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Senate

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

PRAYER

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

Let us pray.

Lord, today, teach us the wisdom of humility. Remind us that all of our abilities come from You. Help us to see that we need one another and that no person is sufficient unto himself or herself.

May we follow Your example of sacrificial service to humanity, as we strive to commit ourselves to causes

that will continue beyond our lifetime. Teach us also the power of silence that gives weight to our words when it is time to speak. Empower us with the lowliness of kindness that people will see Your image in us.

Bless our Senators. Make them instruments of Your will on Earth. Place Your truth in their minds, Your love in their hearts, and Your compassion on their lips. We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN CORNYN led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

NOTICE

If the 108th Congress, 2d Session, adjourns sine die on or before November 20, 2004, a final issue of the Congressional Record for the 108th Congress, 2d Session, will be published on Monday, December 13, 2004, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT-60 or S-123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Friday, December 10. The final issue will be dated Monday, December 13, 2004, and will be delivered on Tuesday, December 14, 2004.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

Senators' statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at "Record@Sec.Senate.gov".

Members of the House of Representatives' statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at <http://clerk.house.gov/forms>. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, and signed manuscript. Deliver statements to the Official Reporters in Room HT-60.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the Congressional Record may do so by contacting the Office of Congressional Publishing Services, at the Government Printing Office, on 512-0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

By order of the Joint Committee on Printing.

ROBERT W. NEY, *Chairman*.

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



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S11515

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 19, 2004.

To the Senate:

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

TED STEVENS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished majority leader.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will have 30 minutes of debate prior to the cloture vote on the miscellaneous trade and technical corrections conference report. Therefore, I expect cloture to occur shortly after 10 a.m. I expect cloture to be invoked, and if it is invoked I hope we can complete the conference report in short order.

I will talk to the Democratic leadership after the vote to see what time may be necessary during that postcloture period.

I also expect the appropriations conference report, the so-called omnibus package, will be filed today. If so, I hope we will be able to act on that measure at some point today or this evening. I am optimistic that we can, in fact, finish our work sometime today and adjourn this Congress.

While we are waiting for the omnibus conference reports, we will continue to try to process other cleared legislative items. The IDEA, the Individuals with Disabilities Education Act conference report, is expected to arrive today from the House, and we will consider that legislation before we adjourn this year.

Finally, we have a very large number of nominations that are available on the Executive Calendar. It would be irresponsible to leave without acting on at least those nominations which we know are noncontroversial. We must move toward resolution of these nominations over the course of the day. We need to continue to pursue a way of clearing that Executive Calendar.

I will close so we can move on for the vote, but I have to add that I personally had a remarkable day yesterday. I had the opportunity to visit the Clinton Library for what was an exceptional and remarkable day in terms of having our former Presidents together in a wonderful bipartisan spirit. It was a rainy day so we all sat in 2 or 3 hours of the downpour. It really was an inspiration to see what has made and continues to make this country so great. It is a wonderful library. I have three boys and look forward to going back and taking them through a magnificent structure. It really does capture President Clinton's upbeat, optimistic

enthusiasm, his whole view of life. A number of the Senators attended. I wanted to mention it because it was quite remarkable for me, personally.

RESERVATION OF LEADER TIME

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

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 2004—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 1047, which the clerk will report.

The legislative clerk read as follows:

Conference report accompanying the bill (H.R. 1047) to amend the Harmonized Tariff Schedule of the United States.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 30 minutes divided in the following form: Senator GRASSLEY in control of 10 minutes; the Senator from Montana, Mr. BAUCUS, in control of 10 minutes; the Senator from Wisconsin, Mr. FEINGOLD, for up to 8 minutes; and the Senator from Wisconsin, Mr. KOHL, for up to 2 minutes.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I don't see Senator GRASSLEY, the chairman of the committee, in the Chamber. I expect him momentarily. In the meantime, I will say a few words with respect to the pending legislation.

I am pleased, frankly, that in the final days of the 108th Congress, the Senate is set to pass at long last the miscellaneous tariff bill. This bill reduces or eliminates tariffs on literally hundreds of products that U.S. companies use to make products in America. It is a collection of many bills too small to be considered independently, and, traditionally, Congress collects these inexpensive and noncontroversial bills together into one big omnibus bill which the Senate then passes by unanimous consent. That is our tradition in the Senate.

Unfortunately, that did not happen with this bill this time. For the first time in the history of the process, the House insisted we go to conference on the bill. Frankly, that is unfortunate. In the aggregate, the provisions of this bill represent a significant cost savings for U.S. manufacturers simply struggling to compete. We owe it to them to get the process back on track in the next Congress. I hope we can do that, and I promise to work very hard toward that end.

I wish to highlight two provisions in this bill in particular that will help my State of Montana remain competitive. One is a provision that eliminates the tariff on specialized components used by a Bozeman-based boot manufacturer called Schnee Shoes. This is a top-of-the-line company. They make the best

boots for hunting. If a hunter goes out pheasant hunting, duck hunting, you buy Schnee. They are terrific. They produce first-class products. Eliminating the tariff will save them tens of thousands of dollars a year and allow them to keep good-paying jobs in Bozeman, MT.

The other provision improves the competitiveness of U.S. wool. We produce a lot of wool in Montana—\$2 million a year. As other commodities and textiles, wool has faced an increasingly difficult marketplace over the past several years.

In response, U.S. wool growers adopted a positive approach to embrace world markets; that is, setting up a wool trust fund. Through the wool trust fund, first established in 2000, U.S. exports of wool have risen sixfold as a share of domestic production. This successful program of the wool trust fund is, unfortunately, scheduled to expire next year. But this bill renews the wool trust fund through the year 2007 and allows the United States and Montana wool growers to continue to compete.

I also want to speak about one other provision of this bill, normal trade relations with Laos, that I know has generated some controversy. I support granting normal trade relations to Laos. In the absence of normal trade relations, Laos is subject to average tariffs of 45 percent, with peaks of 60 to 90 percent for important Laotian products such as T-shirts and bamboo chairs.

In contrast, most U.S. trading partners, including Laotian competitors Burma, China, Cambodia, and Vietnam, face average tariffs of only 2.4 percent compared, again, with Laos of 45 percent.

Now, I know some of my colleagues oppose granting normal trade relations to Laos. They believe Laos must work harder on improving its human rights record before receiving normal trade relations. But normal trade relations, I must emphasize, is not a special privilege the United States grants only to certain countries, and it does not signify approval of a country's policies. It is not a free trade agreement or a preference program. Rather, it is the baseline economic relationship the United States has with virtually every other country in the world—the baseline.

In fact, there are only three countries on Earth that do not have normal trade relations: Cuba, North Korea, and Laos, and Laos is the only one of the three that has full, normal diplomatic relations with the United States.

Laos has worked with the United States closely in accounting for U.S. prisoners of war and missing in action in Laos during the Vietnam war, supported U.S. counterterrorism efforts in Southeast Asia after 9/11, and has cooperated in a long-term bilateral counternarcotics program.

Granting normal trade relations to Laos could have a dramatic effect on improving the dismal economic conditions in that country. Laos has the

lowest life expectancy in Southeast Asia, and the highest fertility rate. It also has the highest adult illiteracy rate, particularly among women.

Cambodia, on the other hand, has created more than 200,000 jobs since the United States granted that country normal trade relations in 1996. My hope is that normal trade relations for Laos will have a similar effect. Granting normal trade relations to Laos will also create opportunities to open the society, improve human rights, improve religious freedom, and improve the rule of law.

That is why my good friend, Senator GRASSLEY, and I have worked hard to pass normal trade relations for Laos, and why it is right to include it in this bill. I think it is time for us to remove an awkward legacy of the Vietnam war and grant normal trade relations to Laos.

This bill includes a long list of provisions that will help American competitiveness. We should bring debate on this bill to a close and pass this constructive measure. I urge my colleagues, therefore, to vote for cloture.

Mr. President, before I turn the floor over to my good friend, the chairman of our committee, I would like to thank several terrific staff members. I thank Everett Eissenstat and Zach Paulsen of the Republican staff who worked very hard to get this miscellaneous tariffs bill passed. Also, from the majority leader's staff, I thank Rohit Kumar and Andy Olson, two extremely able and very helpful people, who helped get these provisions into this bill. I also thank, on my staff, Sara Andrews, who really led the charge. She did a great job, assisted by John Gilliland, who is equally competent. That is an understatement. Both of them are just aces, and I am very proud of them. I thank them for their assistance.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise in strong support of the conference report to H.R. 1047, the Miscellaneous Trade and Technical Corrections Act of 2004, commonly called the miscellaneous tariff bill.

This legislation has traveled a long and difficult road to get to the floor today. In fact, the journey began over 2½ years ago when Senator BAUCUS chaired the Finance Committee. The Senate historically passes a miscellaneous tariff bill at the end of every Congress. The bill under consideration today was supposed to pass at the end of the 107th Congress. However, it was left as unfinished business for the current Congress. Upon resuming the chairmanship of the Finance Committee, my intention was to complete unfinished business from the 107th Congress as quickly as possible. To that end, we passed the bill out of Committee by voice vote on February 27, 2003.

We hoped that early passage of this bill would pave the way for consider-

ation of another miscellaneous tariff bill in the 108th Congress. But that was not meant to be. Throughout the remainder of the Congress we faced significant delays and stall tactics. In March 2004, over a year after the bill was reported out of the Finance Committee, we reached agreement and passed the bill by unanimous consent. But quick conference consideration was not meant to be. We were forced to wait another 6 months before we could go to conference with the House. The conference committee quickly reached an agreement in October and the House passed the conference report shortly thereafter. However, Senate action was further delayed until today. Happily, it looks like the bill is finally near the end of its journey as we appear to be on the verge of passing this bill as one of the last orders of business for the 108th.

At this point, it might be interesting to reflect on what the Senate Finance Committee has been able to accomplish on trade during the time it took to pass this bill. During the first session of the 108th Congress, we were able to complete work on the Clean Diamond Trade Act, legislation designed to help thwart trade in conflict diamonds. We also implemented two free trade agreements with Chile and Singapore. In addition, we enacted the Burmese Freedom and Democracy Act, which put in place an import ban on products from Burma in an effort to help stop human rights abuses and the repression of democracy in that country.

During the second session of the 108th Congress, we enacted the Africa Growth and Opportunity Acceleration Act, which continues trade preferences for some of the poorest nations in sub-Saharan Africa. We also implemented two trade agreements with Australia and Morocco and brought the United States into compliance with an adverse WTO ruling in the FSC/ETI case through passage of the American Jobs Creation Act of 2004. There is no doubt that Senate passage of the conference report on the MTB will be a nice capstone to what has already been a highly successful Congress on trade.

This package contains many trade provisions, primarily duty suspensions, reductions and extensions, for products that are not produced domestically. This bill supports American factories and workers by allowing manufacturers to save money when they import these products.

Each of these provisions went through an extensive vetting process including a public notice and comment period to ensure that they did not compete with domestic manufacturers. The bill also contains a number of liquidations or reliquidations for certain entries.

The general rule for inclusion here is that the product entered the country under an incorrect duty rate due to Customs or other administrative error. These provisions allow those entries to enter the country at the correct duty rate.

There are several some other very important provisions in this bill. The bill grants the President the authority to provide permanent normal trade relations, PNTR, for Armenia. Armenia recently joined the World Trade Organization. But, in order to reap the benefits of their accession, the United States needs to extend PNTR to Armenia. This legislation provides the President with the authority to grant that extension. I also hope we will be able to consider similar treatment for Azerbaijan in the very near future.

The bill also extends normal trade relations to Laos. Last year the Bush administration signed a comprehensive bilateral trade agreement with Laos, an agreement that was negotiated during the Clinton years. The agreement will promote U.S. interests by protecting U.S. intellectual property rights and opening the Laotian market to U.S. goods and services. It is a good agreement. But to enable the United States to benefit from it, we must extend normal trade relations to Laos. Doing so will also benefit the Laotian people. Laos is one of the poorest nations in Asia. Yet exports from Laos are subject to some of the highest tariffs when they enter the United States. This agreement will help alleviate poverty, help bring Laos out of the Vietnam War era, and further integrate Laos into the global marketplace.

We also included in this bill a provision that extends preferences under the Generalized System of Preferences, GSP, to allow duty-free treatment for hand-knotted and hand-woven carpets. This provision is designed primarily to help the citizens of Afghanistan and Pakistan. I believe that allowing these products to be considered as eligible articles under GSP will help beneficiary countries that have joined the United States in the fight against global terrorism.

Further, H.R. 1047 corrects a mistake in the Trade Act of 2002 that inadvertently and temporarily raised duties on Andean originating handbags, luggage, flat goods, work gloves and leather wearing apparel under the Andean Trade and Preferences and Drug Eradication Act, ATPDEA. This provision retroactively reinstates the reduced duty treatment for eligible products that entered the U.S. from August 6, 2002, the date ATPDEA was signed, and the time in which these products met the import sensitivity test, several months later. It provides for continued duty-free treatment for these eligible products, which was the intent of the trade act.

I am also pleased that the bill includes the Emergency Protection for Iraqi Cultural Antiquities Act. I introduced the EPIC Antiquities Act to authorize the President to continue emergency import restrictions on the archaeological and ethnological materials of Iraq. The purpose of this bill is simple—to close a legal loophole which could allow looted Iraqi antiquities to be brought into the United States.

