrastructure. A study completed by the Department of Commerce and the National Association for Equal Opportunity in Higher Education showed that most Historically Black Colleges and Universities do not have high-speed Internet access, and only 3 percent of these colleges and universities indicated that financial aid was available to help their students close the computer ownership gap, the digital divide.

The Digital & Wireless Network Technology Program Act of 2003 seeks to address the technology gap that exists at many Minority Serving Institutions, MSIs. Our legislation establishes a new grant program within the National Science Foundation, NSF, that provides up to $250 million to help Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges bridge the digital divide.

The legislation allows eligible institutions the opportunity through grants, contracts or cooperative agreements to acquire equipment, instrumentation, networking capability,

hardware and software, digital network technology and wireless technology/infrastructure, such as wireless fidelity or WiFi, to develop and provide educational services. Additionally, the grants could be used for such activities as equipment upgrades, technology training and hardware/software acquisition. A Minority Serving Institution also could use the funds to offer its students universal access to campus networks, dramatically increase their connectivity rates, or make necessary infrastructure improvements.

Virginia has five Historically Black Colleges and Universities: Hampton University, Norfolk State University, St. Paul's College, Virginia Union University and Virginia State University.

The best jobs in the future will go to those who are the best prepared. However, I am increasingly concerned that when it comes to high technology jobs which pay higher wages this country runs the risk of economically limiting many college students in our society. It is important for ALL Americans that we close this opportunity gap. Since my election to the Senate, my goal has always been to continue the work that I began as Governor, to look for ways to improve education, create jobs and seek out new opportunities to benefit Virginia and its citizens. By improving technology-education programs, we can accomplish all three for students throughout our nation.

I want to thank my colleagues for joining me today cosponsoring this legislation and look forward to working with fellow Senators to push this important measure across the goal-line so that many more college students are provided access to better technology and education, and most importantly, even greater opportunities in life.

I ask unanimous consent that the text of the bill be printed in the RECORD.

Mr. MCCAIN. During this era of economic slowdown and global threat, it is imperative that our Nation's institutions of higher education are prepared to produce a technologically advanced workforce. Rita Colwell, Director of the National Science Foundation, NSF, stated in a recent letter to new Members of Congress that ''. . . American science and technology is failing to tap a vast pool of talent among our women and ethnic minorities.''

As the demographics of the Nation become more and more diverse, minority institutions of higher education take on an even greater importance. It is estimated that in 10 years, minorities will comprise 40 percent of the college-age Americans, the pool from which the Nation's future engineers and scientists will emerge. Therefore, to tap this underutilized pool of future engineers and scientists, it is essential to provide assistance to these minority institutions. The hundreds of minority-serving institutions, MSI, which include Historically Black Colleges and Universities (HBCU), Hispanic-serving institutions, and tribal colleges and universities, should be provided with the resources to ensure that we are indeed utilizing their large student populations.

I am pleased to join Senator ALLEN and the other sponsors in introducing the Digital and Wireless Network Technology Act of 2003. This legislation would create an office at the NSF to draw upon its resources to strengthen the ability of MSIs to provide instructions in digital and wireless network technologies.

The legislation is not the result of any special interest groups or highly financial lobbying efforts. It is based upon data provided by 80 of the 118 HBCUs in a study, entitled ''HBCU Technology Assessment Study,'' funded by the U.S. Department of Commerce and conducted by a national black college association and minority business. The study assessed the computing resources, networking, and connectivity of HBCUs and other institutions that provide educational services to predominately African-American populations.

The study concluded that ''during this era of continuous innovation and change, continual upgrading of networking and connectivity systems is critical if HBCUs are to continue to cross the digital divide and not fall victim to it. Failure to do this may result in what is a manageable digital divide today, evolving into an unmanageable digital gulf tomorrow.'' I believe there is reason to conclude that the findings from the study also would apply to Hispanic-serving institutions, and tribal colleges and universities.

This bill would build upon the work of Senator Cleland and many others during the last Congress. In testimony before the Commerce Committee last year, the president of the United Negro College Fund, Congressman William Gray, stated that we can ill afford to promote college graduates who enter the workforce without mastering the basic computer skills and understanding how information technology applies to their work or profession.

I feel it is imperative that we do all we can to improve the quality of education for students at our minority serving institutions. These institutions will continue to play an important role in providing the Nation with a well-educated and talented workforce.

Mr. President, I urge my colleagues to support this bill.

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

S. 196

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 ''Digital and Wireless Network Technology Program Act of 2003''.

SEC. 2. ESTABLISHMENT OF OFFICE.

(a) IN GENERAL.—There is established within the National Science Foundation an Office of Digital and Wireless Network Technology to carry out the provisions of this Act.

(b) PURPOSE.—The Office shall—

(1) strengthen the ability of eligible institutions to provide capacity for instruction in digital and wireless network technologies by providing grants to, or executing contracts or cooperative agreements with, those institutions to provide such instruction; and

(2) strengthen the national digital and wireless infrastructure by increasing national investment in telecommunications and technology infrastructure at eligible institutions.

SEC. 3. ACTIVITIES SUPPORTED.

An eligible institution shall use a grant, contract, or cooperative agreement awarded under this Act—

(1) to acquire the equipment, instrumentation, networking capability, hardware and software, digital network technology, wireless technology, and infrastructure;

(2) to develop and provide educational services, including faculty development, to prepare students or faculty seeking a degree or certificate that is approved by the State, or a regional accrediting body recognized by the Secretary of Education;

(3) to provide teacher education, library and media specialist training, and preschool and teacher aid certification to individuals who seek to acquire or enhance technology skills in order to use technology in the classroom or instructional process;

(4) to implement joint projects and consortia to provide education regarding technology in the classroom with a State or State education agency, local education agency, community-based organization, national non-profit organization, or business, including minority businesses;

(5) to provide leadership development to administrators, board members, and faculty of eligible institutions with institutional responsibility for technology education;

(6) to provide capacity-building technical assistance to eligible institutions through technical assistance workshops, distance learning, new technologies, and other technological applications; and

(7) to foster the use of information communications technology to increase scientific, mathematical, engineering, and technology instruction and research.

SEC. 4. APPLICATION AND REVIEW PROCEDURE.

(a) IN GENERAL.—To be eligible to receive a grant, contract, or cooperative agreement under this Act, an eligible institution shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. The Director, in consultation with the advisory council established under subsection (b), shall establish a procedure by which to accept such applications and publish an announcement of such procedure, including a statement regarding the availability of funds, in the Federal Register.

(b) ADVISORY COUNCIL.—The Director shall establish an advisory council to advise the Director on the best approaches for involving eligible institutions in the activities described in section 3. In selecting the members of the advisory council, the Director may consult with representatives of appropriate organizations, including representatives of eligible institutions, to ensure that the membership of the advisory council reflects participation by technology and telecommunications institutions, minority businesses, eligible institution communities, Federal agency personnel, and other individuals who are knowledgeable about eligible institutions and technology issues.

(c) DATA COLLECTION.—An eligible institution that receives a grant, contract, or cooperative agreement under section 2 shall provide the Office with any relevant institutional statistical or demographic data requested by the Office.

(d) INFORMATION DISSEMINATION.—The Director shall convene an annual meeting of eligible institutions receiving grants, contracts, or cooperative agreements under section 2 for the purposes of—

(1) fostering collaboration and capacity-building activities among eligible institutions; and

(2) disseminating information and ideas generated by such meetings.

SEC. 5. MATCHING REQUIREMENT.

The Director may not award a grant, contract, or cooperative agreement to an eligible institution under this Act unless such institution agrees that, with respect to the costs to be incurred by the institution in carrying out the program for which the grant, contract, or cooperative agreement was awarded, such institution will make available (directly or through donations from public or private entities) non-Federal contributions in an amount equal to ¼ of the amount of the grant, contract, or cooperative agreement awarded by the Director, or $500,000, whichever is the lesser amount. The Director shall waive the matching requirement for any institution or consortium with no endowment, or an endowment that has a current dollar value lower than $50,000,000.

SEC. 6. LIMITATIONS.

(a) IN GENERAL.—An eligible institution that receives a grant, contract, or cooperative agreement under this Act that exceeds $2,500,000, shall not be eligible to receive another grant, contract, or cooperative agreement under this Act until every other eligible institution that has applied for a grant, contract, or cooperative agreement under this Act has received such a grant, contract, or cooperative.

(b) AWARDS ADMINISTERED BY ELIGIBLE INSTITUTION.—Each grant, contract, or cooperative agreement awarded under this Act shall be made to, and administered by, an eligible institution, even when it is awarded for the implementation of a consortium or joint project.

SEC. 7. ANNUAL REPORT AND EVALUATION.

(a) ANNUAL REPORT REQUIRED FROM RECIPIENTS.—Each institution that receives a grant, contract, or cooperative agreement under this Act shall provide an annual report to the Director on its use of the grant, contract, or cooperative agreement.

(b) EVALUATION BY DIRECTOR.—The Director, in consultation with the Secretary of Education, shall—

(1) review the reports provided under subsection (a) each year; and

(2) evaluate the program authorized by section 3 on the basis of those reports every 2 years.

(c) CONTENTS OF EVALUATION.—The Director, in the evaluation, shall describe the activities undertaken by those institutions and shall assess the short-range and long-range impact of activities carried out under the grant, contract, or cooperative agreement on the students, faculty, and staff of the institutions.

(d) REPORT TO CONGRESS.—The Director shall submit a report to the Congress based on the evaluation. In the report, the Director shall include such recommendations, including recommendations concerning the continuing need for Federal support of the program, as may be appropriate.

SEC. 8. DEFINITIONS.

In this Act:

(1) ELIGIBLE INSTITUTION.—The term ''eligible institution'' means an institution that is—

(A) a historically Black college or university that is a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)), an institution described in section 326(e)(1)(A), (B), or (C) of that Act (20 U.S.C. 1063b(e)(1)(A), (B), or (C)), or a consortium of institutions described in this subparagraph;

(B) a Hispanic-serving institution, as defined in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5));

(C) a tribally controlled college or university, as defined in section 316(b)(3) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)(3));

(D) an Alaska Native-serving institution under section 317(b) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b));

(E) a Native Hawaiian-serving institution under section 317(b) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)); or

(F) an institution determined by the Director, in consultation with the Secretary of Education, to have enrolled a substantial number of minority, low-income students during the previous academic year who received assistance under subpart I of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.) for that year.

(2) DIRECTOR.—The term ''Director'' means the Director of the National Science Foundation.

(3) MINORITY BUSINESS.—The term ''minority business'' includes HUBZone small business concerns (as defined in section 3(p) of the Small Business Act (15 U.S.C. 632(p)).

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director of the National Science Foundation $250,000,000 for each of the fiscal years 2004 through 2008 to carry out this Act.

By Mrs. BOXER.

S. 197. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a program to help States expand the education system to include at least 1 year of early education preceding the year a child enters kindergarten; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, today I am reintroducing the Early Education Act. This bill will enable millions of children to be prepared when they begin their academic careers.

In 1989, the Nation's governors established a goal that all children would have access to high quality prekindergarten programs by the year 2000. It is now the year 2003, and this goal is far from being met.

Of the nearly 8 million 3- and 4-year-olds that could be in early education, fewer than half are enrolled in an early education program.

The result is that too many children come to school ill-prepared to learn. They lack language skills, social skills, and motivation. Almost all experts now agree that an early education experience is one of the most effective strategies for improving later school performance.

Researchers have discovered that children have a learning capacity that can and should be developed at a much earlier age than was previously thought. The National Research Council reported that prekindergarten educational opportunities are necessary if children are going to develop the language and literacy skills needed to read.

Furthermore, studies have shown that children who participate in prekindergarten programs are less likely to be held back a grade, show greater learning retention and initiative, have better social skills, are more enthusiastic about school, and are more likely to have good attendance records.

For every dollar invested in early education, about 7 dollars are saved in later costs.

My bill, the Early Education Act, would create a demonstration project in at least 10 States that want to provide one year of prekindergarten early education in the public schools. There is a 50 percent matching requirement, and the $300 million authorized under this bill would be used by States to supplement—not supplant—other Federal, State or local funds.

Our children need a solid foundation that builds on current education system by providing them with early learning skills. I urge my colleagues to support this legislation.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 2—EXPRESSING THE SENSE OF THE CONGRESS THAT THE UNITED STATES POSTAL SERVICE SHOULD ISSUE COMMEMORATIVE POSTAGE STAMPS HONORING AMERICANS WHO DISTINGUISHED THEMSELVES BY THEIR SERVICE IN THE ARMED FORCES

Mr. CORZINE (for himself and Mr. WARNER) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 2

Whereas the United States Postal Service honored four distinguished American soldiers when it issued its Distinguished Soldiers commemorative postage stamps on May 3, 2000;

Whereas such stamps not only paid tribute to the patriotism and uncommon valor of those brave soldiers, but also served as a lasting tribute to the men and women of the Army who have dedicated their lives to the defense of our country; and

Whereas it is only fitting that similar recognition be given with respect to the other branches of the armed forces: Now, therefore, be it

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

(1) commemorative postage stamps should be issued by the United States Postal Service honoring Americans who distinguished themselves by their service in the Navy, Air Force, Marine Corps, and Coast Guard, respectively; and

(2) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such stamps be issued.

Mr. WARNER. Mr. President, I join my colleague from New Jersey, Senator CORZINE, in support of a series of commemorative postage stamps to

honor the distinguished members of our armed services.

As a veteran of World War II and Korea, I know firsthand the hardships of war. It certainly does provide a deeper appreciation for life and the struggles faced by the men and women who serve in our uniformed services. I also appreciate just how critical it is for our military personnel to be appropriately trained, well-equipped, and fairly compensated, both in times of peace and hostilities, for protecting the freedoms we enjoy as Americans.

In May of 2000, a series of four stamps were issued by the United States Postal Service to acknowledge several distinguished leaders of the United States Army. This Resolution maintains that this honor should be extended to recognize the accomplishments of notable service members of the United States Navy, United States Marine Corps, United States Air Force and the United States Coast Guard.

I take great pride in representing military personnel and the veterans of our great nation and I am pleased to support this admirable initiative.

Mr. CORZINE. Mr. President, I rise today to submit a resolution calling on the United States Postal Service to issue commemorative postage stamps honoring distinguished servicemen and servicewomen from the Navy, Marine Corps, Air Force, and Coast Guard.

On May 3, 2000 the United States Postal Service formally recognized four distinguished Army soldiers with ''Distinguished Soldiers'' commemorative postage stamps. These stamps serve as an important tribute to the patriotism and uncommon valor of four individual soldiers who risked life and limb in defense of liberty. Clearly, as our military is being mobilized for possible military action, these stamps serve as a timely recognition of the sacrifice made by our Army personnel to defend the democratic values that we hold dear.