If Congress does not act to ensure the continuing means for banning trade in antiquities that may have been stolen, the door could be opened to imports of looted Iraqi antiquities into the United States. Already the press has reported allegations that European auction houses have traded in looted Iraqi antiquities. The last thing that we in Congress want to do is to fail to act to prevent trade in looted Iraqi artifacts here in the United States.

Other important provisions in the bill include modifications to the cellar treatment of natural wine and repeal of the 1916 act. Repeal of the 1916 act will bring the United States into compliance with its WTO obligations. We have also improved and extended the wool trust fund and added a provision that simplifies some processing U.S. Customs processing procedures, thereby resulting in increased efficiency and productivity for both the government and the trade community.

I also want to point out that the provisions I have covered are not the only important provisions contained in this bill. This bill makes a number of other technical yet meaningful changes to our trade laws.

I am very pleased that we are going to be able to pass this bill today. We would not be here today if not for the bipartisan efforts of a number of the Finance Committee staff, some of whom have long left the Senate. First, I want to thank Andy Harig who shepherded this bill through its first stages of development under Chairman BAUCUS' leadership during the 107th Congress. I also want to recognize Carrie Clark Phillips, for immersing herself in the tremendous complexities of this bill and her dedication to seeing the task done upon my resumption as chairman of the committee. Zach Paulsen and Sara Andrews also deserve recognition for their ability to pick up where Carrie and Andy left off and their hard work in bringing this bill to a successful conclusion. I also appreciate the hard work of Rohit Kumar, who was instrumental in helping us move this bill forward. Finally, Liese Wright, with the Washington International Business Council, has done an outstanding job bringing together, and holding intact, the Ad Hoc Coalition on Tariffs. In good times and bad, Liese remained ever hopeful and committed to getting this bill done. Her hard work and optimism is appreciated.

Let me also thank the rest of the Finance Committee international trade staff for their work not just on this bill, but for all we have been able to accomplish this Congress. On Senator BAUCUS's staff I would like to recognize Russ Sullivan and Bill Dauster, who provided the guidance necessary to help the Committee accomplish its goals, and Tim Punke, Brian Pomper, John Gilliland and Shara Aranoff for their technical expertise and policy advice which was so crucial to our success. On my staff, I would like to thank Kolan Davis, Everett Eissenstat, Ste-

phen Schaefer, David Johanson, Tiffany Atwell McCullen, and detailees Nova Daly and Dan Shepherdson. Their knowledge, hard work, and ability to pull together as a team, enabled me to accomplish a number of important trade priorities in this Congress. And for that, I am grateful.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise today to express my strong opposition to efforts to push through a provision in this bill normalizing trade relations with Laos.

Let me first say I thoroughly enjoy my work with both managers of the bill. Senator BAUCUS and I agree on so many issues. We have had our disagreements on trade issues, but I do respect his views and arguments. Of course, I very much respect the Senator from Iowa. I have the pleasure of serving with him on a number of committees. I respectfully disagree with him on this particular aspect of the bill having to do with Laos.

I am deeply disappointed that a decision was made to insert this provision into the Miscellaneous Trade and Technical Corrections Act of 2004 conference report. The Senator from Montana suggested that those of us who are opposed to this provision simply believe that Laos could do better. I am afraid it is a lot more serious than Laos needing to do a little bit better on human rights.

First, let there be no misunderstanding that this bill would sail through the Senate if this provision on Laos was not included. However, I cannot support upgrading Laos's trading status as long as the human rights situation in that country remains so disturbing. I am not prepared to simply let this bill pass without at least some debate on this important matter.

This is the wrong time to reward the Government of Laos with normal trade relations. Reports emerging from Laos continue to demonstrate that human right conditions in Laos remain appalling. It is not a question of simply doing a little better, it is appalling. Despite the Lao Government's denials, human rights organizations, the U.S. Government, and my constituents and various news agencies have all documented the Lao Government's blatant disregard for human rights.

I have tried to closely monitor the human rights situation in Laos as a member of the Senate Foreign Relations Committee's Subcommittee on East Asia and Pacific Affairs, and also as a Senator representing over 35,000 Hmong people in Wisconsin. Many of these people fled Laos following the end of the Vietnam war. Quite a number of the Hmong provided courageous assistance to the CIA during the Vietnam war, at great risk to themselves and their families. They helped rescue American pilots and hold off North Vietnamese troops.

Especially at a time like this, I think we can all agree that we owe them a

debt of gratitude, and we owe them better than simply rewarding normal trade relations to a government that has badly mistreated them.

The Senator from Montana indicated this provision was an indication that it is time to put the legacy of the Vietnam war behind us. When it comes to the situation on the ground in Laos, the tragic legacy of the Vietnam war is very much alive for families of people who helped us during that very difficult conflict. So the legacy of Vietnam is not over when it comes to the treatment of the Lao Hmong people in Laos.

I am regularly contacted by constituents concerned about their friends and families in Laos. Again and again, my office encounters reports of atrocities committed against the Hmong in Laos and other deplorable practices by the Lao Government. These reports, combined with the Lao Government's absolute refusal to investigate allegations or to permit independent monitoring, lead me to believe it is not in our country's national interest to adopt normal trade relations with the Lao Government.

The United States has an obligation to the Hmong people, and I strongly believe that we have a moral interest in reducing human suffering and protecting human rights abroad. We cannot ignore these allegations of atrocities in Laos. Granting NTR is not appropriate at this time. In fact, I do recognize, as the Senator from Montana pointed out, that there are only a few countries that do not have NTR status. But that does not mean Laos deserves it any more than North Korea or perhaps Cuba. In fact, I have not supported the granting of NTR to some countries that have it now, such as China. In fact, I think the normal trade agreement with China is the biggest reason the State of Wisconsin has lost up to 80,000 manufacturing jobs since the middle of the year 2000.

You can call NTR normal, but, in fact, that was a semantic change from MFN, most-favored-nation treatment. It was a semantic change to try to make it easier to get these deals through. The fact is, normal trade relations with another country is not always right. Sometimes it is in our own interest in terms of protecting our jobs, and sometimes because of the outrageous human rights records that some countries have, and Laos, in my view, is certainly one of those countries.

I know many of my colleagues have provisions in this bill they want passed, and I want the body to know, Mr. President, that I have repeatedly asked that we simply strip out this one contentious provision and pass the rest of the bill, and I am prepared to do that again. I heard the resuscitation of some of the other meritorious aspects of this bill, and I respect that. I am not sure I agree with every piece of the bill, but I do recognize much of it is good. My goal here is not to kill the

whole bill. I simply want this item removed.

At some point, this body has to come to grips with the fact that we tend to shove major policy decisions into larger bills without any real debate and discussion and without the American people having access to what their representatives are doing, thinking, or saying about some of these items. Somehow this has to change.

I also realize the 108th Congress is drawing to a close, and many of us are already looking to head home to our families and constituents. But I cannot, in good conscience, stand by and say nothing against a provision that conflicts so fundamentally with our country's dedication to human rights, to democracy, and to fundamental decency.

I urge my colleagues to join me in opposing cloture. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I am deeply troubled by the series of events which have brought us here today. The miscellaneous tariff bill, a relatively noncontroversial bill that has been making its way through the Congress for more than a year now, which is full of worthy noncontroversial provisions, has become the vehicle to pass a bill that is controversial, to say the least.

At the eleventh hour, behind closed doors, the conferees on this bill decided to tack on a bill to grant normal trade relations status to the Communist Laos People's Democratic Republic, one of the few remaining Communist states on the Earth.

For many years, I have worked to shed light on the serious allegations of human rights violations in Laos, many involving the status of the Hmong ethnic minority. By attaching Laos NTR to this bill without any opportunity to debate it and to consider it on its merits, we are missing an important opportunity to hold the Lao Government accountable. We are also missing an important opportunity to press the Lao Government to allow credible international observers into Laos and into the remote jungles where the Hmong ethnic minority live.

We should not be proceeding to this bill in its current form. The Finance Committee could have easily stripped the Laos NTR provisions from the conference report and passed a clean version of the miscellaneous tariff bill. Then we could have had a real debate on Laos NTR at a more appropriate time.

I will have more to say on this matter after the cloture vote. I urge my colleagues to vote against cloture so that Laos NTR can be considered on its merits and not part of an omnibus trade package.

I yield the floor.

Mr. HATCH. Mr. President, every year U.S. businesses lose several billion dollars in revenues due to international theft of their products. Every

time a book is photocopied without permission, a bootleg movie DVD is sold, or a piece of music is downloaded from the Internet, engineers, authors, musicians, actors, technicians, camera crews, lighting crews, building owners, investors—indeed, everyone involved in the process—lose money. The United States has long been the world leader in the creation of products protected by intellectual property. Almost every growing industry in the United States uses intellectual property laws as the single most important tool they have to ensure their companies will be viable and competitive in the world marketplace. Millions of employees throughout the United States can directly or indirectly tie their jobs to companies who use intellectual property protections for their products.

Because intellectual property is so important to the U.S. economy, our Government has a long tradition of working hard with the international community to enforce the basic and fair rights established by intellectual property law. Enforcement of these rights in foreign countries is extremely important to the U.S. economy and so the Congress has long provided Government officials with the direction and tools they need to pursue fair treatment of intellectual property on an international basis.

Be it through the Trade Act of 1974 or through the WTO establishment of the Agreement on Trade-Related Aspects of Intellectual Property Rights, TRIPS Agreement, the U.S. Government has been very active in pursuing the protection of intellectual property that brings me to the bill at hand.

As passed by the Senate on March 4, 2004, H.R. 1047 contained five important measures that would have given the U.S. Government more tools in our effort to protect intellectual property around the world. Specifically, the five intellectual property sections of H.R. 1047 would provide the U.S. Trade Representative additional time to negotiate and consult with countries prior to bringing a World Trade Organization intellectual property dispute; it would have given companies and innovators the ability to request the U.S. Government suspend certain trade benefits to Caribbean and Central American countries who are not meeting their intellectual property commitments; and it would have standardized the criteria for adequate and effective protection of intellectual property under several U.S. trade programs, thereby giving U.S. companies greater ability to protect their IP in several countries around the world.

Unfortunately, during the conference with the House, H.R. 1047 was stripped of four of the five IP protections I just outlined. This is of great concern to me. I fear the House conferees who were opposed to these important IP measures are selling our economy short and jeopardizing thousands of U.S. jobs. Failure to pass these important protections diminishes the U.S.

Government's ability to encourage foreign governments to crack down on intellectual property violations. It is difficult to motivate foreign governments to seek out and prosecute those who steal the property of U.S. companies and sell it to consumers at reduced prices. However, this language would have provided an extra incentive for foreign governments to prosecute intellectual property theft and, hopefully, would have led to billions of dollars of additional U.S. exports across several industries.

Few U.S. industries enjoy a positive trade balance in the world marketplace; however, those few U.S. industries which do enjoy large positive trade balances with other countries depend on strong, internationally enforced intellectual property protections. It is beyond me why anyone would want to make it more difficult for these industries to enforce their property rights internationally. It is beyond me why anyone would want to stand idly by and watch American employees get ripped off by foreign companies.

Although this legislation was stripped of most of the intellectual property protections I worked so hard to include, I am supporting its passage because it provides tariff relief to many industries throughout the country. Many of our Nation's largest manufacturers and employers in industries such as agriculture, textiles, chemicals, pharmaceuticals, electronics, heavy equipment, and food and beverages all benefit greatly from the reduced tariffs provided by this legislation.

In fact, several large employers in my home State of Utah will benefit directly from this legislation. The reduced tariffs contained in this bill will provide these companies with the ability to compete for effectively in the global marketplace, to sell more products and services throughout the world, and create jobs in Utah. For these important reasons, I will support this legislation.

Although the Senate has not been able to take advantage of this opportunity to pass four very important intellectual property provisions on the Miscellaneous Tariffs Bill, I am hopeful that we can come together at the start of the 109th Congress and take up and pass these important protections. Those industries which depend on IP protections agree that we need them; the U.S. Trade Representative's Office agrees that we need them; and I call on my Senate colleagues to work with me next Congress to pass these important tools to help us combat international IP theft.

I yield the floor.

DUTY SUSPENSIONS FOR IMPORTED PRODUCTS

Mr. BUNNING. Mr. President, I would like to ask my colleague about the conference report to accompany H.R. 1047, the Miscellaneous Trade and

Technical Corrections Act of 2004, which passed the Senate floor by unanimous consent earlier today. This legislation contains a number of duty suspensions for imported products. The duty suspensions help make American industry competitive by allowing companies to reduce costs on needed inputs. An important criterion for duty suspension is that the imported product cannot compete with a domestic product.

I am concerned that duty suspensions were included in the bill for eight pigments that may compete directly with pigments produced in my State. If so, it could directly affect hundreds of workers in my State. The provisions at issue are: Sections 1439, 1440, 1441, 1452, 1453, 1454, 1455, and 1456.

I understand that the Department of Commerce has been contacted about these provisions and is willing to review them to determine whether they are appropriate for inclusion in this bill. Will the Senator work with me to ensure that the Department of Commerce completes its analysis?

Mr. GRASSLEY. I appreciate the Senator raising this issue with me. I am happy to work with the Senator from Kentucky and the Commerce Department to ensure that an appropriate and timely analysis is completed. I recognize that the duty suspensions in question take effect on January 1, 2005. If the results of this analysis demonstrate that the inclusion of these provisions in H.R. 1047 was inappropriate, I will gladly work with him to try and rectify the situation at the earliest possible date.

Mr. BUNNING. I thank my colleague and I pledge to work closely with you to resolve this matter.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield back the remainder of my time and ask unanimous consent that all time be yielded back.

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

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 1047, a bill to amend the harmonized tariff schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

Bill Frist, Chuck Grassley, George Allen, Craig Thomas, Jon Kyl, Mike Crapo, Robert F. Bennett, John Ensign, Pete Domenici, Lamar Alexander, John E. Sununu, Richard G. Lugar, George Voinovich, Peter Fitzgerald, Trent Lott, Lindsey Graham, Jim Talent.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the conference report to accompany H.R. 1047, a bill to amend the harmonized tariff schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent. The Senator from Wyoming (Mr. ENZI), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Indiana (Mr. LUGAR).

Mr. REID. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Florida (Mr. GRAHAM), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Vermont (Mr. LEAHY) are necessarily absent.

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

The yeas and nays resulted—yeas 88, nays 5, as follows:

[Rollcall Vote No. 214 Leg.]
YEAS—88

Akaka	Dole	Mikulski
Alexander	Domenici	Miller
Allard	Dorgan	Murkowski
Allen	Durbin	Murray
Baucus	Edwards	Nelson (FL)
Bayh	Ensign	Nelson (NE)
Bennett	Feinstein	Nickles
Biden	Fitzgerald	Pryor
Bingaman	Frist	Reed
Bond	Graham (SC)	Reid
Boxer	Grassley	Roberts
Breaux	Gregg	Rockefeller
Brownback	Hagel	Santorum
Bunning	Harkin	Sarbanes
Burns	Hatch	Schumer
Campbell	Hollings	Sessions
Cantwell	Inhofe	Shelby
Carper	Inouye	Smith
Chafee	Johnson	Snowe
Chambliss	Kennedy	Specter
Cochran	Kerry	Stabenow
Collins	Kyl	Stevens
Conrad	Landrieu	Sununu
Cornyn	Lautenberg	Talent
Corzine	Levin	Thomas
Craig	Lieberman	Voinovich
Crapo	Lincoln	Warner
Daschle	Lott	Wyden
DeWine	McCain	
Dodd	McConnell	

NAYS—5

Byrd	Dayton	Kohl
Coleman	Feingold	
Clinton	Hutchison	Lugar
Enzi	Jeffords	
Graham (FL)	Leahy	

NOT VOTING—7

The PRESIDING OFFICER. On this vote the yeas are 88, the nays are 5. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Ms. LANDRIEU. Mr. President, I ask unanimous consent for Resolution No. 474 to be brought up for its immediate consideration, and I will allocate time.

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

The PRESIDING OFFICER. Does the Senator from Louisiana yield?

Ms. LANDRIEU. I am happy to cooperate. I thought we had worked this out. Perhaps we have not. I understand we are calling up a resolution for its immediate consideration and I will stay in the business that we are in.

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

The PRESIDING OFFICER. Is there objection? The clerk will call the roll.

Mr. CRAIG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I will not object to a quorum call if it is only temporary, and I mean very temporary, so we can work out our differences. This is a very important resolution that deserves to come before the Senate. Tomorrow is National Adoption Day and the Senator from Louisiana and I find this an important priority for all Senators. With that, I will not object, understanding that Senator FEINGOLD offers this only temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

NATIONAL ADOPTION MONTH

Ms. LANDRIEU. I ask unanimous consent the Senate proceed immediately to the consideration of S. Res. 474, submitted earlier today by myself, Senator CRAIG, Senator BOND, as well as Senator DEWINE, Senator FITZGERALD, Senator LEVIN, Senators SANTORUM and STABENOW—those last names be added as cosponsors to the resolution.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 474) to express support for the goals of National Adoption Month by promoting national awareness of adoption, celebrating children and families involved in adoption, and encouraging Americans to secure safety, permanency, and well-being for all children.

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

Ms. LANDRIEU. I yield to my friend who cosponsored this resolution for his remarks prior to mine.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, let me thank the Senator from Louisiana for her leadership on this issue and on the introduction of this resolution to recognize what we believe to be a very important month and a very important day for America, for America's children, and especially for the foster care children of America.

Tomorrow, November 20, is National Adoption Day. This month is National Adoption Month. Over the years, as we have worked to bring this to the attention of the American people and to people who would like to form families through adoption, we find this tremendously important. More than 3,100 adoptions of children from foster care will be finalized as a result of National Adoption Day. Of those who are in foster care, some 129,000 children wait for adoption. Senator LANDRIEU and I, over the last good number of years, have worked almost nonstop on this issue, not just for the foster care children of our country but for all children of our country who are seeking a permanent, loving, safe environment.

As a result of that effort, she and I and others on the House side took the old congressional coalition on adoption and created the Congressional Coalition on Adoption Institute. That institute is now one of the sponsors of National Adoption Month and National Adoption Day.

These efforts on the part of all of us, we hope, continue to build the kind of understanding and knowledge that is growing across America—that you can form a family through adoption. Adoption is a phenomenally viable option for couples who may not be able to have children naturally or who wish to expand their families, simply because they care so much about the future of children and who know that children who grow up in a safe, loving environment are going to be young people who become productive in our society instead of frustrated and oftentimes misguided in their adult efforts.

What I would like to do now is read the resolution and the President's Proclamation on National Adoption Month, because I think it speaks to the kind of cooperative effort that the Congress, that Mary and I and a good many others in this Senate and the Congressional Coalition on Adoption Institute have, with a lot of other alliances but very importantly with the President and the executive branch of Government.

This is the 2004 Presidential Proclamation on National Adoption Month, by the President of the United States:

By deciding to share their hearts and home with a child, adoptive parents demonstrate great compassion and receive many blessings in return. During National Adoption Month, we recognize the generosity of adoptive and foster families who are providing hope and love, and we encourage the adoption of children of all ages.

In 2002, I signed the Promoting Safe and Stable Families legislation that supports families and promotes adoption, and last December I signed the Adoption Promotion Act of 2003 to increase incentives to adopt older children. We have raised the adoption tax credit to \$10,000 per child and created the AdoptUSKids website that has joined thousands of children with adoptive parents. We are working hard to place more children from foster care to permanent homes. This year, on November 20, communities from all 50 States and the District of Columbia will celebrate National Adoption Day by final-

izing the adoption of thousands of children by loving families. And each one of those families will be enriched by the addition of new members. By bringing care and hope into other lives, individuals can fill their own lives with greater purpose.

Now, therefore, I, George W. Bush, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2004 as National Adoption Month. I call on all Americans to observe this month with appropriate programs and activities to honor adoptive families and to participate in efforts to find permanent homes for waiting children.

In witness whereof, I have hereunto set my hand this fourth day of November, in the year of our Lord two thousand four, and of the Independence of the United States of America the two hundred and twenty-ninth.

GEORGE W. BUSH.

That is what our President has said. He and this administration, as have others, have worked very cooperatively with Senator LANDRIEU and me. Much of what we talk about and much of what the President talked about were activities and efforts initiated right in the Senate—the child tax credit and other efforts to facilitate and make easier for Americans the ability to adopt children and bring them into their homes to create that loving environment that we talk about, that we know is so critically necessary in the lives of young people as they grow up.

So I am tremendously proud to join with my colleague, MARY LANDRIEU of Louisiana, as we work cooperatively together in the passage of this resolution and as we continue to work to foster the Congressional Coalition on Adoption Institute, to grow it.

Let me close by asking all Senators to become an active member with us in the Congressional Coalition on Adoption Institute, to participate in its activities and its purpose as we work to facilitate adoptions both here in this country and around the world.

I thank my colleague from Louisiana, and I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I am pleased and proud to join my colleague from Idaho. I have the opportunity this morning before this body to thank him for his extraordinary leadership on this issue and his tireless efforts. Despite all of the responsibilities he has as a leader of the majority party and all of the other issues that he leads, he always finds time for this issue. It is not an issue that has a lot of paid lobbyists associated with it because this is a coalition that is actually advocating on behalf of orphans. His leadership is particularly noted, and we are grateful for all the work that our Senators do for children, not only in our country but around the world.

While we do celebrate this month and recognize this month of November and mark this time noting our great progress and success, let me begin by saying, unfortunately, the number of orphans in the world is on the rise. Some experts predict an unprecedented

number of orphans in the world—really in numbers not ever known by the world before. We have had world wars in the past that have caused the number of orphans to expand greatly, but in the midst of this century and this time not only do we have war and famine, but we have something the world has never seen before, and that is the epidemic of AIDS that is an orphan factory in Africa and India.

We come to the floor today to celebrate what successes we have achieved in the United States, and we will talk about those successes in a moment. The challenge is great. I look forward to working with Senator CRAIG and all Members of the Senate as we try to form a leadership team for the world to address this unprecedented number of orphans.

If I could just say one more word about AIDS, sometimes children are orphaned because a parent dies of heart disease or cancer, but those diseases usually just affect one parent, not two. Because of the nature of AIDS and the way this disease is transmitted, it actually works at killing parents in usually a quick amount of time, leaving children in the international community not single orphans but double orphans. So that is quite a challenge to the world.

Let me switch to a happy note. In America last year 120,000 children found loving and permanent homes, and approximately 12,000 of those children came from other countries to the United States to loving homes in all parts of our country; small towns in Idaho, very small towns in Louisiana, as well as to our larger metropolitan areas. And they were welcomed, of course, with happiness and celebration and have become parts of families. I am proud to say that over 100,000 children were adopted, children from the United States to American families right here at home out of foster care and, of course, infant adoptions as well. That was terrific.

Two million children live in adoptive homes today in our country. More extraordinary and more jolting and impressive is the fact that 6 out of every 10 Americans have been personally touched by adoption; either they themselves were adopted or they have adopted into their family or grandparents have received from their biological family adoptive grandchildren. The stories are endless and wonderful. We need to make sure this Government of ours is doing everything it can to connect children who need families because governments do a great job at many things, but raising children is not one of them. Children need to be raised by parents, preferably two parents, but at least one loving adult that can raise that child to be a contributing member of our society.

Our future truly depends on it. We can have all the great tax policies in the world, great health policies, great education policies, but it is parent to child, that carries future values from

one generation to the next. So making these connections is not only a feel-good thing to do, it is a necessary thing to do for the continuation of our great Nation and the world community and family.

Let me share briefly about some of the children waiting in my State. There are 500,000 children in foster care in the United States today. That is tragic. It is tragic and good and I will explain. It is tragic because children have been separated from their parents. Sometimes we could have done a better job of preventing that had we given more drug counseling on substance abuse or stronger educational benefits or job opportunities to those parents. On the positive side, sometimes children have to be separated from their families because, if not, they may literally die at the hands of parents who are not in their right mind and spirit. These children can sometimes be in danger.

While we try to protect, promote and develop a better system, the fact is, 500,000 children are in foster care, anywhere from the age of 1 month up to 21 years old.

These are pictures of some of the children in my State. There are many more. Some are young teens, children who are perfectly healthy, sibling groups. Cynthia is a beautiful child. She was born with cerebral palsy and needs special care and attention. This is a story of one child who gives everyone great inspiration. Children like this with the right love and attention can grow up to be Presidents, mayors of great cities, professors at our great universities. They just need love, attention, and care. That is what National Adoption Month is all about.

Let me in my brief time share a story about an extraordinary young woman who came out of an orphanage. I will tell the story and then show the picture because you will not believe it when I show the picture. I want to tell a story that Senator CRAIG and I know about that has touched our hearts that we want to share with you today.

A young girl, about 9 years ago, was left in an orphanage in Russia. We do not know too much about the circumstances, but what we know is she was severely disabled when she was born. She had spina bifida. She had a hole in her spine. In some places in the world, children born with disabilities are basically just left to die—even with disabilities that we have come to know in America can be fixed and corrected with good health care. But there are truly dying rooms around the world where infants and young children are born and left to die. They are not fed, they are not taken care of because there is no medicine, no doctors, and nobody can do anything, so they make a tough judgment: to feed the healthy children and leave the sick children to die.

This little girl was left in a dying room. But she would not die, basically. After 6 years of living, with very little

support, a woman we know well showed up in one of our adoption agencies and was trying to find children in this orphanage to be adopted. She came across this child who was on the floor because she could not walk. She had no wheelchair but she crawled up and touched her jacket. She looked down at this child's eyes and saw something that obviously no one else had seen and decided to adopt this child. The orphanage kept saying: We don't want you to have this child; we want you to have a "good" child.

She kept saying: This is the child I want. I want this child with a hole in her back, the strong and beautiful little girl.

The long and short of the story is, this woman scoops this child up, brings the child to America, adopts this child as her daughter, and her name is Tatiana McFadden.

I want to show a picture of Tatiana, but no one is going to believe the end of this story. Tatiana represented the United States of America in the Paralympics in Greece this year and won the silver medal for our country, for America.