To date, however, there has been an unfortunate, but easily remediable oversight: the Postal Service has issued a set of four stamps recognizing the accomplishments of individual U.S. Army soldiers, but has not followed through with similar stamp series commemorating the profound contributions of individual members of the armed forces from the Marines, the Navy, the Air Force, and the Coast Guard.

Recognizing all the branches of our Armed Forces is long overdue. Men and women from all the military services deserve recognition for the risks they have taken and the sacrifices they have made for the freedom we all enjoy. As Mr. Einar Dyhrkopp, then Chairman of the Postal Service Board of Governors stated in May 2000, at the dedication ceremony for the block of four stamps commemorating the valor of individual ''Distinguished Soldiers,'' ''By doing their duty, they brought honor to us all and helped preserve this country that we love. Now it's time for the nation to do its duty and honor these distinguished soldiers.''

It is a mistake to pay tribute to one service without similar tributes to the other services. The Postal Service should issue similar four-stamp sets recognizing the military accomplishments of individual members of the Air Force, the Marines, the Navy and the Coast Guard soon to redress this lamentable omission.

I am sure that each member of Congress can think of at least one military hero who deserves this special recognition. For instance, I have long felt that a stamp commemorating the courageous service of Gunnery Sergeant John Basilone would be a fitting memorial to a great Marine.

Raised in Raritan, NJ, Basilone, enlisted in the U.S. Army soon after his 18th birthday. Shortly thereafter, he was deployed to the Philippines where he earned a nickname that would stick with him for the rest of his career: ''Manila John.''

Following his tour of duty in 1937, Basilone returned to Raritan. But he wouldn't stay there long. In July 1940, with much of Europe at war and the United States on the brink, ''Manila John'' left New Jersey, enlisting in the military once again, this time joining the United States Marine Corps.

On October 24, 1942, Basilone earned his Congressional Medal of Honor. He was sent to a position on the Tenaru River at Guadalcanal and placed in command of two sections of heavy machine guns. Sergeant Basilone and his men were charged with defending Henderson Airfield, an important American foothold on the island. Although the Marine contingent was vastly outnumbered and without needed support, Basilone and his men successfully repelled a Japanese assault.

Other survivors reported that their success can be attributed to one man: ''Manila John.'' He crossed enemy lines to replenish a dangerously low stockpile of ammunition, repaired artillery pieces, and steadied his troops in the midst of torrential rain. He went several days and nights without food or sleep, and the U.S. military was able to carry the day. His exploits became Marine lore, and served as a patriotic inspiration to others facing daunting challenges in the midst of war.

For his courage under fire and profound patriotism, Basilone was the first enlisted Marine to be awarded the Congressional Medal of Honor in World War II. When he returned to the United States, he was heralded as a hero and quickly sent on tour around the country to help finance the war through the sale of war bonds. The Marine corps offered to commission Basilone as an officer and station him far away from the frontlines.

But Basilone was not interested in riding out the war in Washington, DC. He was quoted as saying. ''I ain't no officer, and I ain't no museum piece. I belong back with my outfit.'' In December 1944, he got his wish and returned to the frontlines.

General Douglas MacArthur called him ''a one-man army,'' and on February 19, 1945 at Iwo Jima, Basilone once against lived up to that reputation. Basilone destroyed an enemy stronghold, a blockhouse on that small Japanese island and commanded his young troops to move the heavy guns off the beach. Unfortunately, less than two hours into the assault on that fateful day in February, Basilone and four of his fellow marines were killed when an enemy mortar shell exploded nearby.

When Gunnery Sergeant John Basilone died, he was only 27, but he had already earned the Congressional Medal of Honor, the Navy Cross, the Purple Heart, and the appreciation of his Nation. Basilone is a true American patriot whose legacy should be preserved.

Basilone is just one of the many heroes who deserve to be memorialized on a U.S. postage stamp. That is why the Military Coalition, a group that includes associations representing every aspect of our Armed Forces community, from the Reserve Officers Association to the Veterans of Foreign Wars, has endorsed the initiative to see commemorative stamps issued honoring exceptional service men and women from all branches of the military.

The Postal Service fittingly honored courageous men and women who fought in the Army by issuing stamps commemorating the tremendous sacrifice and unusual courage demonstrated by individual distinguished soldiers. Now it is time for Marines like Sergeant Basilone, and men and women from the Air Force, the Coast Guard, and the Navy to be honored in a similar fashion.

I strongly urge my colleagues to support this resolution as an important message to all our military servicemen and women that we appreciate and admire their efforts to defend our great country.

AMENDMENTS SUBMITTED & PROPOSED

SA 35. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table.

SA 36. Mr. BYRD proposed an amendment to the joint resolution H.J. Res. 2, supra.

SA 37. Mr. BUNNING (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 38. Mr. BUNNING submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 39. Mrs. MURRAY submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 40. Mr. REED (for himself, Mr. DURBIN, Mr. KENNEDY, Mr. LEVIN, Ms. CANTWELL, Mr. CORZINE, Mr. JEFFORDS, and Mr. BINGAMAN)

submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 41. Mr. ROCKEFELLER (for himself, Mr. CHAFEE, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 42. Mr. DOMENICI submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 43. Mr. DOMENICI submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 44. Mr. MCCAIN proposed an amendment to the joint resolution H.J. Res. 2, supra.

SA 45. Mr. KYL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 46. Mr. WYDEN (for himself and Mr. SMITH) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 47. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 48. Mr. SARBANES (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 49. Mr. SARBANES (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 3, to disapprove under the Congressional Review Act the rule submitted by the Centers for Medicare & Medicaid Services, relating to revisions to payment policies under the Medicare physician fee schedule for calendar year 2003 and other items, published in the Federal Register on December 31, 2002 (vol. 67, page 79966); which was ordered to lie on the table.

SA 50. Mr. SARBANES submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table.

SA 51. Mr. FITZGERALD (for himself, Mr. DEWINE, Mr. BROWNBACK, Mr. KYL, Mr. ENSIGN, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 52. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 53. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 54. Mr. KYL (for himself, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. MCCAIN, and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 55. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 56. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 57. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 58. Ms. COLLINS (for herself and Mr. BOND) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 59. Mr. WYDEN (for himself, Mrs. FEINSTEIN, Mr. REID, Mrs. BOXER, Mr. CORZINE, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 60. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 61. Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. DORGAN, Mr. DURBIN, Mr. AKAKA, Mr. BINGAMAN, Mr. FEINGOLD, Mr. JOHNSON, Mr. KENNEDY, Mr. KOHL, and Mrs. MURRAY) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 62. Mr. MCCONNELL (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 63. Mr. ALLARD (for himself and Mr. CAMPBELL) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 64. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 65. Mr. KYL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 66. Mr. KYL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 35. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 563, line 14, insert before the period the following: '', and $6,600,000 to be used to fund the mass layoff statistics program under section 15 of the Wagner-Peyser Act (29 U.S.C. 491–2).

On page 640, line 2, increase the amount by $6,600,000.

SA 36. Mr. BYRD proposed an amendment to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; as follows:

At the appropriate place, insert the following:

Strike title VI of division N.

SA 37. Mr. BUNNING (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GAO STUDY ON SUBTITLE D OF THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT.

(a) STUDY.—The General Accounting Office (in this section referred to as the ''GAO'') shall conduct a study on the effectiveness of the benefit program under subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385o) in assisting the Department of Energy (in this section referred to as the ''DOE'') contractor employees in obtaining compensation for occupational illness.

(b) REPORT TO CONGRESS.—Not later than 120 days after the date of enactment of this Act, the GAO shall submit a report to the Senate Energy and Natural Resources Committee and the House of Representatives Energy and Commerce Committee on the results of the study conducted under subsection (a).

SA 38. Mr. BUNNING submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . GAO STUDY OF CLEANUP AT THE PADUCAH GASEOUS DIFFUSION PLANT IN PADUCAH, KENTUCKY.

(a) STUDY.—The General Accounting Office (in this section referred to as the ''GAO'') shall conduct a study of the cleanup progress at the Paducah Gaseous Diffusion Plant in Paducah, Kentucky.

(b) REPORT TO CONGRESS.—Not late than six months after the date of enactment of this Act, the GAO shall submit a report to the Senate Energy and Natural Resources Committee and the House of Representatives Energy and Commerce Committee on the results of the study conducted under subsection (a).

SA 39. Mrs. MURRAY submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, line 19, insert before the period the following: ''; *Provided further*, That $120,027,000 shall be appropriated to carry out the community access program to increase the capacity and effectiveness of community health care institutions and providers who serve patients regardless of their ability to pay''.

SA 40. Mr. REED (for himself, Mr. DURBIN, Mr. KENNEDY, Mr. LEVIN, Ms. CANTWELL, Mr. CORZINE, Mr. JEFFORDS, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title I of division G, insert the following:

SEC. ___. ENTITLEMENT TO ADDITIONAL WEEKS OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.

(a) ENTITLEMENT TO ADDITIONAL WEEKS.—

(1) IN GENERAL.—Paragraph (1) of section 203(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended to read as follows:

''(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to 26 times the individual's weekly benefit amount for the benefit year.''.

(2) REPEAL OF RESTRICTION ON AUGMENTATION DURING TRANSITIONAL PERIOD.—Section 208(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1, is amended—

(A) in paragraph (1)—

(i) by striking ''paragraphs (2) and (3)'' and inserting ''paragraph (2)''; and

(ii) by inserting before the period at the end the following: '', including such compensation by reason of amounts deposited in such account after such date pursuant to the application of subsection (c) of such section'';

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(3) EXTENSION OF TRANSITION LIMITATION.—Section 208(b)(2) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1 and as redesignated by paragraph (2), is amended by striking ''August 30, 2003'' and inserting ''December 31, 2003''.

(4) CONFORMING AMENDMENT FOR AUGMENTED BENEFITS.—Section 203(c)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended by striking ''the amount originally established in such account (as determined under subsection (b)(1))'' and inserting ''7 times the individual's average weekly benefit amount for the benefit year''.

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment this Act.

(2) TEUC–X AMOUNTS DEPOSITED IN ACCOUNT PRIOR TO DATE OF ENACTMENT DEEMED TO BE THE ADDITIONAL TEUC AMOUNTS PROVIDED BY THIS SECTION.—In applying the amendments made by subsection (a) under the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 26), the Secretary of Labor shall deem any amounts deposited into an individual's temporary extended unemployment compensation account by reason of section 203(c) of such Act (commonly known as ''TEUC–X amounts'') prior to the date of enactment of this Act to be amounts deposited in such account by reason of section 203(b) of such Act, as amended by subsection (a) (commonly known as ''TEUC amounts'').

(3) APPLICATION TO EXHAUSTEES AND CURRENT BENEFICIARIES.—

(A) EXHAUSTEES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) who exhausted such individual's rights to such compensation (by reason of the payment of all amounts in such individual's temporary extended unemployment compensation account) before such date,

such individual's eligibility for any additional weeks of temporary extended unemployment compensation by reason of the amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(B) CURRENT BENEFICIARIES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) as to whom the condition described in subparagraph (A)(ii) does not apply,

such individual shall be eligible for temporary extended unemployment compensation (in accordance with the provisions of the Temporary Extended Unemployment Compensation Act of 2002, as amended by subsection (a)) with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(4) REDETERMINATION OF ELIGIBILITY FOR AUGMENTED AMOUNTS FOR INDIVIDUALS FOR WHOM SUCH A DETERMINATION WAS MADE PRIOR TO THE DATE OF ENACTMENT.—Any determination of whether the individual's State is in an extended benefit period under section 203(c) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) made prior to the date of enactment of this Act shall be disregarded and the determination under such section shall be made as follows:

(A) INDIVIDUALS WHO EXHAUSTED 13 TEUC AND 13 TEUX–X WEEKS PRIOR TO THE DATE OF ENACTMENT.—In the case of an individual who, prior to the date of enactment of this Act, received 26 times the individual's average weekly benefit amount through an account established under section 203 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) (by reason of augmentation under subsection (c) of such section), the determination shall be made as of the date of the enactment of this Act.

(B) ALL OTHER INDIVIDUALS.—In the case of an individual who is not described in subparagraph (A), the determination shall be made at the time that the individual's account established under such section 203, as amended by subsection (a), is exhausted.

SA 41. Mr. ROCKEFELLER (for himself, Mr. CHAFEE, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. (a) EXTENDING AVAILABILITY OF SCHIP ALLOTMENTS FOR FISCAL YEARS 1998 THROUGH 2001.—

(1) RETAINED AND REDISTRIBUTED ALLOTMENTS FOR FISCAL YEARS 1998 AND 1999.—Paragraphs (2)(A)(i) and (2)(A)(ii) of section 2104(g) of the Social Security Act (42 U.S.C. 1397dd(g)) are each amended by striking ''fiscal year 2002'' and inserting ''fiscal year 2004''.

(2) EXTENSION AND REVISION OF RETAINED AND REDISTRIBUTED ALLOTMENTS FOR FISCAL YEAR 2000.—

(A) PERMITTING AND EXTENDING RETENTION OF PORTION OF FISCAL YEAR 2000 ALLOTMENT.—Paragraph (2) of such section 2104(g) is amended—

(i) in the heading, by striking ''AND 1999'' and inserting ''THROUGH 2000''; and

(ii) by adding at the end of subparagraph (A) the following:

''(iii) FISCAL YEAR 2000 ALLOTMENT.—Of the amounts allotted to a State pursuant to this section for fiscal year 2000 that were not expended by the State by the end of fiscal year 2002, 50 percent of that amount shall remain available for expenditure by the State through the end of fiscal year 2004.''.