This is a picture of Tatiana, who is now 16 or 17 years old, one of the strongest, most courageous, bravest human beings I have ever met. She proudly carried the American flag over that finish line and won the silver medal in the Paralympics.

Senator CRAIG, my good friend from Idaho, and I hoped she would be our special guest at Angels in Adoption, but she was actually winning the medal as our event was taking place.

In honor of Tatiana McFadden, I wanted to speak for her and for the children she represents in America and around the world. This is Tatiana, receiving on our behalf, for the United States of America, the silver medal. She represents everything that Senator CRAIG and I want to share today about National Adoption Month.

There are many orphans waiting. They are not damaged goods. These are children who, through no fault of their own, have been separated from their parents for a variety of different reasons. They need and want families. They have a lot to offer not only to themselves but to their countries and their families.

We hope in November, as we gather around our Thanksgiving table, and as our Nation gathers and spends time on its knees thanking God for our many blessings which we have, remembering our blessings from the early founding of this country. As we gather around our tables and hold the hands of our children, let's think about the children who do not have parents and what we can do.

Every Senator can most certainly do something. Many Senators and House Members are doing a great deal.

My colleagues have been very gracious with this time, but I close by saying that tomorrow, on Saturday, many of our colleagues, House and Senate

Members, will be participating at their courthouses all over America. We are happy to say that we will have 4,000 children adopted tomorrow, on National Adoption Day, an effort started by one judge, Judge Nash in Los Angeles, CA, who started this to call attention to children like Tatiana. All they need is someone to pick them up, hold them, love them. Basically the spirit that God has put in them will do the rest. That is what this month is about.

I thank my colleague for offering this resolution. I thank the Senators in the midst of their busy work schedule for pushing this resolution through. I thank the President for his great support and acknowledge President Clinton and First Lady Clinton's effort, now Senator CLINTON, and President Bush and Mrs. Bush, for their good leadership on this issue—not just in America, as my colleague knows, but as President Bush advocates these policies around the world.

Ms. LANDRIEU. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider by laid upon the table, and any statements related thereto be printed in the RECORD without intervening action or debate.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

The resolution (S. Res. 474) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 474

Whereas there are approximately 532,000 children in the foster care system in the United States, approximately 129,000 of whom are waiting to be adopted;

Whereas the average length of time a child in foster care remains in foster care is almost 3 years;

Whereas for many foster children, the wait for a loving family in which they are nurtured, comforted, and protected is endless;

Whereas every year 25,000 children "age out" of foster care by reaching adulthood without being placed in a permanent home;

Whereas, since 1987, the number of annual adoptions has ranged from 118,000 to 127,000;

Whereas approximately 2,100,000 children in the United States live with adoptive parents;

Whereas approximately 6 of every 10 Americans have been touched personally by adoption in that they, a family member, or a close friend was adopted, has adopted a child, or has placed a child for adoption;

Whereas every day loving and nurturing families are formed when committed and dedicated individuals make an important difference in the life of a child through adoption;

Whereas, on November 20, 2004, communities from all 50 States and the District of Columbia will celebrate National Adoption Day by finalizing the adoption of thousands of children by loving families; and

Whereas on November 4, 2004, the President proclaimed November 2004 as National Adoption Month: Now, therefore, be it

Resolved, That the Senate recognizes November 2004 as National Adoption Month.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I ask unanimous consent to speak as in morning business for up to 5 minutes.

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

Mr. FEINGOLD. Reserving the right to object.

Mr. BOND. I thank the President.

Mr. FEINGOLD. Madam President, reserving the right to object, I will not object to these remarks, but subsequent to that we will begin the postcloture discussion of the issue before the Senate.

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

Mr. BOND. Madam President, I commend my colleagues from Louisiana and Idaho. It was a very touching story of the Senator from Louisiana which highlights the importance of adoption month. This is a wonderful effort that my two colleagues have launched. We are pleased to support them and the President's efforts and all those wonderful people who take adopted children into their home.

(The remarks of Mr. BOND pertaining to the introduction of S. 3009 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Madam President, I want to speak on the miscellaneous tariffs bill.

Last spring, Senator FEINGOLD and I sent a letter to the minority leader making it clear we would object to taking up S. 2200, a bill granting NTR status to Laos because of the human rights situation there. At the time we said:

Reports emerging from Laos remain disturbing. Journalists, human rights groups, and many of our constituents inform us that the Laos government continues to be responsible for serious human rights violations, and that conditions are particularly difficult for the Hmong ethnic group.

The situation in Laos has not changed, and, in fact, over the last several months more disturbing evidence has emerged that now is not the time for us to appear to be rewarding one of the most closed and repressive regimes. For the first time, we have independent corroboration of the types of charges which have been made by many Hmong residents of my State for years and by others who have fled Laos more recently.

On September 13, 2004, Amnesty International issued a report entitled "Military Atrocities Against Hmong Children Are War Crimes." The report, which I will read from momentarily, details horrific crimes committed in May of this year reportedly by Laos soldiers. These crimes were captured on a graphic videotape smuggled out this summer and which I understand the State Department has taken very

seriously, and they were also described by witness testimony.

The attack took place against a group of children, five of whom were killed, in a remote area of the country, and was described by Amnesty International as follows:

The 5 children, between 13 and 16 years old and part of an ethnic Hmong rebel group, were brutally mutilated—the girls apparently raped before being killed—by a group of approximately 30-40 soldiers. The victims—four girls, Mao Lee, 14; her sister Chao Lee, 16; Chi Her, 14; Pang Lor, 14; and Tou Lor, Pang Lor's 15 year old brother—were killed whilst foraging for food close to their camp. They were unarmed.

A witness, who has subsequently fled the country and been recognized as a refugee by the United Nations High Commissioner for Refugees, reported hearing one of the soldiers saying: "Hmong. Your mouth allows you to speak. Your vagina allows you to breed".

He then heard moans and a gunshot.

A 14-year-old girl was shot in each breast and the other bodies were mutilated by what appears to be high-powered rifle shots fired at close range. One of the girls was disemboweled.

Several other members of the group were seriously injured with gun shot wounds but managed to return to their encampment. The rebels have little if any medicine and rely on traditional treatments using plants found in the forest.

It is my understanding that in the last several weeks, our State Department has delivered a demarche to the Lao Government, calling for thorough investigation of these atrocities which happened in May—an investigation that is credible and that would withstand scrutiny by the international community. To date, there has been no such investigation and the soldiers involved with these war crimes have not been held accountable.

Also this year, came startling and deeply upsetting reports. Hundreds of former Hmong-Lao insurgents—many of whom courageously helped our military during the Vietnam War—and their families emerged from the jungles in Laos only to be captured by the Lao military and mistreated, and as some allege, killed.

The emerging Hmong-Lao were under the impression that there was an amnesty program organized by the Laotian government, but there was much confusion about this program. The Lao government has officially denied there was such a program, they have refused to provide our Government with any details of this mass surrender of ethnic Hmong and their families, and they would not accept humanitarian assistance for the sudden influx of people seeking assistance.

In response to these reports, Senator FEINGOLD and I, along with others, sent a letter to Ambassador Negroponte asking for his assistance in urging the United Nations to send a high level UN representative or fact finding mission to Laos to monitor the treatment of the Hmong. I also raised the issue with Secretary Powell when he came to testify before the Commerce-Justice-State Appropriations Subcommittee.

Secretary Powell expressed concerns about the reports coming out of Laos. He agreed that there is a need for greater access and that more needs to be done to secure the safety of the Hmong. And, while Laos hasn't exactly been on the front burner, this spring the Secretary raised the issue of the Hmong in Laos with UN Secretary General Kofi Annan, and he wrote to the Lao Foreign Minister to express concerns about the reports related to the supposed amnesty.

It is my understanding that there has been no reply to Secretary Powell's letter.

So, here we are today offering a carrot to a government that has essentially stonewalled our Secretary of State and has restricted access to independent international monitors, leaving us with no way to investigate the many reports coming from Laos.

I am aware that there are supporters of Laos who have raised questions about the veracity of reports of human rights violations against the Hmong. Because of restrictions put in place by the Lao government that deny policymakers, journalists, and humanitarian groups access to the situation on the ground, it is very difficult to confirm these reports one way or the other. More significantly, it is virtually impossible to ensure that these individuals are being treated fairly and humanely. That is why it is essential for us to keep the pressure on the Lao government to push for international access. Such access would be crucial in determining the facts surrounding the treatment of the Hmong and would allow us to ensure that they are not being mistreated.

The sad fate of the Hmong in Laos has been exacerbated by their role in helping the United States during the Vietnam war. By 1963, as many as 20,000 Hmong fighters were trained and armed by the Central Intelligence Agency to fight against the North Vietnamese Army and Pathet Lao forces as part of the so-called "secret war in Laos." Some reports put the number of fighters as high as 40,000 in 1969. The Hmong sustained heavy casualties during those years, working in coordination with the CIA. The impact on the Hmong community extended beyond the actual fighters: Family members lived under terrible conditions, throughout this period, unable to farm because they were constantly moving to keep one step ahead of the Communists. Since they were never in one place long enough to harvest, they had to eat leaves, wild fruit, tree bark, and whatever else they could find in the jungle. The United States is indebted to these former Hmong insurgents who rescued downed American pilots and disrupted North Vietnamese supply lines—under the most difficult circumstances. We cannot forget these courageous individuals and their families.

In the years since the end of the Vietnam war, thousands of Hmong

have fled to Thailand, living a life of separation from their homeland and ongoing transition. Hmong have come to the United States, resettling in California, Minnesota, Wisconsin, North Carolina, and Rhode Island. My State of Wisconsin is the home to 33,000 former Hmong refugees, many of whom are concerned about the status of their family and friends in Laos. And, last December, the U.S. Government decided to admit 15,000 Hmong-Lao refugees who were living in Thailand. These refugees began to arrive in June and they will continue to arrive through the end of the year.

Estimates are that there are as many as 17,000 Hmong still live in the jungles of Laos. According to the Associated Press, about 20 Hmong communities are currently involved in low level combat against the Lao communist government, which came to power in 1975 at the end of the Vietnam War. Most recently, there are reports that as many as two thousand Hmong have been under attack in remote regions of Laos by Lao forces using grenades, machine guns, and mortars. The scattered reports we receive are from those who manage to escape the area, those who call out on satellite phones, and the few reporters who venture onto the dangerous terrain.

In October 2003, Amnesty International issued a report which stated that the Lao government is using starvation as a "weapon of war against civilians"—a clear violation of the Geneva Conventions, which Laos has ratified. The report indicated that the Lao military had surrounded several rebel groups and their families, including civilians, and was preventing them from foraging for food they need to survive. At that time, Amnesty stated that it was greatly concerned "by the sharply deteriorating situation of thousands of family members of ethnic minority groups, predominantly Hmong, involved in an armed conflict with the Lao military in jungle areas of the country." Articles in *Time Asia* in spring 2003 underscored these charges, stating that the Lao government had hunted down and surrounded "this dwindling group of outcasts." The pictures accompanying this and other pieces in *Time* have shown the Hmong in the jungle living in deplorable conditions.

Beyond its treatment of the Hmong, the Lao government also has a history of particularly severe violations of religious freedom which have been documented by the U.S. Commission on International Religious Freedom in a report submitted to Congress last March. The Commission has designated Laos as a "country of particular concern" and has said that "U.S. attention to Laos at this time may advance protections for religious freedom and promote U.S. interests."

I am sure that granting NTR was not the kind of attention the Commission had in mind.

To quote from their report:

... there has been extensive government interference with and restrictions on all religious communities. In more recent years, the government has focused its repression on religions that are relatively new to Laos, including Protestant Christianity ... [Violations] include the arrest, prolonged detention, and imprisonment of members of religious minorities on account of their religious activities. ... Lao officials have forced Christians to renounce their faith ... dozens of churches have been closed.

This persecution of religious minorities has extended to U.S. citizens as well. In June of this year, the Laotian Government arrested, imprisoned, tried, convicted, and sentenced to 15 years in prison a Lutheran minister, a U.S. citizen, from St. Paul, MN. While in captivity, he was denied consular access for over a week and was subjected to a so-called trial before the Laotian judiciary system. Although he was released after a month, Laotian Christians have not been so lucky. Some Christian pastors say leaders have remained imprisoned for years. As long as there is no pressure on the Lao Government, we can expect the status quo to continue.

With all due respect to my colleagues on the Finance Committee, I have to say they have been surprisingly eager to grant NTR status to Laos. They have been so focused on taking this step in the context of cleaning up our trade laws and eliminating the distinction between those nations which have NTR status and those that do not have NTR status that they have forgotten that this is not happening in a vacuum. Whether we intend to or not, we are sending a strong signal to the Lao Government, and that signal is that they can act with impunity.

I recognize there is strong support for the miscellaneous tariff bill that has nothing to do with Laos NTR, and that many of my colleagues are not casting this vote with Laos in mind. For many years, I have worked with others, including my colleague, Senator FEINGOLD, to shed more light on the condition of the Hmong in Laos and to assure their safety, and I did guarantee I will continue to do so.

Madam President, I commend to my colleagues a report on the CIA Web site entitled "Supporting the 'Secret War': CIA Air Operations in Laos, 1955 to 1974." The report is by a historian at the University of Georgia.

I ask unanimous consent to have printed in the RECORD a report from *Time* magazine of May 5, 2003, entitled "Welcome to the Jungle," which details the deplorable conditions of the Hmong in the jungle in Laos. As one of the Hmong said, "We shed blood with the U.S. ... they should remember us." Also, a report dated September 13, 2004, from Amnesty International entitled "Laos: Military Atrocities Against Hmong Children Are War Crimes." Then a letter from the United States Commission on International Religious Freedom.

And a letter dated March 15, 2004, to the U.S. Ambassador to the U.N., John

Negroponte, signed by members of the Wisconsin, California, and Minnesota delegations.

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

[From *Time* Magazine, May, 2003]

WELCOME TO THE JUNGLE

(By Andrew Perrin)

There were hundreds of them, perhaps a thousand. They wept and knelt before me on the ground, crying, "Please help us, the communists are coming." I had hiked four days to reach this forsaken place deep in the jungles of Xaysomboune, northern Laos. The Hmong rebels prostrate before me were convinced they would all soon die. They knew they were a forgotten tribe, crushed by a military campaign that is denied by the communist leaders of their small, sheltered nation.

In all my years as a journalist I had never seen anything like this: a ragtag army with wailing families in tow, beseeching me to take news of their plight to the outside world. I walked among starving children, their tiny frames scarred by mortar shrapnel. Young men, toting rifles and with dull-eyed infants strapped to their backs, ripped open their shirts to show me their wounds. An old man grabbed my hand and guided it over the contours of shrapnel buried in his gut. A teenage girl, no more than 15, whimpered at my feet, pawed at my legs and cried, "They've killed my husband. They've killed my mother, my father, my brother" But before she could finish, others were pushing her aside to sob out their own litanies of loss. In this heart of darkness, nobody has a monopoly on grief.

Now, for the first time in nearly three decades, this dwindling group of outcasts are completely surrounded by the Lao government troops that hunt them. They are trapped in a narrow swath of jungle, with all avenues of escape blocked by either soldiers or antipersonnel mines. "This time," says Moua Toua Ther, 46, the one-armed leader of the camp and commander of its pitifully equipped fighting force, "we will not be able to run or hide. When the helicopters come we will be butchered like wild animals."

What is the crime this ragged bunch has committed? It is simply that they are Hmong, mostly the children, grandchildren or even great-grandchildren of fighters who in the 1960s sided with the U.S. to fight communism in Laos during the Vietnam War. Fabled for their resourcefulness and valor, many Hmong became members of a secret CIA-backed militia that helped rescue downed U.S. pilots and disrupted North Vietnamese supplies and troop movements along the Ho Chi Minh Trail through central Laos. The communist Pathet Lao movement—and its patrons in Hanoi—has never forgotten the Hmong's complicity with the Americans. Shortly after the Pathet Lao took power in 1975—two years after the U.S. had fled the country and left the Hmong soldiers to their fate—a communist newspaper declared the Party would hunt down the "American collaborators" and their families "to the last root." But until *Time* recently reached one of the last Hmong outposts, no one truly believed that, after 28 years, the Lao government still meant it. This, then, is the final act of a war that, according to history books, ended in 1973.

The Hmong, who migrated to Laos from southwestern China in the 19th century, have always been a proud, warlike people. In the 1920s a Hmong rebellion against their French rulers erupted in much of Laos and northern Vietnam, ultimately failing but leaving thousands dead. When the French left Laos

in 1953, the Hmong found themselves fighting again—this time against the threat of communism. Among the resisters was a young Hmong general named Vang Pao, who in 1961 was commissioned by the CIA to set up a secret army to fight the advancing communists. Over the next decade nearly half of the 40,000 Hmong fighters in Vang Pao's army are thought to have perished during the fighting. The reward for their sacrifice? The Paris cease-fire agreement of 1973, which signaled an end of U.S. aid. Vang fought on for two more years, but when it became clear that the Pathet Lao would win he fled to Thailand and then to the U.S. Today, some 200,000 other Hmong live in exile communities in the U.S. But not all Hmong made it to America: 15,000 of Vang's brethren were cut off from escape and were forced to melt away into the mountainous jungles of Laos.

Even from California, where he leads the United Lao Liberation Front (ULLF), Vang, 74, casts a long shadow over his people. Moua says he reports directly to Vang—a claim the Californian denies, though he does admit to providing occasional help. From his suburban American home, the exiled general demands democracy and a reinstatement of the monarchy in Laos. Moua and his militia are among the remnants of Hmong rebel groups fighting for that disappearing dream.

Moua joined Vang's secret army at age 15. His left arm ends in a stump—his hand was removed in a 1974 jungle amputation. One of only four people in the village with some writing skills, he is a meticulous keeper of village statistics—there are 56 orphaned children, 40 widows and 11 widowers. By Moua's count, 30% of the villagers have shrapnel wounds. In 1975, when Vang fled Laos, Moua recorded his group at 7,000 people. Today there are only about 800 left.

Although the Hmong have been on the run for nearly three decades, Moua and others in his village regard the past year as the worst. In October, they say, some 500 ground troops attacked them from four directions in Xaysomboune while a gunship strafed them from above. In all, 216 Hmong were killed. Such assaults can come at any time. Last August, a mortar round landed less than a meter from nine-year-old Yeng Houa's family dinner table, killing both his parents. Yeng survived; but I count 18 shrapnel scars on his legs, his jaw is broken and there is an infected sore on his inner thigh. Since the attack, he has not spoken.

The Hmong say they are too ill-equipped to strike back. Most of their fighters are armed with ancient M-16s and AK-47s, and the heaviest weapons at their disposal are two geriatric M-79 grenade launchers. Ammunition is mostly dug up from former U.S. air bases. According to Moua, only a third of the rounds are actually live, negating Hmong chances of launching a viable offensive. As for the Lao government, which declined to talk to Time, it denies allegations that it is decimating Hmong rebels and blames them for much of the unrest in the country. It insists that Hmong are doubling as bandits. In February an ambush on a bus traveling the busy Highway 13 in the north left 12 people dead, including two Swiss cyclists. A calling card pinned to one of the corpses indicated the deaths were the work of Hmong rebels. And on April 20, gunmen opened fire on a passenger bus, killing at least 13 people. Eyewitnesses to this massacre say the gunmen spoke to one another in the Hmong language. Vang Pao angrily denies claims that his men are responsible for attacks on civilians. "In the past there have been several events like this that have taken place and been blamed on the ULLF," he says. "But it was not us. We believe it was organized by the government using Hmong people who serve in the Lao army." For his part, Moua

portrays the Hmong as helpless innocents. "We only defend and run," he says. "If the Lao troops launch an assault, our ammo won't even last an hour."

Back in the mountains of Xaysomboune, Moua and his comrades sleep uneasily on beds of leaves inside banana-leaf huts. Most cannot recall how many times they've relocated, but they remember the people they've lost. Bhun Si, 42, says his wife and two sons were taken from him last October. His friend Soum Sai saw everything: the government troops came in, he says, and shot women and children from a distance of just five meters. Today, Bhun looks barely alive himself. Only two fingers remain on his left hand—he lost the others in a B-41 rocket attack that killed six of his fellow Hmong. His leg still bleeds from a suppurating shrapnel wound he received 13 years ago. One side of his face is a mask of melted flesh, with black sockets where an ear and an eye should be. "Everybody is dead," he says. "Sixteen people in my family are dead, all killed by the communists." In a heartbreaking refrain I heard repeatedly during my stay in the camp, he adds, "America must save us."

Commander Moua, too, wonders where his erstwhile American allies have gone. "We shed blood with the U.S.," he says. "They should remember this. They should find us a land where we're safe and have food to eat." But as the world has watched in awe of the might of the U.S. war machine in Iraq, the final scenes of a 30-year-old war in Indochina that America would rather forget are destined to play out unnoticed.

[From Amnesty International, Sept. 13, 2004]

LAOS: MILITARY ATROCITIES AGAINST HMONG CHILDREN ARE WAR CRIMES

Amnesty International is horrified by recent reports, including video evidence and witness testimony, of an attack by Lao soldiers against a group of five children, four of them girls, in the Xaisomboune military zone on 19 May 2004.

The children, aged between 13 and 16 years old and part of an ethnic Hmong rebel group, were brutally mutilated—the girls apparently raped before being killed—by a group of approximately 30–40 soldiers. The victims—four girls, Mao Lee, 14; her sister Chao Lee, 16; Chi Her, 14; Pang Lor, 14; and Tou Lor, Pang Lor's 15 year old brother—were killed whilst foraging for food close to their camp. They were unarmed.

The attacks violate the most fundamental principles of international human rights and humanitarian law. These rapes and killings constitute war crimes. The Lao authorities must bring to justice those responsible for this atrocity and cease attacks on unarmed civilians.

A witness, who has subsequently fled the country and been recognized as a refugee by the United Nations High Commissioner for Refugees, reported hearing one of the soldiers saying: "Meo (Hmong). Your kael ni (mouth) allows you to speak. Your hin (vagina) allows you to breed".

He then heard moans and a gunshot.

Mao Lee was shot in each breast and the other bodies were mutilated by what appears to be high-powered rifle shots fired at close range. One of the girls was disembowelled.

Several other members of the group were seriously injured with gun shot wounds but managed to return to their encampment.

The rebels have little if any medicine and rely on traditional treatments using plants found in the forest.

The Lao authorities must, as a matter of utmost urgency, permit UN agencies and independent monitors unfettered access to those rebels who are recently reported to have 'surrendered'. They must also permit

humanitarian agencies to provide medical and food assistance to those injured as a result of this and other military actions against the rebels.

BACKGROUND

The Hmong ethnic minority group in Laos was allied to the US during the Viet Nam war and its spill-over fighting in both Laos and Cambodia. The Hmong people have a long history of resistance and aspirations of independence from Lao government control. Following the creation of the Lao People's Democratic Republic in 1975 and the fall of the former regime, as many as a third of the Hmong ethnic minority are believed to have fled the country. Most of these refugees resettled in the USA, but a large number spent many years in refugee camps in Thailand.

Sporadic military resistance to the government has continued among some ethnic groups, predominantly Hmong. There are also continuing allegations of serious human rights abuses against those Hmong perceived as still being opposed to the Lao government.

There have been increasing concerns over the last two years at an apparent increase in Lao government military activity against rebel groups, who along with armed adult men also comprise a large number of women, children, elderly and sick. The upsurge in military activity followed increasing international concern at the situation, which was triggered by a number of journalists visiting rebel groups and reporting their plight.

Credible sources have reported the deaths of scores of civilians, mainly children, from starvation and injuries sustained during the conflict. It is known that several of approximately 20 rebel groups with their families are surrounded by Lao military and prevented from foraging for food that they traditionally rely on to survive. Amnesty International has protested to the Lao authorities at what it believes is the use of starvation as a weapon of war against civilians.

Several hundred ethnic Hmong rebels are reported to have 'surrendered' to the Lao authorities in recent months. UN agencies, diplomats and journalists have not been given access to these people and Amnesty International has received conflicting reports as to their reception and treatment by the authorities.

Amnesty International has also repeatedly condemned indiscriminate attacks by armed opposition groups that have reportedly killed and injured civilians in Laos. Amnesty International unequivocally condemns these acts and has and will continue to call upon the perpetrators to cease all activities that are in violation of human rights and international humanitarian law.

UNITED STATES COMMISSION ON
INTERNATIONAL RELIGIOUS FREEDOM,
Washington, DC, March 20, 2003.

Senator HERB KOHL,
*U.S. Senate,
Washington, DC.*

DEAR SENATOR KOHL: On behalf of the U.S. Commission on International Religious Freedom, I am pleased to enclose the Commission's 2003 report and policy recommendations on Laos. The Commission is charged with reviewing the facts and circumstances of violations of international religious freedom. By law, a key function of the Commission is to submit to the President, Secretary of State, and Congress its findings and recommendations for U.S. policies with respect to foreign governments engaging in or tolerating violations of religious freedom.

In its most recent report, the U.S. Commission on International Religious Freedom determines that the government of Laos has been engaged in particularly severe violations of religious freedom, as defined in the

International Religious Freedom Act of 1998 (IRFA). These violations include the arrest, prolonged detention, and imprisonment of members of religious minorities on account of their religious activities.

The Commission draws attention to abuses including arrests, prolonged detention and imprisonment of members of minority religions, forced renunciations of faith of Christians, and extensive governmental interference with and restrictions on all religious communities, including Evangelical Christians, Roman Catholics, Baha'is and Buddhists. In July 2002, the Lao government promulgated a new decree on religious affairs that provides a legal basis for control of and interference with religious activities by government officials.

Lao officials perceive the United States to be influential in the provision of international aid for Laos' development and some have thus demonstrated a willingness to address U.S. concerns, including human rights concerns raised by the Commission, the State Department, and non-governmental organizations. The United States has a unique opportunity to engage the government and people of Laos in a process of reform that would end the suppression of religious freedom and other related human rights, and relatively small measures of attention and assistance could accomplish a great deal.

Therefore, the Commission makes the following recommendations to the President, Secretary of State, and Congress:

1. President Bush should designate Laos as a "country of particular concern" to make clear U.S. concerns over particularly severe violations of religious freedom in Laos, thus engaging the U.S. government in a process to promote changes that would advance legal as well as practical protections of freedom of religion and related human rights in that country.