(B) REDISTRIBUTED ALLOTMENTS.—Paragraph (1) of such section 2104(g) is amended—

(i) in subparagraph (A), by inserting ''or for fiscal year 2000 by the end of fiscal year 2002,'' after ''fiscal year 2001,'';

(ii) in subparagraph (A), by striking ''1998 or 1999'' and inserting ''1998, 1999, or 2000'';

(iii) in subparagraph (A)(i)—

(I) by striking ''or'' at the end of subclause (I),

(II) by striking the period at the end of subclause (II) and inserting ''; or''; and

(III) by adding at the end the following new subclause:

''(III) the fiscal year 2000 allotment, the amount specified in subparagraph (C)(i) (less the total of the amounts under clause (ii) for such fiscal year), multiplied by the ratio of the amount specified in subparagraph (C)(ii) for the State to the amount specified in subparagraph (C)(iii).'';

(iv) in subparagraph (A)(ii), by striking ''or 1999'' and inserting '', 1999, or 2000'';

(v) in subparagraph (B), by striking ''with respect to fiscal year 1998 or 1999'';

(vi) in subparagraph (B)(ii)—

(I) by inserting ''with respect to fiscal year 1998, 1999, or 2000,'' after ''subsection (e),''; and

(II) by striking ''2002'' and inserting ''2004''; and

(vii) by adding at the end the following new subparagraph:

''(C) AMOUNTS USED IN COMPUTING REDISTRIBUTIONS FOR FISCAL YEAR 2000.—For purposes of subparagraph (A)(i)(III)—

''(i) the amount specified in this clause is the amount specified in paragraph (2)(B)(i)(I) for fiscal year 2000, less the total amount remaining available pursuant to paragraph (2)(A)(iii);

''(ii) the amount specified in this clause for a State is the amount by which the State's expenditures under this title in fiscal years 2000, 2001, and 2002 exceed the State's allotment for fiscal year 2000 under subsection (b); and

''(iii) the amount specified in this clause is the sum, for all States entitled to a redistribution under subparagraph (A) from the allotments for fiscal year 2000, of the amounts specified in clause (ii).''.

(C) CONFORMING AMENDMENTS.—Such section 2104(g) is further amended—

(i) in its heading, by striking ''AND 1999'' and inserting '', 1999, AND 2000''; and

(ii) in paragraph (3)—

(I) by striking ''or fiscal year 1999'' and inserting '', fiscal year 1999, or fiscal year 2000''; and

(II) by striking ''or November 30, 2001'' and inserting ''November 30, 2001, or November 30, 2002'', respectively.

(3) EXTENSION AND REVISION OF RETAINED AND REDISTRIBUTED ALLOTMENTS FOR FISCAL YEAR 2001.—

(A) PERMITTING AND EXTENDING RETENTION OF PORTION OF FISCAL YEAR 2001 ALLOTMENT.—Paragraph (2) of such section 2104(g), as amended in paragraph (2)(A)(ii), is further amended—

(i) in the heading, by striking ''2000'' and inserting ''2001''; and

(ii) by adding at the end of subparagraph (A) the following:

''(iv) FISCAL YEAR 2001 ALLOTMENT.—Of the amounts allotted to a State pursuant to this section for fiscal year 2001 that were not expended by the State by the end of fiscal year 2003, 50 percent of that amount shall remain available for expenditure by the State through the end of fiscal year 2005.''.

(B) REDISTRIBUTED ALLOTMENTS.—Paragraph (1) of such section 2104(g), as amended in paragraph (2)(B), is further amended—

(i) in subparagraph (A), by inserting ''or for fiscal year 2001 by the end of fiscal year 2003,'' after ''fiscal year 2002,'';

(ii) in subparagraph (A), by striking ''1999, or 2000'' and inserting ''1999, 2000, or 2001'';

(iii) in subparagraph (A)(i)—

(I) by striking ''or'' at the end of subclause (II),

(II) by striking the period at the end of subclause (III) and inserting ''; or''; and

(III) by adding at the end the following new subclause:

''(IV) the fiscal year 2001 allotment, the amount specified in subparagraph (D)(i) (less the total of the amounts under clause (ii) for such fiscal year), multiplied by the ratio of the amount specified in subparagraph (D)(ii) for the State to the amount specified in subparagraph (D)(iii).'';

(iv) in subparagraph (A)(ii), by striking ''or 2000'' and inserting ''2000, or 2001'';

(v) in subparagraph (B)—

(I) by striking ''and'' at the end of clause (ii);

(II) by redesignating clause (iii) as clause (iv); and

(III) by inserting after clause (ii) the following new clause:

''(iii) notwithstanding subsection (e), with respect to fiscal year 2001, shall remain available for expenditure by the State through the end of fiscal year 2005; and''; and

(vi) by adding at the end the following new subparagraph:

''(D) AMOUNTS USED IN COMPUTING REDISTRIBUTIONS FOR FISCAL YEAR 2001.—For purposes of subparagraph (A)(i)(IV)—

''(i) the amount specified in this clause is the amount specified in paragraph (2)(B)(i)(I) for fiscal year 2001, less the total amount remaining available pursuant to paragraph (2)(A)(iv);

''(ii) the amount specified in this clause for a State is the amount by which the State's expenditures under this title in fiscal years 2001, 2002, and 2003 exceed the State's allotment for fiscal year 2001 under subsection (b); and

''(iii) the amount specified in this clause is the sum, for all States entitled to a redistribution under subparagraph (A) from the allotments for fiscal year 2001, of the amounts specified in clause (ii).''.

(C) CONFORMING AMENDMENTS.—Such section 2104(g) is further amended—

(i) in its heading, by striking ''AND 2000'' and inserting ''2000, AND 2001''; and

(ii) in paragraph (3)—

(I) by striking ''or fiscal year 2000'' and inserting ''fiscal year 2000, or fiscal year 2001''; and

(II) by striking ''or November 30, 2002,'' and inserting ''November 30, 2002, or November 30, 2003,'', respectively.

(4) EFFECTIVE DATE.—This subsection, and the amendments made by this subsection, shall be effective as if this subsection had been enacted on September 30, 2002, and amounts under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) from allotments for fiscal years 1998 through 2000 are available for expenditure on and after October 1, 2002, under the amendments made by this subsection as if this subsection had been enacted on September 30, 2002.

(b) AUTHORITY FOR QUALIFYING STATES TO USE PORTION OF SCHIP FUNDS FOR MEDICAID EXPENDITURES.—Section 2105 of the Social Security Act (42 U.S.C. 1397ee) is amended by adding at the end the following:

''(g) AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.—

''(1) STATE OPTION.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, with respect to allotments for fiscal years 1998, 1999, 2000, 2001, for fiscal years in which such allotments are available under subsections (e) and (g) of section 2104, a qualifying State (as defined in paragraph (2)) may elect to use not more than 10 percent of such allotments (instead of for expenditures under this title) for payments for such fiscal year under title XIX in accordance with subparagraph (B).

''(B) PAYMENTS TO STATES.—

''(i) IN GENERAL.—In the case of a qualifying State that has elected the option described in subparagraph (A), subject to the total amount of funds described with respect to the State in subparagraph (A), the Secretary shall pay the State an amount each quarter equal to the additional amount that would have been paid to the State under title XIX for expenditures of the State for the fiscal year described in clause (ii) if the enhanced FMAP (as determined under subsection (b)) had been substituted for the Federal medical assistance percentage (as defined in section 1905(b)) of such expenditures.

''(ii) EXPENDITURES DESCRIBED.—For purposes of clause (i), the expenditures described in this clause are expenditures for such fiscal years for providing medical assistance under title XIX to individuals who have not attained age 19 and whose family income exceeds 150 percent of the poverty line.

''(2) QUALIFYING STATE.—In this subsection, the term 'qualifying State' means a State that—

''(A) as of March 31, 1997, has an income eligibility standard with respect to any 1 or more categories of children (other than infants) who are eligible for medical assistance under section 1902(a)(10)(A) or under a waiver under section 1115 implemented on January 1, 1994, that is at least 185 percent of the poverty line; and

''(B) satisfies the requirements described in paragraph (3).

''(3) REQUIREMENTS.—The requirements described in this paragraph are the following:

''(A) SCHIP INCOME ELIGIBILITY.—The State has a State child health plan that (whether implemented under title XIX or this title)—

''(i) as of January 1, 2001, has an income eligibility standard that is at least 200 percent of the poverty line or has an income eligibility standard that exceeds 200 percent of the poverty line under a waiver under section 1115 that is based on a child's lack of health insurance;

''(ii) subject to subparagraph (B), does not limit the acceptance of applications for children; and

''(iii) provides benefits to all children in the State who apply for and meet eligibility standards on a statewide basis.

''(B) NO WAITING LIST IMPOSED.—With respect to children whose family income is at or below 200 percent of the poverty line, the State does not impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan.

''(C) ADDITIONAL REQUIREMENTS.—The State has implemented at least 4 of the following policies and procedures (relating to coverage of children under title XIX and this title):

''(i) UNIFORM, SIMPLIFIED APPLICATION FORM.—With respect to children who are eligible for medical assistance under section 1902(a)(10)(A), the State uses the same uniform, simplified application form (including, if applicable, permitting application other than in person) for purposes of establishing eligibility for benefits under title XIX and this title.

''(ii) ELIMINATION OF ASSET TEST.—The State does not apply any asset test for eligibility under section 1902(l) or this title with respect to children.

''(iii) ADOPTION OF 12-MONTH CONTINUOUS ENROLLMENT.—The State provides that eligibility shall not be regularly redetermined more often than once every year under this title or for children described in section 1902(a)(10)(A).

''(iv) SAME VERIFICATION AND REDETERMINATION POLICIES; AUTOMATIC REASSESSMENT OF ELIGIBILITY.—With respect to children who are eligible for medical assistance under section 1902(a)(10)(A), the State provides for initial eligibility determinations and redeterminations of eligibility using the same verification policies (including with respect to face-to-face interviews), forms, and frequency as the State uses for such purposes under this title, and, as part of such redeterminations, provides for the automatic reassessment of the eligibility of such children for assistance under title XIX and this title.

''(v) OUTSTATIONING ENROLLMENT STAFF.—The State provides for the receipt and initial processing of applications for benefits under this title and for children under title XIX at facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and Federally-qualified health centers described in section 1905(l)(2)(B) consistent with section 1902(a)(55).''.

SA 42. Mr. DOMENICI submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On Page 1027, line 17, strike ''August 1, 2002'' and insert ''December 31, 2004''.

On Page 1032, at the end of line 8, insert the following new section:

''SEC. 210. CIVIL PENALTIES.

''(a) REPEAL OF AUTOMATIC REMISSION.—Section 234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

''(b) LIMITATION FOR NOT-FOR-PROFIT INSTITUTIONS.—Subsection d. of section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read as follows:

'' 'd.(1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties made under subsection a. may not exceed the total amount of fees paid within any one-year period (as determined by the Secretary) under the contract under which the violation occurs.

'' '(2) For purposes of this section, the term 'not-for-profit' means that no part of the net earnings of the contractor, subcontractor, or supplier inures, or may lawfully inure, to the benefit of any natural person or for-profit artificial person.'.

''(c) EFFECTIVE DATE.—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 occurring under a contract entered into before the date of enactment of this section.''

SA 43. Mr. DOMENICI submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SECTION 1. SHORT TITLE.

This section may be cited as the ''T'uf Shur Bien Preservation Trust Area Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in 1748, the Pueblo of Sandia received a grant from a representative of the King of Spain, which grant was recognized and confirmed by Congress in 1858 (11 Stat. 374); and

(2) in 1994, the Pueblo filed a civil action against the Secretary of the Interior and the Secretary of Agriculture in the United States District Court for the District of Columbia (Civil No. 1:94CV02624), asserting that Federal surveys of the grant boundaries erroneously excluded certain land within the Cibola National Forest, including a portion of the Sandia Mountain Wilderness.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish the T'uf Shur Bien Preservation Trust Area in the Cibola National Forest;

(2) to confirm the status of national forest land and wilderness land in the Area while resolving issues associated with the civil action referred to in subsection (a)(2) and the opinions of the Solicitor of the Department of the Interior dated December 9, 1988 (M–36963; 96 I.D. 331) and January 19, 2001 (M–37002); and

(3) to provide the Pueblo, the parties to the civil action, and the public with a fair and just settlement of the Pueblo's claim.

SEC. 3. DEFINITIONS.

In this Act:

(1) AREA.—

(A) IN GENERAL.—The term ''Area'' means the T'uf Shur Bien Preservation Trust Area, comprised of approximately 9890 acres of land in the Cibola National Forest, as depicted on the map.

(B) EXCLUSIONS.—The term ''Area'' does not include—

(i) the subdivisions;

(ii) Pueblo-owned land;

(iii) the crest facilities; or

(iv) the special use permit area.

(2) CREST FACILITIES.—The term ''crest facilities'' means—

(A) all facilities and developments located on the crest of Sandia Mountain, including the Sandia Crest Electronic Site;

(B) electronic site access roads;

(C) the Crest House;

(D) the upper terminal, restaurant, and related facilities of Sandia Peak Tram Company;

(E) the Crest Observation Area;

(F) parking lots;

(G) restrooms;

(H) the Crest Trail (Trail No. 130);

(I) hang glider launch sites;

(J) the Kiwanis cabin; and

(K) the land on which the facilities described in subparagraphs (A) through (J) are located and the land extending 100 feet along terrain to the west of each such facility, unless a different distance is agreed to in writing by the Secretary and the Pueblo and documented in the survey of the Area.

(3) EXISTING USE.—The term ''existing use'' means a use that—

(A) is occurring in the Area as of the date of enactment of this Act; or

(B) is authorized in the Area after November 1, 1995, but before the date of enactment of this Act.

(4) LA LUZ TRACT.—The term ''La Luz tract'' means the tract comprised of approximately 31 acres of land owned in fee by the Pueblo and depicted on the map.

(5) LOCAL PUBLIC BODY.—The term ''local public body'' means a political subdivision of the State of New Mexico (as defined in New Mexico Code 6–5–1).

(6) MAP.—The term ''map'' means the Forest Service map entitled ''T'uf Shur Bien Preservation Trust Area'' and dated April 2000.

(7) MODIFIED USE.—

(A) IN GENERAL.—The term ''modified use'' means an existing use that, at any time after the date of enactment of this Act, is modified or reconfigured but not significantly expanded.

(B) INCLUSIONS.—The term ''modified use'' includes—

(i) a trail or trailhead being modified, such as to accommodate handicapped access;

(ii) a parking area being reconfigured (but not expanded); and

(iii) a special use authorization for a group recreation use being authorized for a different use area or time period.

(8) NEW USE.—

(A) IN GENERAL.—The term ''new use'' means—

(i) a use that is not occurring in the Area as of the date of enactment of this Act; and

(ii) an existing use that is being modified so as to be significantly expanded or altered in scope, dimension, or impact on the land, water, air, or wildlife resources of the Area.

(B) EXCLUSIONS.—The term ''new use'' does not include a use that—

(i) is categorically excluded from documentation requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(ii) is carried out to comply with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(9) PIEDRA LISA TRACT.—The term ''Piedra Lisa tract'' means the tract comprised of approximately 160 acres of land owned by the Pueblo and depicted on the map.

(10) PUEBLO.—The term ''Pueblo'' means the Pueblo of Sandia in its governmental capacity.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(12) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means the Agreement of Compromise and Settlement dated April 4, 2000, among the United States, the Pueblo, and the Sandia Peak Tram Company.

(13) SPECIAL USE PERMIT.—The term ''special use permit'' means the Special Use Permit issued December 1, 1993, by the Secretary to Sandia Peak Tram Company and Sandia Peak Ski Company

(14) SPECIAL USE PERMIT AREA.—

(A) IN GENERAL.—The term ''special use permit area'' means the land and facilities subject to the special use permit.

(B) INCLUSIONS.—The term ''special use permit area'' includes—

(i) approximately 46 acres of land used as an aerial tramway corridor;

(ii) approximately 945 acres of land used as a ski area; and

(iii) the land and facilities described in Exhibit A to the special use permit, including—

(I) the maintenance road to the lower tram tower;

(II) water storage and water distribution facilities; and

(III) 7 helispots.

(15) SUBDIVISION.—The term ''subdivision'' means—

(A) the subdivision of—

(i) Sandia Heights Addition;

(ii) Sandia Heights North Unit I, II, or 3;

(iii) Tierra Monte;

(iv) Valley View Acres; or

(v) Evergreen Hills; and

(B) any additional plat or privately-owned property depicted on the map.

(16) TRADITIONAL OR CULTURAL USE.—The term ''traditional or cultural use'' means—

(A) a ceremonial activity (including the placing of ceremonial materials in the Area); and

(B) the use, hunting, trapping, or gathering of plants, animals, wood, water, and other natural resources for a noncommercial purpose.

SEC. 4. T'UF SHUR BIEN PRESERVATION TRUST AREA.

(a) ESTABLISHMENT.—The T'uf Shur Bien Preservation Trust Area is established within the Cibola National Forest and the Sandia Mountain Wilderness as depicted on the map—

(1) to recognize and protect in perpetuity the rights and interests of the Pueblo in and to the Area, as specified in section 5(a);

(2) to preserve in perpetuity the national forest and wilderness character of the Area; and

(3) to recognize and protect in perpetuity the longstanding use and enjoyment of the Area by the public.

(b) ADMINISTRATION AND APPLICABLE LAW.—

(1) IN GENERAL.—The Secretary shall continue to administer the Area as part of the National Forest System subject to and consistent with the provisions of this Act affecting management of the Area.

(2) TRADITIONAL OR CULTURAL USES.—Traditional or cultural uses by Pueblo members and members of other federally-recognized Indian tribes authorized to use the Area by the Pueblo under section 5(a)(4) shall not be restricted except by—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.) (including regulations promulgated under that Act) as in effect on the date of enactment of this Act; and

(B) applicable Federal wildlife protection laws, as provided in section 6(a)(2).

(3) LATER ENACTMENTS.—To the extent that any law enacted or amended after the date of enactment of this Act is inconsistent with this Act, the law shall not apply to the Area unless expressly made applicable by Congress.

(4) TRUST.—The use of the word ''Trust'' in the name of the Area—

(A) is in recognition of the specific rights and interests of the Pueblo in the Area; and

(B) does not confer on the Pueblo the ownership interest that exists in a case in which the Secretary of the Interior accepts the title to land held in trust for the benefit of an Indian tribe.

(c) MAP.—

(1) FILING.—As soon as practicable after the date of enactment of this Act, the Secretary shall file the map and a legal description of the Area with the Committee on Resources of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate.

(2) PUBLIC AVAILABILITY.—The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia.

(3) EFFECT.—The map and legal description filed under paragraph (1) shall have the same effect as if the map and legal description were included in this Act, except that—

(A) technical and typographical errors shall be corrected;

(B) changes that may be necessary under subsection (b), (d), or (e) of section 9 or subsection (b) or (c) of section 13 shall be made; and

(C) to the extent that the map and the language of this Act conflict, the language of this Act shall control.

(d) NO CONVEYANCE OF TITLE.—No right, title, or interest of the United States in or to the Area or any part of the Area shall be conveyed to or exchanged with any person, trust, or governmental entity, including the Pueblo, without specific authorization of Congress.

(e) PROHIBITED USES.—

(1) IN GENERAL.—Notwithstanding any other provision of law—

(A) no use prohibited by the Wilderness Act (16 U.S.C. 1131 et seq.) as of the date of enactment of this Act shall be permitted in the wilderness portion of the Area; and

(B) none of the following uses shall be permitted in any portion of the Area:

(i) Gaming or gambling.

(ii) Mineral production.

(iii) Timber production.

(iv) Any new use to which the Pueblo objects under section 5(a)(3).

(2) MINING CLAIMS.—The Area is closed to the location of mining claims under Section 2320 of the Revised Statutes (30 U.S.C. 23) (commonly known as the ''Mining Law of 1872'').

(f) NO MODIFICATION OF BOUNDARIES.—Establishment of the Area shall not—

(1) affect the boundaries of or repeal or disestablish the Sandia Mountain Wilderness or the Cibola National Forest; or

(2) modify the existing boundary of the Pueblo grant.

SEC. 5. PUEBLO RIGHTS AND INTERESTS IN THE AREA.

(a) IN GENERAL.—The Pueblo shall have the following rights and interests in the Area:

(1) Free and unrestricted access to the Area for traditional or cultural uses, to the extent that those uses are not inconsistent with—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.) (including regulations promulgated under that Act) as in effect on the date of enactment of this Act; or

(B) applicable Federal wildlife protection laws as provided in section 6(a)(2).

(2) Perpetual preservation of the national forest and wilderness character of the Area under this Act.

(3) Rights in the management of the Area as specified in section 7, including—

(A) the right to consent or withhold consent to a new use;

(B) the right to consultation regarding a modified use;

(C) the right to consultation regarding the management and preservation of the Area; and

(D) the right to dispute resolution procedures.

(4) Exclusive authority, in accordance with the customs and laws of the Pueblo, to administer access to the Area for traditional or cultural uses by members of the Pueblo and of other federally-recognized Indian tribes.

(5) Such other rights and interests as are recognized in sections 4, 5(c), 7, 8, and 9.

(b) ACCESS.—Except as provided in subsection (a)(4), access to and use of the Area for all other purposes shall continue to be administered by the Secretary.

(c) COMPENSABLE INTEREST.—

(1) IN GENERAL.—If, by an Act of Congress enacted after the date of enactment of this Act, Congress diminishes the national forest or wilderness designation of the Area by authorizing a use prohibited by section 4(e) in all or any portion of the Area, or denies the Pueblo access for any traditional or cultural use in all or any portion of the Area—

(A) the United States shall compensate the Pueblo as if the Pueblo held a fee title interest in the affected portion of the Area and as though the United States had acquired such an interest by legislative exercise of the power of eminent domain; and

(B) the restrictions of sections 4(e) and 6(a) shall be disregarded in determining just compensation owed to the Pueblo.

(2) EFFECT.—Any compensation made to the Pueblo under paragraph (c) shall not affect the extinguishment of claims under section 10.

SEC. 6. LIMITATIONS ON PUEBLO RIGHTS AND INTERESTS IN THE AREA.

(a) LIMITATIONS.—The rights and interests of the Pueblo recognized in this Act do not include—

(1) any right to sell, grant, lease, convey, encumber, or exchange land or any interest in land in the Area (and any such conveyance shall not have validity in law or equity);

(2) any exemption from applicable Federal wildlife protection laws;

(3) any right to engage in a use prohibited by section 4(e); or

(4) any right to exclude persons or governmental entities from the Area.

(b) EXCEPTION.—No person who exercises traditional or cultural use rights as authorized by section 5(a)(4) may be prosecuted for a Federal wildlife offense requiring proof of a violation of a State law (including regulations).

SEC. 7. MANAGEMENT OF THE AREA.

(a) PROCESS.—

(1) IN GENERAL.—The Secretary shall consult with the Pueblo not less than twice each year, unless otherwise mutually agreed, concerning protection, preservation, and management of the Area (including proposed new uses and modified uses in the Area and authorizations that are anticipated during the next 6 months and were approved in the preceding 6 months).

(2) NEW USES.—

(A) REQUEST FOR CONSENT AFTER CONSULTATION.—

(i) DENIAL OF CONSENT.—If the Pueblo denies consent for a new use within 30 days after completion of the consultation process, the Secretary shall not proceed with the new use.

(ii) GRANTING OF CONSENT.—If the Pueblo consents to the new use in writing or fails to respond within 30 days after completion of the consultation process, the Secretary may proceed with the notice and comment process and the environmental analysis.

(B) FINAL REQUEST FOR CONSENT.—

(i) REQUEST.—Before the Secretary (or a designee) signs a record of decision or decision notice for a proposed new use, the Secretary shall again request the consent of the Pueblo.

(ii) DENIAL OF CONSENT.—If the Pueblo denies consent for a new use within 30 days after receipt by the Pueblo of the proposed record of decision or decision notice, the new use shall not be authorized.

(iii) FAILURE TO RESPOND.—If the Pueblo fails to respond to the consent request within 30 days after receipt of the proposed record of decision or decision notice—

(I) the Pueblo shall be deemed to have consented to the proposed record of decision or decision notice; and

(II) the Secretary may proceed to issue the final record of decision or decision notice.

(3) PUBLIC INVOLVEMENT.—

(A) IN GENERAL.—With respect to a proposed new use or modified use, the public shall be provided notice of—

(i) the purpose and need for the proposed new use or modified use;

(ii) the role of the Pueblo in the decisionmaking process; and

(iii) the position of the Pueblo on the proposal.

(B) COURT CHALLENGE.—Any person may bring a civil action in the United States District Court for the District of New Mexico to challenge a determination by the Secretary concerning whether a use constitutes a new use or a modified use.

(b) EMERGENCIES AND EMERGENCY CLOSURE ORDERS.—

(1) AUTHORITY.—The Secretary shall retain the authority of the Secretary to manage emergency situations, to—

(A) provide for public safety; and

(B) issue emergency closure orders in the Area subject to applicable law.

(2) NOTICE.—The Secretary shall notify the Pueblo regarding emergencies, public safety issues, and emergency closure orders as soon as practicable.

(3) NO CONSENT.—An action of the Secretary described in paragraph (1) shall not require the consent of the Pueblo.

(c) DISPUTES INVOLVING FOREST SERVICE MANAGEMENT AND PUEBLO TRADITIONAL USES.—

(1) IN GENERAL.—In a case in which the management of the Area by the Secretary conflicts with a traditional or cultural use, if the conflict does not pertain to a new use subject to the process specified in subsection (a)(2), the process for dispute resolution specified in this subsection shall apply.

(2) DISPUTE RESOLUTION PROCESS.—

(A) IN GENERAL.—In the case of a conflict described in paragraph (1)—

(i) the party identifying the conflict shall notify the other party in writing addressed to the Governor of the Pueblo or the Regional Forester, as appropriate, specifying the nature of the dispute; and

(ii) the Governor of the Pueblo or the Regional Forester shall attempt to resolve the dispute for a period of at least 30 days after notice has been provided before bringing a civil action in the United States District Court for the District of New Mexico.

(B) DISPUTES REQUIRING IMMEDIATE RESOLUTION.—In the case of a conflict that requires immediate resolution to avoid imminent, substantial, and irreparable harm—

(i) the party identifying the conflict shall notify the other party and seek to resolve the dispute within 3 days of the date of notification; and

(ii) if the parties are unable to resolve the dispute within 3 days—

(I) either party may bring a civil action for immediate relief in the United States District Court for the District of New Mexico; and

(II) the procedural requirements specified in subparagraph (A) shall not apply.

SEC. 8. JURISDICTION OVER THE AREA.

(a) CRIMINAL JURISDICTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, jurisdiction over crimes committed in the Area shall be allocated as provided in this paragraph.

(2) JURISDICTION OF THE PUEBLO.—The Pueblo shall have jurisdiction over an offense committed by a member of the Pueblo or of another federally-recognized Indian tribe who is present in the Area with the permission of the Pueblo under section 5(a)(4).

(3) JURISDICTION OF THE UNITED STATES.—The United States shall have jurisdiction over—

(A) an offense described in section 1153 of title 18, United States Code, committed by a member of the Pueblo or another federally-recognized Indian tribe;

(B) an offense committed by any person in violation of the laws (including regulations) pertaining to the protection and management of national forests;

(C) enforcement of Federal criminal laws of general applicability; and

(D) any other offense committed by a member of the Pueblo against a person not a member of the Pueblo.

(4) JURISDICTION OF THE STATE OF NEW MEXICO.—The State of New Mexico shall have jurisdiction over an offense under the law of the State committed by a person not a member of the Pueblo.

(5) OVERLAPPING JURISDICTION.—To the extent that the respective allocations of jurisdiction over the Area under paragraphs (2), (3), and (4) overlap, the governments shall have concurrent jurisdiction.

(6) FEDERAL USE OF STATE LAW.—Under the jurisdiction of the United States described in paragraph (3)(D), Federal law shall incorporate any offense defined and punishable under State law that is not so defined under Federal law.

(b) CIVIL JURISDICTION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the United States, the State of New Mexico, and local public bodies shall have the same civil adjudicatory, regulatory, and taxing jurisdiction over the Area as was exercised by those entities on the day before the date of enactment of this Act.

(2) JURISDICTION OF THE PUEBLO.—

(A) IN GENERAL.—The Pueblo shall have exclusive civil adjudicatory jurisdiction over—

(i) a dispute involving only members of the Pueblo;

(ii) a civil action brought by the Pueblo against a member of the Pueblo; and

(iii) a civil action brought by the Pueblo against a member of another federally-recognized Indian tribe for a violation of an understanding between the Pueblo and the other tribe regarding use of or access to the Area for traditional or cultural uses.

(B) REGULATORY JURISDICTION.—The Pueblo shall have no regulatory jurisdiction over the Area, except that the Pueblo shall have exclusive authority to—

(i) regulate traditional or cultural uses by the members of the Pueblo and administer access to the Area by other federally-recognized Indian tribes for traditional or cultural uses, to the extent such regulation is consistent with this Act; and

(ii) regulate hunting and trapping in the Area by members of the Pueblo, to the extent that the hunting or trapping is related to traditional or cultural uses, except that such hunting and trapping outside of that portion of the Area in sections 13, 14, 23, 24, and the northeast quarter of section 25 of T12N, R4E, and section 19 of T12N, R5E, N.M.P.M., Sandoval County, New Mexico, shall be regulated by the Pueblo in a manner consistent with the regulations of the State of New Mexico concerning types of weapons and proximity of hunting and trapping to trails and residences.