2. The U.S. government should urge the government of Laos to take specific steps to improve respect for religious freedom, including the possible establishment of a bilateral human rights dialogue that would also address the broader range of human rights concerns such as torture and other forms of ill-treatment.

3. The U.S. government should provide assistance to Laos to take genuine steps to reform its practices, policies, laws, and regulations that contribute to religious freedom violations.

The report, as well as information about the Commission, can be found on our Web site at www.useirf.gov. For further information, please contact the Commission at (202) 523-3240.

Sincerely,

FELICE D. GAER,
Chair.

U.S. SENATE,
Washington, DC, March 15, 2004.

Ambassador JOHN D. NEGROPONTE,
U.S. Ambassador to the United Nations, United States Mission to the United Nations, New York, NY.

DEAR AMBASSADOR NEGROPONTE: We are writing to ask for your assistance in urging the United Nations to send a UN representative or fact-finding mission to Laos to monitor the treatment of hundreds of Hmong-Lao, many of whom are former insurgents and their families, who have recently emerged from the jungles of Laos. A high-level UN presence is essential in securing the safety of these individuals, as well as in providing greater transparency regarding Lao governmental actions to the international community.

Over the past several weeks, hundreds of Hmong-Lao and their families have left the jungles of Laos. Many of these former insur-

gents fought with the Central Intelligence Agency during the Vietnam War to rescue downed American pilots, to thwart supply lines along the Ho Chi Minh trail and to hold off North Vietnamese troops. When the Vietnam War ended and the communist Pathet Lao took over the government, thousands of Hmong were killed and sent to reeducation camps. Most Hmong fled Laos or hid in the jungles of Laos, fearing for their lives. Some estimate that as many as 17,000 Hmong have been living in the jungles since 1975. The United States remains indebted to these courageous individuals and their families.

The U.S. government claims that these individuals have surrendered to the Lao government and are participating in an unofficial and "unstated" amnesty program organized by the government of Laos. Yet, our offices have heard contradictory information. Reports indicate that the Laotian government denies the existence of any amnesty program for these individuals. In addition, many of our constituents claim that these former insurgents have been captured by the Lao military and did not surrender. Our constituents fear that these people are in serious danger and allege that many have already been killed, including women and children. Amnesty International in a report on March 4, 2004 states, "Amnesty International has received conflicting reports as to their [the Hmong's] reception and treatment by Lao authorities."

The restrictions imposed by the Lao government on international access have prevented policymakers, journalists and humanitarian groups from knowing the reality on the ground and understanding the needs. The United Nations can play a crucial role in shedding light on the situation. We ask you, therefore, to urge the United Nations to send a UN representative or fact-finding mission to ensure that these former insurgents are treated humanely and that the Lao government respects its obligations under international law.

We thank you for your consideration.

Sincerely,

Russ Feingold, U.S. Senator; Herb Kohl, U.S. Senator; Barbara Boxer, U.S. Senator; Mark Dayton, U.S. Senator; Dianne Feinstein, U.S. Senator; Ron Kind, U.S. Representative; Mark Green, U.S. Representative; Devin Nunes, U.S. Representative; George Radanovich, U.S. Representative; Dana Rohrabacher, U.S. Representative.

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

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I rise today to express my strong opposition to efforts to push through a provision normalizing trade relations with Laos.

First, let me thank my senior colleague, Senator KOHL. I enjoy working with him on so many issues, from our dairy industry in Wisconsin, to our excellent National Guard. But I am particularly proud he and I have been able to cooperate and work so hard with regard to the Hmong people living in Wisconsin and the concerns they have regarding issues not only concerning their own lives in Wisconsin but also the issues involving their families and their relatives in places such as Laos. I thank the Senator for all the work we have done together on this issue, and we will continue this battle to make sure there is accountability with re-

gard to the human rights record of the Government of Laos, which is not a good record.

It is for this reason I am deeply disappointed the decision was made to insert this provision in the Miscellaneous Trade and Technical Corrections Act of 2004 conference report. Let's again remember—and Senator KOHL pointed this out—so there is no misunderstanding, this bill would sail through the Senate if this provision on Laos was not included. Senator KOHL and I are not trying to block the larger legislation. However, I cannot support upgrading Laos's trading status as long as the human rights situation in that country remains so disturbing, and I am not prepared to let this bill pass without at least some further debate on this important matter.

As Senator KOHL just said, this is the wrong time to reward the Government of Laos with normal trade relations. Reports emerging from Laos continue to demonstrate that human rights conditions in Laos remain appalling. Despite the Lao Government's denials, human rights organizations, the U.S. Government, my constituents, and various news agencies have all documented the Lao Government's blatant disregard for human rights.

I have tried to carefully and closely monitor the human rights situation in Laos as a member of the Senate Foreign Relations Committee's Subcommittee on East Asian and Pacific Affairs, and as a representative of over 35,000 Hmong in Wisconsin, many of whom fled Laos following the end of the Vietnam war.

Just like Senator KOHL, I am regularly contacted by constituents concerned about their friends and family in Laos. Again and again, my office encounters reports of atrocities committed against the Hmong in Laos and other deplorable practices by the Lao Government. These reports, combined with the Lao Government's absolute refusal to investigate allegations or to permit independent monitoring, lead me to believe it is not in our country's national interest to adopt normal trade relations with the Lao Government at this time.

The State Department has documented these abuses through a series of reports, including their Human Rights Report, Trafficking in Persons Report, and Religious Freedom Report. In their Country Report for Human Rights Practices for 2003, the State Department reported the Lao Government's "human rights record remained poor, and it continued to commit serious abuses." As described by the report, the abuse of detainees and prisoners, inhumane prison conditions, arbitrary arrests, detention and surveillance by police, a corrupt judiciary, and restrictions on freedom of speech, the press, assembly, and association are just some of the conditions that Laotians face.

Trafficking in women and children for prostitution and forced labor in

Laos is also a serious problem. The State Department's 2004 Trafficking in Persons Report placed Laos in their tier 2 watchlist which they said reflected the "lack of evidence of increasing Lao Government efforts to prosecute traffickers and to provide adequate protection for victims." It also stated that some local government officials "likely profit from trafficking."

The State Department's International Religious Freedom Report for 2004 describes restrictions on freedom of religion, stating that while the country's constitution allows for freedom of religion, the Lao Government actually "restricts this right in practice." The report states that local officials were reported to pressure Christians to "renounce their faith on threat of arrest or forceful eviction from their villages. There were also several instances of persons detained or arrested for their religious faith."

The report goes on:

The absence of rule of law has created an atmosphere in which authorities may act with impunity against persons regarded as threats to social order. Persons arrested for their religious activities have been charged with exaggerated security or other criminal offenses. Persons detained may be held for lengthy periods without trial. Court judges, not juries, decide guilt or innocence in court cases, and an accused person's defense rights are limited. A person arrested or convicted for religious offenses has little protection under the law. All religious groups, including Buddhists, practice their faith in an atmosphere in which application of the law is arbitrary. Certain actions interpreted by officials as threatening may bring harsh punishment. Religious practice is "free only if practitioners stay within tacitly understood guidelines of what is acceptable to the government and the LPRP . . ."

—The Lao Republic Revolutionary Party, the country's ruling party.

A particular concern to my constituents and to me is the steady flow of reports of atrocities committed against the Hmong in Laos. My office is regularly bombarded with reports of murders, rape, and starvation of the Hmong in Laos. We cannot verify each of these claims, but the stream of videos, photographs, eyewitness reports, and articles is deeply disturbing. These allegations cannot be dismissed outright, as the Lao Government simply does again and again, denying the Hmong's very existence in the jungles of Laos. My constituents and the constituents of many Members of Congress care deeply about the well-being of their friends and families.

It is not just our constituents and Members of Congress who are concerned. Patricia Haslach, our U.S. Ambassador to Laos, stated in her nomination hearing on April 22, 2004, that her first priority was to press the Lao Government to respect the rights of ethnic groups, especially the Hmong population. The former Ambassador to Laos, Ambassador Douglas Hartwick, also made this a priority in his dealings with the Government of Laos and recognized the need for greater transparency and reform.

As Senator KOHL pointed out, and as I reiterate, let us not forget the obligation the United States has to the Hmong. During the Vietnam War, the Central Intelligence Agency recruited, trained and armed approximately 60,000 Hmong to fight the Vietcong in a secret war. They fought with the CIA to rescue downed American pilots, to thwart supply lines along the Ho Chi Minh trail and to hold off North Vietnamese troops. Following the ascendancy of the communist Pathet Laos regime in 1975 in Laos, the Lao government cracked down on its perceived political opponents, including the U.S.-trained Hmong guerilla fighters. Lao and Vietnamese troops crushed nearly all remnants of the Hmong army. Tens of thousands of Laotians, including the Hmong, died while attempting to flee the Lao communist regime, and many others perished in reeducation and labor camps. Hundreds of thousands of people fled to Thailand, and between 1975 and 1998, nearly 130,000 Hmong refugees were admitted to the United States.

The Hmong's relationship with the CIA was not acknowledged by the U.S. until 1994 when the former CIA Director William Colby told Congress of the Hmong's cooperation with the CIA. At that hearing, he stated that the Hmong contribution was "substantial and at great sacrifice." He further stated:

Many of the Hmong who bore the burden of that effort did so in hopes of a better life for their families and children, only to see them flee their homes in fear of their enemies to become dependent refugees in foreign lands . . .

The largest Hmong communities are now in Wisconsin, Minnesota, California and the State of the Presiding officer, North Carolina. There are approximately 280,000 Hmong nationwide. My State of Wisconsin is home to the third largest Hmong community in the United States, most of whom came to this country from Laos as refugees after the Vietnam War. I am proud of the Hmong veterans and their families who sacrificed so much during the Vietnam War.

The Hmong people have made important contributions to Wisconsin and this Nation. They have brought new traditions and new perspectives, which have enriched the cultural life of my State and many others. I have consistently admired their passion and commitment to tackling a host of difficult issues confronting their community in the United States, Laos and in Thailand. They have endured tremendous hardship, even in the United States, as they have adjusted to an entirely new way of life here. I admire their strength and perseverance. In December 2003, the United States Government announced the creation of a new resettlement program of approximately 15,000 Hmong-Lao, who were living at a temple named Wat Tham Krabok in Thailand. They have already begun to resettle in the United States, and some have come to Wisconsin, which has a

proud tradition of welcoming refugee populations.

However, while most fled Laos, it appears that remnants of former Hmong insurgent groups and their families, who once fought with the CIA and the Royal Lao government, remain in remote areas of Laos. The Lao leadership refuses to acknowledge that these groups exist. In a speech on January 27, 2004, then-U.S. Ambassador to Laos Hartwick stated that Laos needs to make progress in human rights and should find a humanitarian solution to the people still hiding in Laos' jungles. He actually stated:

Remnants of former Hmong insurgent groups who once fought on the side of the Royal Lao Government some 27 years ago, still hide deep in the Lao forest, afraid or unwilling to come out. The Lao leadership is unwilling to acknowledge publicly that these groups exist, nor to explain in detail to the international community the amnesty policy Laos has had in place for years to encourage peaceful resettlement. Much more needs to be done. Only improved cooperation and dialogue among the Lao authorities, the forest people leaders, and those outside of Lao borders who encourage this standoff can resolve this tragic situation that continues to claim innocent lives and fuel bilateral tensions . . . My government and the international community stand ready to assist in resolving this complicated issue if requested by the concerned parties.

An article in Time Asia from September 20, 2004 reiterated that thousands of Hmong "remain trapped deep inside the mountains, playing a deadly game of cat and mouse with the government."

Recently, my constituents have informed me that attacks have only escalated against the Hmong in the jungles by Laotian military forces. I want to highlight some of the examples of these disturbing reports.

Amnesty International in October 2003 reported that the Lao Government was using "starvation as a weapon of war." They reported that the Lao military had surrounded several rebel groups and their families and was preventing them from foraging for food they need to survive. Amnesty International stated that they were gravely concerned by the "sharply deteriorating situation of thousands of family members of ethnic minority groups, predominantly Hmong, involved in an armed conflict with the Lao military in jungle areas of the country."

Following this report, I wrote a letter with other Senators to the Ambassador of Laos, bringing his attention to the Amnesty International report and asking the government to investigate the treatment of Hmong in the jungles of Laos, and to permit international monitors and humanitarian relief agencies to provide food and medical supplies. The Lao Ambassador dismissed the Amnesty report outright, and the Lao Government refused to investigate the claims.

In a Time Asia article from May 5, 2003, journalist Andrew Perrin wrote of his journey to visit a group of Hmong deep within the jungles in northern

Laos and spoke of the Hmong being hunted down and trapped by Lao military forces. He wrote this "ragtag army with wailing families in tow" was "completely surrounded by the Lao government troops that hunt them." He goes on, "What is the crime this ragged bunch has committed? It is simply that they are Hmong, mostly the children, grandchildren or even great-grandchildren of fighters who in the 1960s sided with the U.S. to fight communism in Laos during the Vietnam War . . . The communist Pathet Lao movement . . . has never forgotten the Hmong's complicity with the Americans."