(C) TAXING JURISDICTION.—The Pueblo shall have no authority to impose taxes within the Area.

(3) STATE AND LOCAL TAXING JURISDICTION.—The State of New Mexico and local public bodies shall have no authority within the Area to tax the uses or the property of the Pueblo, members of the Pueblo, or members of other federally-recognized Indian tribes authorized to use the Area under section 5(a)(4).

SEC. 9. SUBDIVISIONS AND OTHER PROPERTY INTERESTS.

(a) SUBDIVISIONS.—

(1) IN GENERAL.—The subdivisions are excluded from the Area.

(2) JURISDICTION.—

(A) IN GENERAL.—The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory or any other form of jurisdiction, over the subdivisions and property interests therein, and the laws of the Pueblo shall not apply to the subdivisions.

(B) STATE JURISDICTION.—The jurisdiction of the State of New Mexico and local public bodies over the subdivisions and property interests therein shall continue in effect, except that on application of the Pueblo a tract comprised of approximately 35 contiguous, nonsubdivided acres in the northern section of Evergreen Hills owned in fee by the Pueblo at the time of enactment of this Act, shall be transferred to the United States and held in trust for the Pueblo by the United States and administered by the Secretary of the Interior.

(3) LIMITATIONS ON TRUST LAND.—Trust land described in paragraph (2)(B) shall be subject to all limitations on use pertaining to the Area contained in this Act.

(b) PIEDRA LISA.—

(1) IN GENERAL.—The Piedra Lisa tract is excluded from the Area.

(2) DECLARATION OF TRUST TITLE.—The Piedra Lisa tract—

(A) shall be transferred to the United States;

(B) is declared to be held in trust for the Pueblo by the United States; and

(C) shall be administered by the Secretary of the Interior subject to all limitations on use pertaining to the Area contained in this Act.

(3) APPLICABILITY OF CERTAIN RESTRICTION.—The restriction contained in section 6(a)(4) shall not apply outside of Forest Service System trails.

(c) CREST FACILITIES.—

(1) IN GENERAL.—The land on which the crest facilities are located is excluded from the Area.

(2) JURISDICTION.—The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory or any other form of jurisdiction, over the land on which the crest facilities are located and property interests therein, and the laws of the Pueblo, shall not apply to that land. The preexisting jurisdictional status of that land shall continue in effect.

(d) SPECIAL USE PERMIT AREA.—

(1) IN GENERAL.—The land described in the special use permit is excluded from the Area.

(2) JURISDICTION.—

(A) IN GENERAL.—The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory, or any other form of jurisdiction, over the land described in the special use permit, and the laws of the Pueblo shall not apply to that land.

(B) PREEXISTING STATUS.—The preexisting jurisdictional status of that land shall continue in effect.

(3) AMENDMENT TO PLAN.—In the event the special use permit, during its existing term or any future terms or extensions, requires amendment to include other land in the Area necessary to realign the existing or any future replacement tram line, associated structures, or facilities, the land subject to that amendment shall thereafter be excluded from the Area and shall have the same status under this Act as the land currently described in the special use permit.

(4) LAND DEDICATED TO AERIAL TRAMWAY AND RELATED USES.—Any land dedicated to aerial tramway and related uses and associated facilities that are excluded from the special use permit through expiration, termination or the amendment process shall thereafter be included in the Area, but only after final agency action no longer subject to any appeals.

(e) LA LUZ TRACT.—

(1) IN GENERAL.—The La Luz tract now owned in fee by the Pueblo is excluded from the Area and, on application by the Pueblo, shall be transferred to the United States and held in trust for the Pueblo by the United States and administered by the Secretary of the Interior subject to all limitations on use pertaining to the Area contained in this Act.

(2) NONAPPLICABILITY OF CERTAIN RESTRICTION.—The restriction contained in section 6(a)(4) shall not apply outside of Forest Service System trails.

(f) EVERGREEN HILLS ACCESS.—The Secretary shall ensure that Forest Service Road 333D, as depicted on the map, is maintained in an adequate condition in accordance with section 1323(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3210(a)).

(g) PUEBLO FEE LAND.—Those properties not specifically addressed in subsections (a) or (e) that are owned in fee by the Pueblo within the subdivisions are excluded from the Area and shall be subject to the jurisdictional provisions of subsection (a).

(h) RIGHTS-OF-WAY.—

(1) ROAD RIGHTS-OF-WAY.—

(A) IN GENERAL.—In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant to the County of Bernalillo, New Mexico, in perpetuity, the following irrevocable rights-of-way for roads identified on the map in order to provide for public access to the subdivisions, the special use permit land and facilities, the other leasehold and easement rights and interests of the Sandia Peak Tram Company and its affiliates, the Sandia Heights South Subdivision, and the Area—

(i) a right-of-way for Tramway Road;

(ii) a right-of-way for Juniper Hill Road North;

(iii) a right-of-way for Juniper Hill Road South;

(iv) a right-of-way for Sandia Heights Road; and

(v) a right-of-way for Juan Tabo Canyon Road (Forest Road No. 333).

(B) CONDITIONS.—The road rights-of-way shall be subject to the following conditions:

(i) Such rights-of-way may not be expanded or otherwise modified without the Pueblo's written consent, but road maintenance to the rights-of-way shall not be subject to Pueblo consent.

(ii) The rights-of-way shall not authorize uses for any purpose other than roads without the Pueblo's written consent.

(iii) Except as provided in the Settlement Agreement, existing rights-of-way or leasehold interests and obligations held by the Sandia Peak Tram Company and its affiliates, shall be preserved, protected, and unaffected by this Act.

(2) UTILITY RIGHTS-OF-WAY.—In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant irrevocable utility rights-of-way in perpetuity across Pueblo land to appropriate utility or other service providers serving Sandia Heights Addition, Sandia Heights North Units I, II, and 3, the special use permit land, Tierra Monte, and Valley View Acres, including rights-of-way for natural gas, power, water, telecommunications, and cable television services. Such rights-of-way shall be within existing utility corridors as depicted on the map or, for certain water lines, as described in the existing grant of easement to the Sandia Peak Utility Company; provided that use of water line easements outside the utility corridors depicted on the map shall not be used for utility purposes other than water lines and associated facilities. Except where above-ground facilities already exist, all new utility facilities shall be installed underground unless the Pueblo agrees otherwise. To the extent that enlargement of existing utility corridors is required for any technologically-advanced telecommunication, television, or utility services, the Pueblo shall not unreasonably withhold agreement to a reasonable enlargement of the easements described above.

(3) FOREST SERVICE RIGHTS-OF-WAY.—In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant to the Forest Service the following irrevocable rights-of-way in perpetuity for Forest Service trails crossing land of the Pueblo in order to provide for public access to the Area and through Pueblo land—

(A) a right-of-way for a portion of the Crest Spur Trail (Trail No. 84), crossing a portion of the La Luz tract, as identified on the map;

(B) a right-of-way for the extension of the Foothills Trail (Trail No. 365A), as identified on the map; and

(C) a right-of-way for that portion of the Piedra Lisa North-South Trail (Trail No. 135) crossing the Piedra Lisa tract.

SEC. 10. EXTINGUISHMENT OF CLAIMS.

(a) IN GENERAL.—Except for the rights and interests in and to the Area specifically recognized in sections 4, 5, 7, 8, and 9, all Pueblo claims to right, title and interest of any kind, including aboriginal claims, in and to land within the Area, any part thereof, and property interests therein, as well as related

boundary, survey, trespass, and monetary damage claims, are permanently extinguished. The United States' title to the Area is confirmed.

(b) SUBDIVISIONS.—Any Pueblo claims to right, title and interest of any kind, including aboriginal claims, in and to the subdivisions and property interests therein (except for land owned in fee by the Pueblo as of the date of enactment of this Act), as well as related boundary, survey, trespass, and monetary damage claims, are permanently extinguished.

(c) SPECIAL USE AND CREST FACILITIES AREAS.—Any Pueblo right, title and interest of any kind, including aboriginal claims, and related boundary, survey, trespass, and monetary damage claims, are permanently extinguished in and to—

(1) the land described in the special use permit; and

(2) the land on which the crest facilities are located.

(d) PUEBLO AGREEMENT.—As provided in the Settlement Agreement, the Pueblo has agreed to the relinquishment and extinguishment of those claims, rights, titles and interests extinguished pursuant to subsection (a), (b) and (c).

(e) CONSIDERATION.—The recognition of the Pueblo's rights and interests in this Act constitutes adequate consideration for the Pueblo's agreement to the extinguishment of the Pueblo's claims in this section and the right-of-way grants contained in section 9, and it is the intent of Congress that those rights and interests may only be diminished by a future Act of Congress specifically authorizing diminishment of such rights, with express reference to this Act.

SEC. 11. CONSTRUCTION.

(a) STRICT CONSTRUCTION.—This Act recognizes only enumerated rights and interests, and no additional rights, interests, obligations, or duties shall be created by implication.

(b) EXISTING RIGHTS.—To the extent there exist within the Area as of the date of enactment of this Act any valid private property rights associated with private land that are not otherwise addressed in this Act, such rights are not modified or otherwise affected by this Act, nor is the exercise of any such right subject to the Pueblo's right to withhold consent to new uses in the Area as set forth in section 5(a)(3)(A).

(c) NOT PRECEDENT.—The provisions of this Act creating certain rights and interests in the National Forest System are uniquely suited to resolve the Pueblo's claim and the geographic and societal situation involved, and shall not be construed as precedent for any other situation involving management of the National Forest System.

(d) FISH AND WILDLIFE.—Except as provided in section 8(b)(2)(B), nothing in this Act shall be construed as affecting the responsibilities of the State of New Mexico with respect to fish and wildlife, including the regulation of hunting, fishing, or trapping within the Area.

(e) FEDERAL LAND POLICY AND MANAGEMENT ACT.—Section 316 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1746) is amended by adding at the end the following: ''Any corrections authorized by this section which affect the boundaries of, or jurisdiction over, land administered by another Federal agency shall be made only after consultation with, and the approval of, the head of such other agency.''

SEC. 12. JUDICIAL REVIEW.

(a) ENFORCEMENT.—A civil action to enforce the provisions of this Act may be brought to the extent permitted under chapter 7 of title 5, United States Code. Judicial review shall be based on the administrative record and subject to the applicable standard of review set forth in section 706 of title 5, United States Code.

(b) WAIVER.—A civil action may be brought against the Pueblo for declaratory judgment or injunctive relief under this Act, but no money damages, including costs or attorney's fees, may be imposed on the Pueblo as a result of such judicial action.

(c) VENUE.—Venue for any civil action provided for in this section, as well as any civil action to contest the constitutionality of this Act, shall lie only in the United States District Court for the District of New Mexico.

SEC. 13. PROVISIONS RELATING TO CONTRIBUTIONS AND LAND EXCHANGE.

(a) CONTRIBUTIONS.—

(1) IN GENERAL.—The Secretary may accept contributions from the Pueblo, or from other persons or governmental entities—

(A) to perform and complete a survey of the Area; or

(B) to carry out any other project or activity for the benefit of the Area in accordance with this Act.

(2) DEADLINE.—Not later than 1 year after the date of enactment of this Act, the Secretary shall complete the survey of the Area under paragraph (1)(A).

(b) LAND EXCHANGE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, after consultation with the Pueblo, the Secretary shall, in accordance with applicable laws, prepare and offer a land exchange of National Forest land outside the Area and contiguous to the northern boundary of the Pueblo's Reservation within sections 10, 11, and 14 of T12N, R4E, N.M.P.M., Sandoval County, New Mexico excluding Wilderness land, for land owned by the Pueblo in the Evergreen Hills subdivision in Sandoval County contiguous to National Forest land, and the La Luz tract in Bernalillo County.

(2) ACCEPTANCE OF PAYMENT.—Notwithstanding section 206(b) of the Federal Land Policy and Management Act (43 U.S.C. 1716(b)), the Secretary may either make or accept a cash equalization payment in excess of 25 percent of the total value of the land or interests transferred out of Federal ownership.

(3) FUNDS RECEIVED.—Any funds received by the Secretary as a result of the exchange shall be deposited in the fund established under the Act of December 4, 1967, known as the Sisk Act (16 U.S.C. 484a), and shall be available to purchase non-Federal land within or adjacent to the National Forests in the State of New Mexico.

(4) TREATMENT OF LAND EXCHANGED OR CONVEYED.—All land exchanged or conveyed to the Pueblo is declared to be held in trust for the Pueblo by the United States and added to the Pueblo's Reservation subject to all existing and outstanding rights and shall remain in its natural state and shall not be subject to commercial development of any kind. Land exchanged or conveyed to the Forest Service shall be subject to all limitations on use pertaining to the Area under this Act.

(5) FAILURE TO MAKE OFFER.—If the land exchange offer is not made by the date that is 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives, a report explaining the reasons for the failure to make the offer including an assessment of the need for any additional legislation that may be necessary for the exchange. If additional legislation is not necessary, the Secretary, consistent with this section, should proceed with the exchange pursuant to existing law.

(c) LAND ACQUISITION AND OTHER COMPENSATION.—

(1) IN GENERAL.—The Secretary may acquire land owned by the Pueblo within the Evergreen Hills Subdivision in Sandoval County or any other privately held land inside of the exterior boundaries of the Area. The boundaries of the Cibola National Forest and the Area shall be adjusted to encompass any land acquired pursuant to this section.

(2) PIEDRA LISA TRACT.—The Secretary shall compensate the Pueblo for the fair market value of—

(A) the right-of-way established pursuant to section 9(h)(3)(C); and

(B) the conservation easement established by the limitations on use of the Piedra Lisa tract pursuant to section 9(b)(2).

(d) REIMBURSEMENT OF CERTAIN COSTS.—

(1) IN GENERAL.—The Pueblo, the County of Bernalillo, New Mexico, and any person that owns or has owned property inside of the exterior boundaries of the Area as designated on the map, and who has incurred actual and direct costs as a result of participating in the case of Pueblo of Sandia v. Babbitt, Civ. No. 94–2624 HHG (D.D.C.), or other proceedings directly related to resolving the issues litigated in that case, may apply for reimbursement in accordance with this section. Costs directly related to such participation which shall qualify for reimbursement shall be—

(A) dues or payments to a homeowner association for the purpose of legal representation; and

(B) legal fees and related expenses.

(2) TREATMENT OF REIMBURSEMENT.—Any reimbursement provided in this subsection shall be in lieu of that which might otherwise be available pursuant to the Equal Access to Justice Act (24 U.S.C. 2412).

(3) PAYMENTS.—The Secretary of the Treasury shall make reimbursement payments as provided in this section out of any money not otherwise appropriated.

(4) APPLICATIONS.—Not later than 180 days after the date of enactment of this Act, applications for reimbursement shall be filed with the Department of the Treasury, Financial Management Service, Washington, D.C.

(5) MAXIMUM REIMBURSEMENT.—In no event shall any 1 party be compensated in excess of $750,000 and the total amount reimbursed pursuant to this section shall not exceed $3,000,000.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act, including such sums as are necessary for the Forest Service, in accordance with section 13(c), to acquire ownership of, or other interests in or to, land within the external boundaries of the Area.

SEC. 15. EFFECTIVE DATE.

The provisions of this Act shall take effect immediately on enactment of this Act.

SA 44. Mr. MCCAIN proposed an amendment to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; as follows:

Beginning with line 12 on page 138, strike through line 14 on page 141.

SA 45. Mr. KYL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 402, line 10, after ''committees'' insert '': *Provided further*, That funds made

available under the preceding proviso may only be available for wind-up costs of KEDO''.

SA 46. Mr. WYDEN (for himself and Mr. SMITH) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page , between lines and , insert the following new section:

SEC. . WEST COAST GROUNDFISH FISHERY CAPACITY REDUCTION.

(1) The Secretary of Commerce shall implement a fishing capacity reduction program for the West Coast groundfish fishery pursuant to section 212 of P.L. 107–206 and 16 U.S.C. 1861a(b)–(e) except that: the program may apply to multiple fisheries, except that: Within 90 days after the date of enactment of this Act, the Secretary shall publish a public notice in the Federal Register and issue an invitation to bid for reduction payments that specifies the contractual terms and conditions under which bids shall be made and accepted under this section; except that: Section 144(1)(K)(3) of Title I, Division B of P.L. 106–554 shall apply to the program implemented by this section.

(b) A reduction fishery is eligible for capacity reduction under the program implemented under this section, except that no vessel harvesting and processing whiting in the catcher-processors sector (section 19 660.323(a)(4)(A) of title 50, Code of Federal Regulations) may participate in any capacity reduction referendum or industry fee established under this section.

(c) A referendum on the industry fee system shall occur after bids have been submitted, and such bids have been accepted by the Secretary, as follows: members of the reduction fishery, and persons who have been issued Washington, Oregon, or California Dungeness Crab and Pink Shrimp permits, shall be eligible to vote in the referendum to approve an industry fee system; referendum votes cast in each fishery shall be weighted in proportion to the debt obligation of each fishery, as calculated in subsection (f) of this section; the industry fee system shall be approved if the referendum votes cast in favor of the proposed system constitute a simple majority of the participants voting; except that notwithstanding 5 U.S.C. 553 and 16 U.S.C. 1861a(e), the Secretary shall not prepare or publish proposed or final regulations for the implementation of the program under this section before the referendum is conducted.

(d) Nothing in this section shall be construed to prohibit the Pacific Fishery management Council from recommending, or the Secretary from approving, changes to any fishery management plan, in accordance with applicable law; or the Secretary from promulgating regulations (including regulations governing this program), after an industry fee system has been approved by the reduction fishery.

(e) The Secretary shall determine, and state in the public notice published under paragraph (a), all program implementation aspects the Secretary deems relevant.

(f) Any bid submitted in response to the invitation to bid issued by the Secretary under this section shall be irrevocable; the Secretary shall use a bid acceptance procedure that ranks each bid in accordance with this paragraph and with additional criteria, if any, established by the Secretary: for each bid from a qualified bidder that meets the bidding requirements in the public notice or the invitation to bid, the Secretary shall determine a bid score by dividing the bid's dollar amount by the average annual total ex-vessel dollar value of landings of Pacific groundfish, Dungeness crab, and Pink shrimp based on the 3 highest total annual revenues earned from such stocks that the bidder's reduction vessel landed during 1998, 1999, 2000, or 2001. For purposes of this paragraph, the term ''total annual revenue'' means the revenue earned in a single year from such stocks. The Secretary shall accept each qualified bid in rank order of bid score from the lowest to the highest until acceptance of the next qualified bid with the next lowest bid score would cause the reduction cost to exceed the reduction loan's maximum amount. Acceptance of a bid by the Secretary shall create a binding reduction contract between the United States and the person whose bid is accepted, the performance of which shall be subject only to the conclusion of a successful referendum, except that a person whose bid is accepted by the Secretary under this section shall relinquish all permits in the reduction fishery and may Dungeness crab and Pink shrimp permits issued by Washington, Oregon, or California; except that the Secretary shall revoke the Pacific groundfish permit, as well as all Federal fishery licenses, fishery permits, area, and species endorsements, and any other fishery privileges issued to a vessel or vessels (or to persons on the basis of their operation or ownership of that vessel or vessels) removed under the program.

(g) The Secretary shall establish separate reduction loan sub-amounts and repayment fees for fish sellers in the reduction fishery and for fish sellers in each of the fee-share fisheries by dividing the total ex-vessel dollar value during the bid scoring period of all reduction vessel landings from the reduction fishery and from each of the fee-share fisheries by the total such value of all such landings for all such fisheries; and multiplying the reduction loan amount by each of the quotients resulting from each of the divisions above. Each of the resulting products shall be the reduction loan sub-amount for the reduction fishery and for each of the fee-share fisheries to which each of such products pertains; except that, each fish seller in the reduction fishery and in each of the fee-share fisheries shall pay the fees required by the reduction loan sub-amounts allocated to it under this paragraph; except that, the Secretary may enter into agreements with Washington, Oregon, and California to collect any fees established under this paragraph.

(h) Notwithstanding 46 U.S.C. App. 1279(b)(4), the reduction loan's term shall not be less than 30 years.

(1) It is the sense of the Congress that the States of Washington, Oregon, and California should revoke all relinquishment permits in each of the fee-share fisheries immediately after reduction payment, and otherwise to implement appropriate State fisheries management and conservation provisions in each of the fee-share fisheries that establishes a program that meets the requirements of 16 U.S.C. 141861a(b)(1)(B) as if it were applicable to fee-share fisheries.

(j) The term ''fee-share fishery'' means a fishery, other than the reduction fishery, whose members are eligible to vote in a referendum for an industry fee system under paragraph (c). The term ''reduction fishery'' means that portion of a fishery holding limited entry fishing permits endorsed for the operation of trawl gear and issued under the Federal Pacific Coast Groundfish Fishery Management Plan.

SA 47. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 486, line 9, insert the following:

Sec. . Congress reaffirms its original intent that the Herger-Feinstein Quincy Library Group Forest Recovery Act of 1998 be implemented, and hereby extends the expiration of the Quincy Library Group Act by five years.

SA 48. Mr. SARBANES (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 787, after line 25, add the following:

SEC. 3___. SUSQUEHANNA GREENWAY, MARYLAND.

The table contained in section 1602 of the Transportation Equity Act for the 21st Century is amended in item 1603 (112 Stat. 316) by striking ''Construct pedestrian bicycle bridge across Susquehanna River between Havre de Grace and Perryville'' and inserting ''Develop Lower Susquehanna Heritage Greenway, including acquisition of property, construction of hiker-biker trails, and construction or use of docks, ferry boats, bridges, or vans to convey bikers and pedestrians across the Susquehanna River between Cecil County and Harford County''.

SA 49. Mr. SARBANES (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 3, to disapprove under the Congressional Review Act the rule submitted by the Centers for Medicare & Medicaid Services, relating to revisions to payment policies under the Medicare physician fee schedule for calendar year 2003 and other items, published in the Federal Register on December 31, 2002 (vol. 67, page 79966); which was ordered to lie on the table; as follows:

At the appropriate place in the division relating to energy and water, insert the following:

SEC. ___. HERRING CREEK-TALL TIMBERS, MARYLAND.

(a) IN GENERAL.—Using funds made available by this Act, the Secretary of the Army, acting through the Chief of Engineers, shall provide immediate corrective maintenance to the project at Herring Creek-Tall Timbers, Maryland, at full Federal expense.

(b) INCLUSIONS.—The corrective maintenance described in subsection (a), and any other maintenance performed after the date of enactment of this Act with respect to the project described in that subsection, shall include repair or replacement, as appropriate, of the foundation and structures adjacent and structurally integral to the project.

SA 50. Mr. SARBANES submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 486, between lines 8 and 9, insert the following:

SEC. ___. REPORT ON AVIAN MORTAILITY AT COMMUNICATIONS TOWERS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the United States Fish and Wildlife Service, in cooperation with the Chairman of the Federal Communications Commission and the Administrator of the Federal Aviation Administration, shall submit to the Committee on Appropriations, the Committee on Environment and Public Works, and the Committee on Commerce, Science, and Transportation of the Senate a report on avian mortality at communications towers in the United States.

(b) CONTENTS.—The report submitted under subsection (a) shall include—

(1) an estimate of the number of birds that collide with communication towers;

(2) a description of the causes of those collisions; and

(3) recommendations on how to prevent those collisions.

SA 51. Mr. FITZGERALD (for himself, Mr. DEWINE, Mr. BROWNBACK, Mr. KYL, Mr. ENSIGN, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title VI of division J, insert the following:

SEC. ____. (a) PROHIBITION.—No funds appropriated by this Act shall be made available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

(b) APPLICATION OF PROVISION.—The provisions of subsection (a) shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

SA 52. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1043, strike line 19 and all that follows through page 1044, line 3, and insert the following:

TITLE IV—TANF AND MEDICARE

SEC. 401. Section 114 of Public Law 107–229, as amended by section 3 of Public Law 107–240 and by section 2 of Public Law 107–294, is amended—

(1) by striking ''the date specified in section 107(c) of this joint resolution'' and inserting ''September 30, 2003''; and

(2) by striking '': *Provided further*, That notwithstanding'' and all that follows through the period and inserting a period.

SA 53. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I of division M, add the following:

SEC. 111. (a) LIMITATION ON AVAILABILITY OF FUNDS FOR RESEARCH AND DEVELOPMENT ON TOTAL INFORMATION AWARENESS PROGRAM.—Notwithstanding any other provision of law, funds appropriated or otherwise made available by this Act, or by any other Act, may be obligated or expended by the Department of Defense, or by any contractor of the Department, for the purpose of research, development, test, or evaluation on any technology or component of the information collection program known as the Total Information Awareness program, or any program whose purpose is the collection of information on United States citizens in the United States, regardless of whether or not such program is to be transferred to another department, agency, or element of the Federal Government only if—

(1) such technology or component is to be used, and is used, only for foreign intelligence purposes; and

(2) such technology or component is not to be used, and is not used, for domestic intelligence or law enforcement purposes.

(b) PROVISION IN CONTRACTS AND GRANTS.—Any contract or grant instrument applicable to the Total Information Awareness program or other program referred to in subsection (a) shall include appropriate controls to facilitate the limitations in that subsection.

(c) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense, the Attorney General, and the Director of Central Intelligence shall jointly submit to Congress a report on the Total Information Awareness program. The report shall set forth the following:

(1) A detailed explanation (including an expenditure plan) of the actual and intended use of the funds for all projects and activities of the Total Information Awareness program.

(2) A list of the departments and agencies of the Federal Government that have, or would have, an interest in utilizing the Total Information Awareness program, and for what purposes.

(3) A description of the ways information collected by the Total Information Awareness program may be used by law enforcement, intelligence, and other agencies of the Federal Government.

(4) A list of the current laws and regulations governing the information to be collected by the Total Information Awareness program, and a description of any modifications in such laws that are required to use such information in the manner proposed under the program.

(5) Recommendations for additional research, technology development, or other measures necessary to ensure the protection of privacy and civil liberties of United States citizens during the operation of the Total Information Awareness program.

SA 54. Mr. KYL (for himself, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. MCCAIN, and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 95, line 7, strike ''$3,076,509,000'' and insert the following: ''$3,241,787,000: *Provided*, That of the amount appropriated under this heading $80,200,000 shall be available only for the Entry Exit System, to be managed by the Justice Management Division: *Provided further*, That, of the amounts made available in the preceding proviso, $42,400,000 shall only be available for planning, program support, environmental analysis and mitigation, real estate acquisition, design and construction: *Provided further*, That $25,500,000 shall only be available for an entry-exit system pilot, including demonstration projects on the southern and northern border, and $12,300,000 shall only be available for system development: *Provided further*, That none of the funds appropriated in this Act, or in Public Law 107–117, for the Immigration and Naturalization Service's Entry Exit System may be obligated until the INS submits a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including OMB Circular A–11, part 3; (2) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government; (3) is reviewed by the General Accounting Office; and (4) has been approved by the Committees on Appropriations: *Provided further*, That funds provided under this heading shall only be available for obligation and expenditure in accordance with the procedures applicable to reprogramming notifications set forth in section 605 of Public Law 107–77: *Provided further*, That none of the funds made available by this Act shall be available for any expenses relating to the National Security Entry-Exit Registration System (NSEERS), and that the Attorney General shall provide to the Committee on Appropriations all documents and materials: (1) used in the creation of the NSEERS program, including any predecessor programs; (2) assessing the effectiveness of the NSEERS program as a tool to enhance national security; (3) used to determine the scope of the NSEERS program, including countries selected for the program, and the gender, age, and immigration status of the persons required to register under the program; (4) regarding future plans to expand the NSEERS program to additional countries, age groups, women, and persons holding other immigration statuses not already covered; (5) explaining of whether the Department of Justice consulted with other federal agencies in the development of the NSEERS programs, and if so, all documents and materials relating to those consultations; (6) concerning policy directives or guidance issued to officials about implementation of NSEERS, including the role of the FBI in conducting national security background checks of registrants; (7) explaining why certain INS District Offices detained persons with pending status-adjustment applications; and (8) explaining how information gathered during interviews of registrants will be stored, used, or transmitted to other Federal, State, or local agencies.''.

SA 55. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1026, after line 22, add the following:

SEC. 111. Section 591(j) of the National Defense Authorization Act for Fiscal Year 2000 (10 U.S.C. 1562 note) is amended by striking ''April 24, 2003'' and inserting ''April 24, 2005''.

SA 56. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 721, line 4, before the colon, insert the following:

'', of which $8,000,000 shall be used to develop increased power capability for engines

used in HH–65 helicopters in order to meet new Coast Guard requirements, and $3,000,000 shall be used to demonstrate and test the upgraded control system for such engines''

SA 57. Mr. McCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE WITH RESPECT TO NORTH KOREA.