In another article from Time Asia on June 30, 2003, Andrew Perrin again highlighted the plight of the Hmong, stating, "In Laos, no political dissent has been allowed in 28 years, nor any right of assembly. Scores of political prisoners and youth have been detained for years in dark cells without trial; many have been tortured. Christians are persecuted, told to denounce their faith under threat of imprisonment" and Hmong women and children are "trapped in the mountains, starving, shot at and dying in droves." He continued, "Most of this brutality passes unnoticed or un commented upon by Western governments, because Laos does not register on their radar."

Well, it registers on my radar and the radar of my constituents. However, it appears that this brutality has gone unnoticed by some members of Congress who wish to move forward on normal trade relations with Laos. Do these reports not give some of my colleagues any hesitation about granting normal trade relations to Laos at this time?

Also in June 2003, in a highly publicized case, the Lao government arrested a Hmong-American and two European journalists for visiting Hmong in restricted areas of Laos. According to reports, they received a 15-year prison sentence following a two hour trial, demonstrating the flawed judicial process in Laos. After intense diplomatic pressure, they were released. According to an AFP report, one of the journalists stated, "Everything was decided in advance. It was a total mockery of justice, a parody . . . At one point we had black hoods on our heads and were handcuffed . . . They said we were carrying drugs and weapons, they were all lies." However, the Lao citizens apprehended with the three foreigners were not so lucky. They remain in jail, having been sentenced to between 12 and 20 years. News reports indicated that they were tortured while in detention.

Even the United Nations has been unsuccessful in getting answers from the Lao Government regarding human rights violations in Laos.

In August 2003, the United Nations Committee to Eliminate Racial Discrimination strongly criticized the Lao People's Democratic Republic and expressed its grave concerns regarding reports of human rights violations, including brutalities inflicted on the Hmong. The committee "expressed its

grave concern at the information it had received of serious and repeated human rights violations in that country; was extremely disturbed to learn that some members of the Hmong minority had been subjected to severe brutalities; deplored the measures taken by the Lao authorities to prevent the reporting of any information concerning the situation of the Hmong people . . ." The committee "urged the state party to halt immediately acts of violence against the Hmong population."

In March 2004, an Amnesty International reported that large numbers of ethnic Hmong rebels and their families had emerged from jungles of Laos and surrendered to authorities in at least two areas of the country. The U.S. State Department confirmed these reports, believing that anywhere from 350 to 700 Hmong surrendered to Lao authorities and were participating in a Lao amnesty program. However, the Lao government has denied the existence of an amnesty program. Furthermore, some of my 26 constituents have raised fears that these Hmong did not actually surrender, but were captured and in some cases summarily executed. Several colleagues and I urged the administration to pursue increased international access to monitor this issue under United Nations auspices. In addition, we urged the State Department to investigate the allegations and gain access to the Hmong emerging from the jungles.

Following these reports, in March 2004, I contacted the U.S. Ambassador to the UN with other members of Congress, asking for his assistance in urging the United Nations to send a representative or fact-finding mission to Laos to monitor the treatment of the Hmong. In addition, I also wrote Secretary Powell with other members of Congress to investigate reports of atrocities and to take further action to protect the Hmong.

In a letter of response, Ambassador Negroponte informed my office that both the Embassy and the United Nations Development Programme—UNDP—continue to urge the Government of Laos to address this humanitarian issue in a peaceful and transparent manner, and have asked the Lao government to provide access to the areas where these people are seeking assistance.

It seems that no access was granted. In addition, in my response to Secretary Powell's letter, the U.S. State Department informed me that they too shared our concern about the treatment of Hmong living in remote areas and that they were seeking access to these people in order to learn about their status firsthand. Furthermore, the State Department informed us that Secretary Powell wrote to Lao Foreign Minister Somsavat, requesting that the Lao government allow the U.S. embassy and UN or other international organization 29 personnel access to these groups. The Foreign Minister never wrote Powell back. The Foreign Minister never even responded to our Sec-

retary of State at all. Now Congress wants to grant normal trade relations to Laos? Why would we reward the misbehavior and human rights abuses of this regime?

Most recently, in September 2004, Amnesty International, CNN and other news sources reported on a recently released video, which documented the murder of five Hmong teenagers in Laos, allegedly by Lao military forces. Amnesty called these attacks war crimes. The children aged between 13 and 16, were murdered while foraging for food near their camp in Laos in May 2004. According to the reports, the 4 girls were raped prior to being killed. Not surprisingly, the Lao government initially dismissed the allegations, calling the tape a fabrication. After intense pressure by the United States State Department to launch an investigation, the Lao government stated that they undertook an investigation and were not able to find any evidence of a confrontation between the Lao military and these Hmong teenagers. But they have refused to make their report on the incident public.

Mr. President, Michael Vang of California and Houa Ly of Wisconsin, two United States citizens, were last seen near the border between Laos and Thailand in April 1999. We do not know what fate they met in Laos. Joint U.S.-Lao investigations were unable to find them. The Lao government needs to make greater efforts at finding these two men.

While we in Congress cannot verify every allegation, the information we receive from journalists, human rights organizations and our constituents is incredibly disturbing and cannot be disregarded. We just do not have enough information. But, the Lao government does not help us find the truth by restricting the international community from getting any more information.

Despite all of the Lao government's stonewalling of our inquiries and the flood of reports of human rights violations by the Lao government, this Congress is now about to grant normal trade relations to Laos. Why now? Why do we choose to reward this oppressive and brutal government when they have not adequately responded to our concerns? When the Foreign Minister of Laos has not even responded to Secretary Powell's letter to his government, requesting more information? If these allegations are untrue, as they claim, then why does the Lao government not allow international monitors into the areas where the Hmong are living?

But our concerns go unheeded, and we continue to be confronted with the most horrific accusations about conditions in Laos with no way to respond. We should not be giving Laos NTR, when they refuse to open to us in meaningful ways.

The Lao government must assure the international community that they are

attempting to address the problem of these men and women and children in the jungles of Laos through a humanitarian solution. The Lao government must allow international humanitarian organizations to have access to areas in which Hmong and other ethnic minorities have resettled, to allow independent monitoring of prison conditions, and to release prisoners who have been arbitrarily arrested because of their political or religious beliefs.

The U.S. has an obligation to the Hmong people, and I strongly believe that we have a moral interest in reducing human suffering and protecting human rights abroad. We cannot ignore these allegations of atrocities in Laos. Granting NTR is not appropriate at this time. I urge my colleagues to join me in insisting that the conference report before us not be used as a Trojan horse to sneak through a provision that conflicts so fundamentally with our country's dedication to human rights, to democracy, and to fundamental decency.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. NICKLES. Mr. President, I ask unanimous consent to be able to proceed as in morning business for 30 minutes.

Mr. FEINGOLD. Reserving the right to object, I certainly will not object, and I look forward to hearing the remarks of my colleague, the Senator from Oklahoma, whom I have enjoyed serving with very much, especially on the Budget Committee, and simply indicate to the Senate that I intend after this to get back to the business of debating the pending issue. But with that, I do not object.

Again, I commend the Senator on his wonderful service to this body.

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

FAREWELL

Mr. NICKLES. Mr. President, I thank my friend and colleague for his consideration.

My wife and I, our families, were taking our Christmas photo a few days ago and I was surprised to realize that our two oldest children were actually older than we were when we came to the Senate. They are in their thirties and I think I was 32 when I was sworn in, just turned 32, and now we have a couple of children who are that age or more. It tells me we have been here a little while. I am actually very surprised that I am concluding 24 years in the Senate.

I have absolutely loved working in the Senate. The Senate is a great institution. It is one of the true pillars of

democracy in the world, one which people look to with great respect and admiration. I have always been proud to be called a Senator and I have always been proud to represent my State and my country. To me, it represents a shining city on a hill, and a true beacon of democracy for the free world which has stood for more than two hundred years.

My first time to visit the Senate and sit in the gallery was in 1974 and I was coming to Congress as a businessman to give my impressions on a bill that was pending before Congress. The bill was called ERISA, Employment Retirement Income Security Act. I ran a small business in Ponca City, OK, and I thought the better title for the bill was "Every Ridiculous Idea Since Adam."

But that was in 1974. I happened to be here, it was a coincidence at the time, and Senator MCCONNELL will appreciate this, being a political historian, it was a time when an election was contested and it happened to be the Senate election of Oklahoma. Henry Bellman, was reelected by a very close margin over Congressman Edmondson. As all of our colleagues know, the Senate is the final arbiter in contested elections and it was being contested on the floor of the Senate the time I was here.

Senator DOMENICI remembers that. It was a very contested, spirited debate.

I was quite taken by the debate. I sat in the gallery for hours. I remember Senator ALLEN, a Democrat. The Democrats controlled the Senate at that time. Henry Bellman was a Republican. He won by a very narrow margin—I can't remember what it was, a couple thousand votes. There were disputes on election-counting machines. That sounds kind of familiar. It was a great debate. I remember Senator ALLEN spoke on Senator Bellman's behalf, and then they had the rollcall vote and enough Democrats voted with Senator Bellman, and that was the end of it.

I happened to ride back on the plane that day, and guess what. I was riding with Senator Bellman and Congressman Edmondson. They were friends and they were shaking hands. I was impressed. And I was impressed with this body. I was impressed with the Senate. I was impressed with the Senators. I was impressed with the conduct of the debate. I was impressed with the fact that almost all Senators were here during the debate.

It was such a special occasion. I was so pleased because Henry Bellman was reelected and affirmed by the Senate because I also considered him a mentor and a leader in Oklahoma. He was the first Republican Senator elected in our State in a long time and now he was reelected. Senator DOMENICI served with him on the Budget Committee. He was the ranking Republican on the Budget Committee, on the formation of the Budget Committee in 1974. I served with Ed Muskie and he did a wonderful job in that capacity.

That was my first, personal impression of the Senate. My impression of the Senate was very good then and it has been very good ever since. I have absolutely had the greatest respect for this institution and for this body. This body is composed of great Members.

I remember the time coming into the Senate when I was elected. It was 1980. That was a big election year. We have had a few big election years in my time, but I'm not sure we have ever had one quite as big, as dramatic a change as we did in 1980. There were 18 new Senators elected in 1980, and 16 of the 18 were Republicans. The majority leader became Howard Baker from Tennessee. He was nice enough to be my mentor, and I thought the world of him then as I still do today. He is a wonderful Ambassador to Japan, and he and Nancy Kassenbaum were wonderful Senators. It was a great time to serve in the Senate.

I remember the highlight of my Senate career was on Ronald Reagan's inaugural day on January 20, 1981. It was a beautiful day, and I remember the hostages in Iran were released that very day. They were held hostage for 444 days. They were liberated on that inaugural day. I will never forget what a euphoric feeling it was for not just those of us who were elected to the Senate and taking control—the Republicans were taking control of the Senate for the first time in decades. I think none of those Republicans had ever been in the majority, and I don't believe any of those Democrats had ever been in the minority.

That was a big change. It was kind of a fun change from my vantage point. There was so many new people. I was one of 18 new Senators, and it was a great time. That was a big turnover any time in this institution. To think that the hostages were released and Ronald Reagan was elected—it was a big exciting time, and a lot was accomplished.

I was coming to Congress as a businessman from Ponca City, OK, with an agenda. Part of the agenda was not to be here forever. Frankly, I told people I was running because I thought our country had declined far too much militarily, economically, and morally, and I wanted to do something about it.

I came here to cut taxes and to cut regulations, particularly in the energy industry, and to see if we couldn't make positive changes for the country. Economic issues aside, I wanted to defeat the Communists. This was of particular concern to me, as I thought our country had declined way too much militarily.

We did a lot of those things. We accomplished a lot in the 1980s under Ronald Reagan's leadership. I am absolutely amazed when I look back at when Ronald Reagan was elected, and when I was elected. The maximum tax rate was 70 percent, and 8 years later it was 28 percent. I am still amazed at that. What an unbelievable accomplishment. I remember how it was accomplished. It took a lot of strong

leadership and work by Howard Baker and Bob Dole. It took working with other people. I remember Bill Bradley working on some of these tax bills. That was a big change.

I came from a business background and, oh, yes, if you made some money, you can be taxed all the way to 70 percent on the individual side, and 80 percent on the corporate side. You were working more for the Government than you were yourself. To me, that represented a real loss of personal and economic freedom. I wanted to restore economic freedom for all Americans and be part of that change.

My father, unfortunately, died in 1961. We had a small family-held business. The Government contested, basically, my mother and our family for 7 years over the value of Nickles Machine Corporation. They wanted a big chunk of that business. I always resented that. I thought Government was supposed to protect private property; not confiscate it.

On the 1981 tax bill, I remember talking to Secretary Don Regan when I said: We really should eliminate the estate tax on surviving spouses—and we made sure that was included in the 1981 tax bill. I am probably as proud of that as any other thing. I had a little something to do with a very profamily, very probusiness, very progrowth-oriented bill becoming law. That success told me that we could accomplish great things here.

Of the 18 Senators who were elected with me in 1980, there are only 3 left. CHRIS DODD is still here, CHUCK GRASSLEY is now chairman of the Finance Committee, and ARLEN SPECTER will be chairman of the Judiciary Committee. Only 3 of the 18 are left.

I respect them greatly, and I compliment them for their many years of service.