(a) FINDINGS.—The Senate makes the following findings:

(1) Under the Agreed Framework of October 21, 1994, North Korea committed to—

(A) freeze and eventually dismantle its graphite-moderated reactors and related facilities;

(B) implement the North-South Joint Declaration on the Denuclearization of the Korean Peninsula, which prohibits the production, testing, or possession of nuclear weapons; and

(C) allow implementation of its IAEA safeguards agreement under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) for nuclear facilities designated under the Agreed Framework and any other North Korean nuclear facilities.

(2) The General Accounting Office has reported that North Korea has diverted heavy oil received from the United States-led Korean Peninsula Energy Development Organization for unauthorized purposes in violation of the Agreed Framework.

(3) On April 1, 2002, President George W. Bush stated that he would not certify North Korea's compliance with all provisions of the Agreed Framework.

(4) North Korea has violated the basic terms of the Agreed Framework and the North-South Joint Declaration on the Denuclearization of the Korean Peninsula by pursuing the enrichment of uranium for the purpose of building a nuclear weapon and by ''nuclearizing'' the Korean peninsula.

(5) North Korea has admitted to having a covert nuclear weapons program and declared the Agreed Framework nullified.

(6) North Korea has announced its intention to restart the 5-megawatt reactor and related reprocessing facility at Yongbyon, which were frozen under the Agreed Framework, and has expelled the IAEA personnel monitoring the freeze.

(7) North Korea has announced its intention to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968 (21 UST 483).

(b) SENSE OF THE SENATE REGARDING THE AGREED FRAMEWORK AND THE NORTH KOREAN NUCLEAR WEAPONS PROGRAM.—It is the sense of the Senate that—

(1) the Agreed Framework is, as a result of North Korea's own illicit and deceitful actions over several years and recent declaration, null and void;

(2) North Korea's pursuit and development of nuclear weapons—

(A) is of grave concern and represents a serious threat to the security of the United States, its regional allies, and friends;

(B) is a clear and present danger to United States forces and personnel in the region and the United States homeland; and

(C) seriously undermines the security and stability of Northeast Asia; and

(3) North Korea must immediately come into compliance with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons and other commitments to the international community by—

(A) renouncing its nuclear weapons and materials production ambitions;

(B) dismantling its nuclear infrastructure and facilities;

(C) transferring all sensitive nuclear materials, technologies, and equipment (including nuclear devices in any stage of development) to the IAEA forthwith; and

(D) allowing immediate, full, and unfettered access by IAEA inspectors to ensure that subparagraphs (A), (B), and (C) have been fully and verifiably achieved; and

(4) any diplomatic solution to the North Korean crisis—

(A) should take into account that North Korea is not a trustworthy negotiating partner;

(B) must achieve the total dismantlement of North Korea's nuclear weapons and nuclear production capability; and

(C) must include highly intrusive verification requirements, including on-site monitoring and free access for the investigation of all sites of concern, that are no less stringent than those imposed on Iraq pursuant to United Nations Security Council Resolution 1441 (2002) and previous corresponding resolutions.

(c) SENSE OF THE SENATE.—It is further the sense of the Senate that the United States, in conjunction with the Republic of Korea and other allies in the Pacific region, should take measures, including military reinforcements, enhanced defense exercises and other steps as appropriate, to ensure—

(1) the highest possible level of deterrence against the multiple threats that North Korea poses; and

(2) the highest level of readiness of United States and allied forces should military action become necessary.

(d) FURTHER SENSE OF THE SENATE.—It is further the sense of the Senate that the Broadcasting Board of Governors should ensure that Radio Free Asia will increase its broadcasting with respect to North Korea to 24 hours each day.

(e) DEFINITIONS.—In this section:

(1) AGREED FRAMEWORK.—The term ''Agreed Framework'' means the Agreed Framework Between the United States of America and the Democratic People's Republic of Korea, signed in Geneva on October 21, 1994, and the Confidential Minute to that agreement.

(2) IAEA.—The term ''IAEA'' means the International Atomic Energy Agency.

(3) NORTH KOREA.—The term ''North Korea'' means the Democratic People's Republic of Korea.

(4) NPT.—The term ''NPT'' means the Treaty on the Non-Proliferation of Nuclear Weapons done at Washington, London, and Moscow, July 1, 1968 (22 UST 483).

SA 58. Ms. COLLINS (for herself and Mr. BOND) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EXTENSION OF TEMPORARY INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—Section 508(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–533), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended—

(1) by striking ''24-MONTH INCREASE BEGINNING APRIL 1, 2001'' and inserting ''IN GENERAL'';

(2) by striking ''April 1, 2003'' and inserting ''October 1, 2003''; and

(3) by inserting before the period at the end the following: ''(or 5 percent in the case of such services furnished on or after April 1, 2003, and before October 1, 2003)''.

(b) CONFORMING AMENDMENT.—Section 547(c)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–553), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by striking ''the period beginning on April 1, 2001, and ending on September 30, 2002,'' and inserting ''a period under such section''.

SA 59. Mr. WYDEN (for himself, Mrs. FEINSTEIN, Mr. REID, Mrs. BOXER, Mr. CORZINE, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I of division M, add the following:

SEC. 111. (a) LIMITATION ON USE OF FUNDS FOR RESEARCH AND DEVELOPMENT ON TOTAL INFORMATION AWARENESS PROGRAM.—Notwithstanding any other provision of law, commencing 60 days after the date of the enactment of this Act, no funds appropriated or otherwise made available to the Department of Defense, whether to an element of the Defense Advanced Research Projects Agency or any other element, or to any other department, agency, or element of the Federal Government, may be obligated or expended on research and development on the Total Information Awareness program unless—

(1) the report described in subsection (b) is submitted to Congress not later than 60 days after the date of the enactment of this Act; or

(2) the President certifies to Congress in writing, that—

(A) the submittal of the report to Congress within 60 days after the date of the enactment of this Act is not practicable; and

(B) the cessation of research and development on the Total Information Awareness program would endanger the national security of the United States.

(b) REPORT.—The report described in this subsection is a report, in writing, of the Secretary of Defense, the Attorney General, and the Director of Central Intelligence, acting jointly, that—

(1) contains—

(A) a detailed explanation of the actual and intended use of funds for each project and activity of the Total Information Awareness program, including an expenditure plan for the use of such funds;

(B) the schedule for proposed research and development on each project and activity of the Total Information Awareness program; and

(C) target dates for the deployment of each project and activity of the Total Information Awareness program;

(2) assesses the likely efficacy of systems such as the Total Information Awareness program in providing practically valuable predictive assessments of the plans, intentions, or capabilities of terrorists or terrorist groups;

(3) assesses the likely impact of the implementation of a system such as the Total Information Awareness program on privacy and civil liberties; and

(4) sets forth a list of the laws and regulations that govern the information to be collected by the Total Information Awareness program, and a description of any modifications of such laws that will be required to use the information in the manner proposed under such program;

(5) includes recommendations, endorsed by the Attorney General, for practices, procedures, regulations, or legislation on the deployment, implementation, or use of the Total Information Awareness program to eliminate or minimize adverse effects of such program on privacy and other civil liberties.

(c) LIMITATION ON DEPLOYMENT OF TOTAL INFORMATION AWARENESS PROGRAM.—(1) Notwithstanding any other provision of law and except as provided in paragraph (2), if and when research and development on the Total Information Awareness program, or any component of such program, permits the deployment or implementation of such program or component, no department, agency, or element of the Federal Government may deploy or implement such program or component, or transfer such program or component to another department, agency, or element of the Federal Government, until the Secretary of Defense—

(A) notifies Congress of that development, including a specific and detailed description of—

(i) each element of such program or component intended to be deployed or implemented; and

(ii) the method and scope of the intended deployment or implementation of such program or component (including the data or information to be accessed or used); and

(B) has received specific authorization by law from Congress for the deployment or implementation of such program or component, including—

(i) a specific authorization by law for the deployment or implementation of such program or component; and

(ii) a specific appropriation by law of funds for the deployment or implementation of such program or component.

(2) The limitation in paragraph (1) shall not apply with respect to the deployment or implementation of the Total Information Awareness program, or a component of such program, in support of the following:

(A) Lawful military operations of the United States conducted outside the United States.

(B) Lawful foreign intelligence activities conducted wholly overseas, or wholly against non-United States persons.

(d) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Total Information Awareness program should not be used to develop technologies for use in conducting intelligence activities or law enforcement activities against United States persons without appropriate consultation with Congress or without clear adherence to principles to protect civil liberties and privacy; and

(2) the primary purpose of the Defense Advanced Research Projects Agency is to support the lawful activities of the Department of Defense and the national security programs conducted pursuant to the laws assembled for codification purposes in title 50, United States Code.

(e) DEFINITIONS.—In this section:

(1) TOTAL INFORMATION AWARENESS PROGRAM.—The term ''Total Information Awareness program''—

(A) means the computer hardware and software components of the program known as Total Information Awareness, any related information awareness program, or any successor program under the Defense Advanced Research Projects Agency or another element of the Department of Defense; and

(B) includes a program referred to in subparagraph (1), or a component of such program, that has been transferred from the Defense Advanced Research Projects Agency or another element of the Department of Defense to any other department, agency, or element of the Federal Government.

(2) NON-UNITED STATES PERSON.—The term ''non-United States person'' means any person other than a United States person.

(3) UNITED STATES PERSON.—The term ''United States person'' has the meaning given that term in section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(i)).

SA 60. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 141, line 14, strike ''basis.'' and insert ''basic; *Provided further*, That, notwithstanding any other provision of law, any person other than the owner (or a related person with respect to the owner) of the ships originally contracted under section 8109 of Public Law 105–56, may document not more than 3 cruise ships constructed to completion in a shipyard located outside of the United States under the authority of this section if the owner meets the requirements of clause (1) of the third proviso of this section and the vessel meets the requirements of clauses (2), (3), (5) and (6) of that proviso.''.

SA 61. Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. DORGAN, Mr. DURBIN, Mr. AKAKA, Mr. BINGAMAN, Mr. FEINGOLD, Mr. JOHNSON, Mr. KENNEDY, Mr. KOHL, and Mrs. MURRAY) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. None of the funds made available in this Act may be used by an Executive agency to establish, apply, or enforce any numerical goal, target, or quota for subjecting the employees of the agency to public-private competitions or converting such employees or the work performed by such employees to private contractor performance under the Office of Management and Budget Circular A–76 or any other Administrative regulation, directive, or policy.

SA 62. Mr. MCCONNELL (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 366, strike everything after ''the'' on line 3, through ''Agency'' on line 4 and insert in lieu thereof:

headings ''Trade and Development Agency'', ''International Military Education and Training'', ''Foreign Military Financing Program'', ''Migration and Refugee Assistance'', and funds appropriated under the heading ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'' to carry out the provisions of chapters 8 and 9 of part II of the Foreign Assistance Act of 1961.

SA 63. Mr. ALLARD (for himself and Mr. CAMPBELL) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COST-SHARING REQUIREMENT FOR THE ARKANSAS VALLEY CONDUIT IN THE STATE OF COLORADO.

(a) IN GENERAL.—Section 7 of Public Law 87–590 (76 Stat. 393) is amended—

(1) by striking ''SEC. 7.'' and inserting the following: ''**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**'';

(2) in the first sentence, by striking ''There is hereby authorized'' and inserting the following:

''(a) CONSTRUCTION.—There is authorized'';

(3) in the second sentence, by striking ''There are also'' and inserting the following:

''(b) OPERATIONS AND MAINTENANCE.—There are''; and

(4) by adding at the end the following:

''(c) ARKANSAS VALLEY CONDUIT.—

''(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to pay the Federal share of the costs of constructing the Arkansas Valley Conduit in accordance with subsection (a) of the first section.

''(2) NON-FEDERAL SHARE.—

''(A) IN GENERAL.—The non-Federal share of the total costs of construction (including design and engineering costs) of the Arkansas Valley Conduit shall be not more than 25 percent.

''(B) FORM.—The non-Federal share may be in the form of in-kind contributions.''.

(b) APPLICABILITY.—The amendments made by subsection (a) apply to any costs of constructing the Arkansas Valley Conduit incurred during fiscal year 2002 or any subsequent fiscal year.

SA 64. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 259, line 19, strike ''projects:'' and insert ''projects; and of which $55,000,000 shall be available for the Southeast Louisiana project (of which $15,000,000 shall be derived by transfer from amounts made available under the heading 'DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT'):''.

SA 65. Mr. KYL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

WILDLAND FIRE MANAGEMENT

On page 488, line 10, strike ''1,349,291,000'' and insert ''$1,351,791,000.''

On page 489, line 9, strike ''$3,624,000,'' and insert ''$6,124,000.''

On page 489, line 10, following ''restoration,'' insert ''of which $2,500,000 shall be for rehabilitation and restoration on the Apache-Sitgreaves National Forest.''

LAND ACQUISITION

On page 493, line 17, strike ''$148,263,000'', and insert ''$145,763,000.''

SA 66. Mr. KYL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 80, between lines 3 and 4, insert the following:

SEC. 7___. EXEMPTION OF MILK HANDLERS FROM MINIMUM PRICE REQUIREMENTS.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

''(M) EXEMPTION OF MILK HANDLERS FROM MINIMUM PRICE REQUIREMENTS.—Notwithstanding any other provision of this subsection, no handler with distribution of Class I milk products in the Arizona-Las Vegas marketing area (Order No. 131) shall be exempt during any month from any minimum milk price requirement established by the Secretary under this subsection if the total distribution of Class I products within the Arizona-Las Vegas marketing area of any handler's own farm production exceeds the lesser of—

''(i) 3 percent of the total quantity of Class I products distributed in the Arizona-Las Vegas marketing area (Order No. 131); or

''(ii) 5,000,000 pounds.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Friday, January 17, 2003 at 9 a.m. to consider the nomination of the Honorable Tom Ridge to be Secretary of the Department of Homeland Security.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Friday, January 17, 2003 at approximately 12:30 p.m. for a business meeting to consider the nomination of the Honorable Tom Ridge to be Secretary of the Department of Homeland Security.

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

ORDERS FOR TUESDAY, JANUARY 21, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m., Tuesday, January 21; 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 that there be a period of morning business not to extend beyond the hour of 10:30 a.m., with the time equally divided in the usual form; further, I ask that at 10:30 a.m., the Senate then resume consideration of H.J. Res. 2, the appropriations bill.

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

UNANIMOUS CONSENT AGREEMENT—S. 121

Mr. FRIST. Mr. President, I ask unanimous consent that at the hour of 5:05 p.m. on Tuesday, the Judiciary Committee be discharged from further consideration of S. 121, the Amber alert bill, and the Senate proceed to the consideration of the bill, and that Senators HUTCHISON and LEAHY be recognized for 5 minutes each to debate the measure; that following the use or yielding back of all time, the bill be read the third time and the Senate proceed to a vote on passage, without any intervening action or debate.

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

PROGRAM

Mr. FRIST. For the information of all Senators, the Senate will return for business on Tuesday. On Tuesday, we will resume consideration of the appropriations measure. I understand there are several Members on the other side of the aisle who have agreed to offer their amendments during Tuesday's session. Under the previous order, the Senate will vote on passage of the Amber alert bill at 5:15 on Tuesday. Therefore, Senators can expect the first vote of next week to occur at 5:15. Additional votes will occur during Tuesday's session.

In addition to considering further amendments to the appropriations measure, it is my hope that on Tuesday the Senate will consider the nomination of Tom Ridge to be Secretary of Homeland Security. I believe some Members have indicated their desire to speak in regard to that nomination, and a rollcall vote is anticipated. I hope that on Tuesday we will be able to reach an agreement to allow for that debate and a rollcall vote Tuesday evening.

Finally, I wish to announce to Members that they should expect busy sessions and late nights next week. We have no choice but to press on and complete this matter. I hope Members will cooperate and offer their amendments in a timely manner so we can complete these appropriations next week. I thank Members for their cooperation in advance.

ORDER FOR ADJOURNMENT

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator HARKIN for up to 15 minutes.

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

The Senator from Iowa is recognized.

DISASTER AID

Mr. HARKIN. Mr. President, I thank the leader for his kindness in letting me speak for up to 15 minutes before the Senate goes out for the long weekend before we come back in on Tuesday. I take this time to draw attention to the provision in the pending bill regarding disaster aid to our farmers.

We have been fighting here for almost 3 years to get disaster relief for farmers all over America. We had it basically in our budget a couple years ago. We had it in the farm bill, but it was taken out. We had assurances from the administration that it would come later. It never did. We have farmers who were promised disaster aid over 2 years ago, and they still have not received it.

A number of us on both sides of the aisle have been trying for some time now to fill in that hole and get aid to the farmers who have really suffered a lot from disasters. In the Presiding Officer's home State, livestock producers and grain farmers have had disasters in the last couple of years for which they have not been adequately compensated. That is true in the Midwest—some in my State, and much of it further west, and a lot along the eastern seaboard. But we have had some serious crop disasters.

Now the bill before us has some money in there for, as they say, disaster assistance. But upon reading the fine print, it turns out that it is not really disaster assistance, it is just putting money in a bushel basket and throwing it out to farmers. It just doesn't make any sense. In the Des Moines Register this morning, Philip Brasher had an article about it. Here is the headline: Bountiful Crop Could Still Draw Disaster Aid. My quote is this:

''This is just nonsense,'' said Iowa Senator Tom Harkin.

Basically, the article shows that a grain farmer in Iowa—we had really great crops in Iowa—the soybean and corn crops this year. In one part of Iowa, we had a drought. In many parts of the State, we had bumper crops and we had significantly higher prices. Under the provision in the bill before us, those farmers will get disaster assistance. What sense does that make?

Please, someone explain to me why we are taking an across-the-board cut—we are cutting education, veterans, medical research, and all this other stuff; and we are going to take some of this money and give it to farmers who have had no losses. In fact, some farmers made a lot of money because they had good crops. God bless them. I wish every farmer could have a good crop and have high prices to go with it. But this doesn't make sense in

this bill. Basically, it is using the old Freedom to Farm payments.

Mr. Brasher points out in the article:

A farmer who received $40,000 last year would get a special payment of as much as $16,700.

That could be a farmer who had a great crop and made money. They don't have to have a disaster. All you have to do is be eligible for crop payments, and then you can get part of this payment.

''This is not a disaster relief package,'' said Republican Senator Pat Roberts of Kansas, which has been hard hit by a long drought.

Harkin said, ''Let's face it, there are a lot of farmers in my State and there are a lot of farmers in other States who made pretty good money this past year. Why should they get some more money from the government?''

Senator Charles Grassley agreed that the aid should be directed to farmers with crop losses.

''The farmers who didn't get hurt weren't asking for more money from the Federal Treasury,'' he said.

He is right. Why is there money in this bill for farmers who didn't have a disaster and are not asking for it?

I understand Senator DASCHLE will be offering an amendment to correct this anomaly in the bill. The provision being offered by Senator DASCHLE, whether it is next week, or whenever it is going to be offered, is already known to the Senate. In September of last year, we essentially passed the same measure by a vote of 79 to 16. So it is nothing new.

The provisions in the appropriations bill before us totally miss the mark. It is not directed toward those who actually lost crops due to natural disaster; the funding is offset by reducing funding for other important Federal programs, and it is inadequate.

We know from our experience, we know from having investigated it, from hearings we have had both in the House and the Senate, that we need somewhere in the neighborhood of $6 billion to address the needs of those who suffered a drought.

As Senator CONRAD said earlier today—and I was watching his speech—the Department already, because of the new farm bill and because the new farm bill directs payments in a more targeted fashion, we have already saved $5 billion to $6 billion, maybe a little bit more than that. So the savings have come in from the new farm bill.

We think those savings, rather than going back to the General Treasury, ought to be used to help those farmers who had a loss, who had a drought, who did not have anything because of a natural disaster.

If an argument is made that $6 billion has to be offset by cuts somewhere else, it is already offset because we have already saved the money that was previously budgeted for agricultural commodity programs. That money was budgeted, and yet we saved it. That money ought to go out to help farmers hit by this drought and hit by disaster.

To repeat for emphasis sake, this appropriations bill would simply provide a supplemental direct payment for all producers of all covered commodities and peanuts. It means that all producers of these crops who were eligible to receive a direct payment for 2002 will receive the supplemental payment regardless of whether they had an actual disaster loss in 2001, 2002, or any other time.

I repeat, why should Congress be taking money away from education, medical research, veterans, law enforcement—all these other domestic programs—for the purpose of making payments to farmers who did not even have a disaster and sometimes making a payment to a farmer who had a record yield and good prices this last year? It makes no sense to me.

I have to believe that farmers all over America, when they find this out—and they will be reading about it in their local papers; they will read about it in their farm journals; they will hear about it on their farm radio shows—they are going to laugh. They are going to say: What are those people in Washington thinking about?

Mr. President, if you are a farmer and you have had a record yield, you have had a good crop, and all of a sudden the Government comes along and wants to give you several thousand more dollars, well, hey, open the mailbox and take it out, but still they are going to think we are goofy around here for doing something like that.

Talk to farmers. Most say if farmers are hit by a disaster, whether it is a flood, a hurricane, a drought, insects—whatever it might be—or it could be in the livestock sector where they lost feed grains for the livestock, yes, they deserve to have disaster payments, but not those who are doing well.

Lastly, I notice the bill adopts the Livestock Compensation Program that was put together last summer. That program had a lot of problems. The help it provides is inadequate for those who qualify. The Livestock Compensation Program provided less than half of the funding that would be provided to livestock producers under section 3 of the Daschle amendment that will be offered.

I was told last fall that the payment offered to cattle producers who lacked forage would cover only about 2 weeks of feed cost for the herds, and that was not enough.

I note another curious feature about this bill in the drought section. The provisions of the Livestock Compensation Program are extended to catfish farming, but not to pork producers. That is very curious. We extend the Livestock Compensation Program to catfish farmers, but not to hog farmers. I am waiting to hear the explanation for that one.

I am saying livestock producers of all categories experienced significant increases in their feed costs due to higher grain and oilseed prices, not just catfish, but pork producers, cattle, sheep, and goats.

I have no problem—I want to say it right here and now—I have no problem in providing disaster assistance to catfish farmers if, in fact, they have suffered a disaster, but we cannot single out catfish farmers and say not pork producers, because pork producers have to pay higher grain prices also. Both use feed grains.

This so-called drought relief package that is in the bill before us is, No. 1, inadequate. It is about $3 billion. We need about $6 billion.

No. 2, it is totally misdirected because it takes the $3 billion and gives it to everybody. It just throws the money out there. This is Freedom to Farm revisited. We do not care whether you had a drought or not, but you are going to get money. It is misdirected.

And, No. 3, it should not be coming out of across-the-board cuts in veterans compensation, education, medical research at NIH, the Byrne grant program, and programs like those, because let the record show that we have already saved in agriculture more than enough money to pay for disaster assistance to farmers who need it nationwide. We have saved that much money. No one can deny it. So we do not need an offset. We have the offset. We have saved the money with the new farm bill.

I hope when this issue comes up next week, or whenever it comes up, that Senators will, again, call their farmers. Do not talk to staff. They can talk to their staff, but get on the phone and call the farm organization back in their States. Call the Farm Bureau, the Farmers Union, call your cattlemen's association, pork producers, catfish producers, whatever, and ask them if they believe this is the right way to proceed.

I will give you a dollar to a dime they will not find one in ten to say yes, and the one who says yes made a lot of money and wants more. Call your farmers. They will tell you what to do: Target it; get it to the farmers who had a disaster, and make sure they are compensated adequately and not just throw it out there for everybody.

Mr. President, I ask unanimous consent to print in the RECORD a letter from numerous farm organizations.

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

JANUARY 6, 2002.

U.S. Senate,
House of Representatives,
Washington, DC.

DEAR MEMBER OF CONGRESS: The undersigned organizations write to urge your support for emergency disaster assistance for crop and livestock procedures who have suffered losses during the 2001 and 2002 agriculture production years due to natural disasters. Such disaster assistance would be consistent with responses by the U.S. government to natural disasters in the past, including hurricanes, floods, and droughts.

The Food Security and Rural Investment Act of 2002 provides increased economic resources, certainty, and stability across a wide range of agricultural, rural, and nutrition programs administered by USDA. For

commodities, we believe it was the intent of Congress that the new farm bill reduce or eliminate the need for future ad hoc market loss-related assistance and, instead, provide a similar level of assistance in a more efficient and cost effective manner than the legislation it replaced. In fact, projected outlays for commodity programs under the new law are projected to be significantly less than the annual average federal expenditures incurred since 1998. However, the new farm bill is incapable of predicting and adequately dealing with natural disasters.

Furthermore, due in part to increased prices resulting from the impact of natural disasters, the most recent projected outlays for 2002 are less than originally projected at the signing of the farm bill. Despite these savings and the precedence of assistance for those who suffer from natural disasters, Congress has failed to pass emergency disaster assistance.

For U.S. farmers and ranchers, the current production disaster is multi-faceted. In many areas, drought has decimated row crops and forage and has reduced water supplies available for livestock. In other regions, farmers are experiencing crop destruction and reduced yields and quality due to flooding and an increased incidence of crop pests and diseases. Especially hard hit are the specialty crops such as apples, cherries and grapes in the Great Lakes region, the eastern states and the Pacific Northwest that suffered frost, freeze and drought damage this season and adverse weather in 2001 that caused a failure of the blossom set required to produce fruit.

The negative economic impact of natural disasters to American agriculture and rural communities continues to grow.

Almost 90 percent of U.S. counties have received a USDA disaster designation in 2002.

Over 40 percent have received designations in both 2001 and 2002.

Washington State alone suffered $100 million in apple crop losses in 2002 due to early freeze.

Adverse weather conditions cut the expected cotton crop by over 1 million bales. Drought conditions harmed the growing season, and a series of storms hit during harvest, inflicting continued quality and quantity losses. In the Southeast and Mid-South, only 55% of the crop achieved a color grade of Strict Low Middling or better. This compares to a five-year average of 81%.

The producers on the Blackfeet Reservation, Montana, lost over 3000 head of cattle in a freak June 3rd snowstorm. The storm did fill stock ponds and provided some additional spring green-up moisture but did not provide enough to alleviate the effects of four years of drought.

The wheat acreage harvested at 45 million acres is the lowest it has been since 1971.

Financial assistance is needed now if the economic ruin of farms, ranches and rural businesses caused by these natural disasters is to be averted.

Within the range of its existing options, we believe USDA has taken positive actions to address the weather and disease-related disasters experienced by crop and livestock producers during the 2001 and 2002 production years. Unfortunately, the Department's authority and resources available to mitigate the losses sustained by farmers, ranchers and rural businesses are inadequate given the full scope of the weather and disease problems confronting American agriculture.

While crop insurance, disaster loans, emergency haying and grazing of Conservation Reserve Program acreage, and the Livestock Compensation Program (LCP) are helpful, the relief they provide cannot effectively respond to the unprecedented and expansive devastation being experienced across a large part of America. We urge your active engagement and support immediately upon convening the 108th Congress of the emergency disaster assistance legislation passed by the Senate last session.

We urge Congress to approve this legislation and work with the administration to ensure that this emergency program is in place, which provides a responsible level of assistance to those suffering substantial losses as a result of natural disasters. This adequate response is needed immediately to reduce the devastating economic impacts being experienced by farmers, ranchers and their communities throughout much of rural America because of natural disasters beyond their control.

Thank you for your attention to this issue. We look forward to working with you to address this serious situation in a timely and effective manner.

Sincerely,

National Farmers Union.
American Farm Bureau Federation.
National Grange.
National Farmers Organization.
American Beekeeping Federation.
American Corn Growers Association.
American Sheep Industry Association.
American Soybean Association.
Burley Tobacco Growers Cooperative.
Cape Cod Cranberry Growers' Association.
Cherry Marketing Institute.
CoBank.
Cooperative Ginners Association of Oklahoma.
Farm Credit Council.
Intertribal Agriculture Council.
National Association of Wheat Growers.
National Barley Growers Association.
National Cotton Council.
National Grain Sorghum Producers.
National Grape Cooperative Association, Inc.
National Milk Producers Federation.
National Potato Council.
National Sunflower Association.
National Association of Farmer Elected Committees.
National Association of State Departments of Agriculture.
Northeast Farm Credit Regional Council.
Northeast States Association for Agricultural Stewardship.
R–CALF United Stockgrowers of America.
Soybean Producers of America.
Southern Peanut Farmers Federation.
Triangle Cooperative Service Company.
USA Dry Pea & Lentil Council.
U.S. Apple Association.
U.S. Canola Association.
U.S. Custom Harvesters, Inc.
U.S. Durum Growers Association.
Vidalia Onion Business Council.
Welch's.
WIFE.

Mr. HARKIN. Mr. President, I thank the leader again for giving me this time. I yield the floor.

ADJOURNMENT UNTIL 10 A.M., TUESDAY, JANUARY 21, 2003

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m. on Tuesday, January 21.

Thereupon, the Senate, at 5:39 p.m., adjourned until Tuesday, January 21, 2003, at 10 a.m.