Over the years, I've had many great mentors. I mentioned Bob Dole and Howard Baker. I'll mention one other one with fond affection. That would be Senator Jesse Helms. I remember one time when we were engaged in a filibuster, and I encouraged the Senate not to have many filibusters, but that is the first one I can remember. I believe it was 1982 or 1983. This was a little filibuster on the Nickles gasoline tax. Some of us believed that the States should do it rather than the Federal Government. Three of us were opposed to that: Senator Helms, Senator East, and myself. That was when the filibuster was a real filibuster. We spent the night on cots outside the Senate Chamber.

I remember laying awake at night somewhat nervous. The heart was still beating, and I remember some grumbling amongst some of our colleagues who weren't very happy about the fact that we were here in late December arguing over a Nickles gasoline tax. I remember that this wasn't quite worth falling on the sword over.

I communicated that to my friends and colleagues, Senator Helms and

Senator East. I eventually convinced Senator Helms, and it took a little longer to convince Senator East, and we dropped the filibuster.

What I wanted to say about Senator Helms is I remember that we had a lot of discussions during these times. We were actually in session two or three nights around the clock. He told me something I will never forget, which I will pass along to our colleagues.

He said: DON, when I am flying over North Carolina and I look around and see all those lights, I am amazed at how many people live in that State and how many people there are, particularly in rural areas. And I wonder if those people think they have anybody in DC who really cares about them, and probably most of them don't think anybody cares about them. He was just as genuine as he could possibly be.

When I am on a plane at night looking out at the lights and see how big our cities, towns, and rural areas are, I think about that. Do the people in those areas really think somebody is fighting for them, working for them? Jesse Helms is one of those individuals. He is very special. He had a reputation of being kind of tough and mean, but personally he is probably one of the nicest Senators with whom I have had the pleasure of working. He knew everybody who worked the elevators. He was nice to the staff. He was a gentleman's gentleman. I understand his health is not real good right now, so my thoughts are with him, and I wish him all the best at this time. He was a great Senator. He knew the rules of the Senate, and he would fight for what he believed in, and he would fight with tenacity. He also was a Senator's Senator, and I'm am fortunate to say I have had the pleasure of serving with many colleagues who fall into that category.

I came here with a real interest in trying to change things in the energy field. I served on the Energy Committee, but I wanted to make some changes. I ran and maybe was elected in large part because of some of the things that Congress was passing in 1978 and 1979 and 1980 with which I just totally disagreed. One of those was the windfall profits tax. I campaigned vigorously against it. I wanted to repeal it. I was disappointed that I couldn't get it repealed in 1981, or in 1982. I introduced legislation every single year. We finally got it repealed in 1986.

As I told somebody last night, it was \$77 billion too late. But eventually it was repealed.

We did some other things that I think were very positive—undoing some of the things that were passed in the last couple of years of the Carter administration.

We deregulated natural gas. I did that working with Wendell Ford and Bennett Johnston on the Energy bill. That was very positive, significant legislation that one of my predecessors, Bob Kerr, had worked on 20 years before. We got that done.

We repealed the fuel use tax. We eliminated the Synfuels Corporation. The Synfuels Corporation was run by an Oklahoman who ran against me, Ed Nobel. He ran against me in 1980. Ronald Reagan appointed him chairman of the Synfuels Corporation. I campaigned to eliminate it, which we eventually did.

I have had a lot of fun in this capacity. In the mid-1980s, I was appointed to the Appropriations Committee. I have great, fond memories of that. The Democrat leader, HARRY REID, was my colleague on two or three committees. I think we both were either chairman or ranking, and we switched back and forth a couple of times on the District of Columbia Appropriations Committee, our penance, and the Interior subcommittee, which either Senator REID or Senator BYRD was chairman and/or ranking members. We worked together on those committees for years.

We did a lot of good things together, such as reforming the frank so you couldn't mail out thousands and thousands of pieces of mail, particularly prior to election time.

HARRY REID is my friend and his word is as good as gold. He will be a good leader for the Democrats, and he will be a good Senator for Senator FRIST and Senator MCCONNELL to work with to get things accomplished. So I am excited about his elevation.

I was selected by our colleagues to be campaign chairman back in 1989 and 1990, one of the tougher jobs. I compliment GEORGE ALLEN for the fine job he did this year. I compliment BILL FRIST for the fine job he did in that position, and MITCH MCCONNELL when he had that position. It is probably one of the toughest elected positions we have in leadership, but one which I thoroughly enjoyed. The reason I enjoyed it is you work hard, and you get to know your colleagues. We get so busy around this place we often don't get to know our colleagues. If you are campaigning with somebody, if you are spending the night, as I did at Gordon Smith's home in Oregon, or campaigning in Maine with Senator SNOWE or Senator COLLINS, or if you are campaigning in Minnesota, or when you campaign with people and you are traveling with them for a day or two, or in Montana on a bus tour with CONRAD BURNS and his wife Phyllis, you get to know them.

I have gotten to know our colleagues well. I think I have been in almost everybody's State, at least on our side of the aisle, campaigning. I thoroughly enjoyed getting to know my colleagues. The Senate is composed of a great group of individuals, Democrats and Republicans, and we need to get to know each other better. I think if we get to know each other better, our body works better and we will do better.

After that, I was fortunate enough to be elected policy chairman. I had that position for 6 years, and it was another job I absolutely loved. I succeeded Bill

Armstrong, and I was fortunate to keep some of his staff, some of the best staff on the Hill, I might add. They stayed with me, and I appreciate that. Eric Ueland and Doug Badger would fit in that category, and they were outstanding.

Bill Armstrong is another one of my mentors. I met with Bill Armstrong and a couple of other Senators in a prayer group once a week for 12 years. He is probably the most articulate Senator I have had the pleasure of serving with, an outstanding leader. I wish he would have continued his service. He decided to return to the private sector, and since I am doing that, I respect that greatly. But I have always looked up to him because he was a man of conviction, and he got things done.

Let me add, JON KYL who is now the policy chairman, and there could not be a better policy chairman, is doing a fantastic job, a very important job. I compliment him for his leadership.

After that position—and I thank my colleagues for giving me that responsibility—I served 6 years as assistant majority leader, and I guess at some point maybe assistant minority leader. It was a great honor and a pleasure to work with TRENT LOTT, which I enjoyed greatly. TRENT did a fantastic job as our Republican leader, and I'd like to take this opportunity to commend him on his outstanding service. MITCH MCCONNELL has my old post now, and he is doing a super job. Again, it is a position where you get to know your colleagues really well. You not only learn how to count votes, but you find out what makes people tick and where they are coming from, what they are trying to accomplish, and what they are trying to do. And MITCH MCCONNELL is doing a fantastic job in that capacity.

During my tenure in the Senate, we have had the pleasure of passing a lot of legislation. I am fortunate to have so many colleagues who have helped me do some things that I think have become good laws.

The Republicans took control of the Senate in the 1994 elections, and in 1995 I think the first bill we passed was the Congressional Accountability Act that Senator GRASSLEY and a lot of Democrats and Republicans passed. We worked hard on that. I am glad to see that happened.

We passed the Congressional Review Act that Senator REID was my principal Democrat sponsor on, where we could review expensive and expansive Federal regulations. We actually used that to repeal the ergonomics rule which the Clinton administration tried to pass in the last couple of days of their term. Although he supported the regulation, Senator REID, to his credit, defended the Congressional Review Act which is still the law of the land. We used that to repeal what I felt was a very intrusive, expensive, and unwarranted regulation. Again, that is another case where Senator REID stated—he did not agree with repealing the reg-

ulation, but he defended the law we repealed it with, and some people were trying to undermine that.

Senator LIEBERMAN and I passed the Defense of Marriage Act, an act that became a little more noteworthy in the last year or two. I thank Senator LIEBERMAN for his help and leadership on that issue. Bill Clinton signed that bill. I am not sure he wanted to, but he did sign it in the wee hours of 1996. That act is still the law of the land. It basically says States do not have to recognize other States' legalization of same sex marriage. Some States have legalized gay marriage, which is their prerogative, but due to our bill other States do not have to recognize that. Some people presume that it will be declared unconstitutional. I hope it is not. I would be disappointed if the Supreme Court did overrule that. That bill passed with 80-some-odd votes in the Senate and still is the law of the land.

We passed the International Religious Freedom Act. Again, I say "we." Senator LIEBERMAN joined me in passing that bill. We passed that in 1998, and it is now the law of the land. It is very important that we note countries that are very repressive and oppressive in stifling religious freedom. Unfortunately, we have seen such oppression in many countries around the world. That kind of bigotry is the genesis of a lot of the hatred and violence and the wars we are fighting today.

We have ensured, with the passage of this act, that the State Department will be much more proactive in not only identifying cases of religious intolerance and persecution, but will take proactive steps to change such behavior as a matter of U.S. policy.

Senator LANDRIEU and I passed, in 2000, the Child Citizenship Act, which basically grants citizenship to foreign born children who are adopted. I think 150,000 children became citizens in one day as a result of that act, and I am greatly pleased to have been a part of that success.

I have had the pleasure for the last couple of years of being chairman of the Budget Committee. I look back at some of our accomplishments, and I have to think maybe those were some of the best in my career as a Senator.

The budget we passed in 2003 was a real challenge. We probably spent more days, more hours, and had more votes on the 2003 Budget Act than any other Budget Act in history. I think we had 80-some-odd votes. It took more than a week. It took about a week and a half, almost 2 weeks, on the floor.

I compliment Senator ZELL MILLER for his assistance in that. We passed that budget with the Vice President breaking the tie. That was not easily done. We defeated numerous amendments, and were successful in passing a budget that allowed us to have the opportunity to have an economic growth package. President Bush was nice enough to ask me to introduce the package and to try to carry it, and we

did. Again, ZELL MILLER was the principal cosponsor with me of the bill, the growth package. We introduced that package in January of 2003. We passed it in June of 2003.

When we first took up that legislation, the Dow Jones was at about 7,700. Today, the Dow Jones is over 10,500. We wanted to pass that package so we could stimulate the economy because it was, at that time, pretty anemic. Government receipts were still down. We wanted to get something to grow the economy. We passed that package, and not only did the stock market go up, receipts are up, and we have created a couple million jobs since then.

We accelerated the tax cuts that were slowly being phased in from the 2001 tax bill. So now we have a maximum rate of 35 percent. Although some people say that is too much of a giveaway, it is the same rate the corporations pay, and I do not think individuals or self-employed people should pay a higher rate than Exxon or General Motors. So we passed that.

We also passed a 15-percent tax on capital gains and a 15-percent tax on corporate distributions, dividends, which I firmly believe has greatly helped not just the market but the economy. So I am proud of that.

I am proud of ZELL MILLER because he had the courage to be a cosponsor, to stand up and fight for those things and make them become law. It also made a \$1,000 tax credit per child become law. It also eliminated or greatly reduced the marriage penalty on married couples. If they have taxable income of \$58,000, that is \$900 of tax relief. Those are positive things. It would not have happened without ZELL MILLER.

ZELL MILLER only served 4 years in the Senate. He replaced a very dear friend of all of ours, Paul Coverdell. I mourned Paul Coverdell's loss, and I stated at the time he cannot be replaced; and he certainly cannot be replaced. But ZELL MILLER has been one outstanding addition to this body. He is a great patriot, not a great Democrat or a great Republican, he is a great patriot, and he stands for what he believes in, and he helped us enact these measures which are vitally important.

I also read in the Washington Post today that somebody said, well, the Budget Act is not working, and so on, and there is no discipline in Congress. Frankly, they don't know what they are talking about. I hate to tell them that.

They also said we did not pass a budget this year. Well, they don't quite know what they are talking about there either. In the last 2 years, thanks to the collective will of this body, we have made 82 budget points of order—in the last 2 years—78 of which were sustained. I voted to waive a couple of them. We defeated \$1.7 trillion of additional spending over a 10-year period on those 78 budget points of order.

The Budget Act did work. We passed a budget through the Senate earlier

this year that had domestic discretionary spending at \$821.9 billion.

I am confident that when the leader brings up an Omnibus bill this year, it is going to meet that goal of \$821.9 billion. That is several billion dollars less than a lot of people wanted.

I thank my colleague, Senator STEVENS. I have wrestled with him every day on appropriations bills. But Senator STEVENS helped us pass the \$21.9 cap on the DOD Appropriations bill. I could not get the budget resolution to pass. We passed it through the Senate and through the House. I could not get the conference report adopted. That was one of my disappointments.

One of our accomplishments, as most people didn't know, was we did put in the spending cap on the DOD Appropriations bill and we are enforcing that cap and we are abiding by that cap today. So I wanted people to know that. I also thank people such as THAD COCHRAN and Senator SPECTER, because they enforced the cap as chairmen of their respective Appropriations subcommittees, probably more than anyone. I didn't have to make the points of order; they did it. It worked. We have nondiscretionary and nonhomeland security growing at less than 1 percent this year, compared to a 14-percent growth a few years ago in President Clinton's last years. Yes, we are spending a lot of money in defense and homeland security, no doubt about it.

Are the deficits too high? You bet. Are they coming down? You bet. The deficit this year was finalized at 400-something, over \$100 billion less than the administration projected 9 months ago; and that is because revenues are up and the economy is growing. The changes we passed in 2001 are working significantly.

I project, and CBO projects, they will continue to climb by another \$100 billion in the next year or so. Is the war expensive? Yes. Is it worth it? You bet. Is the war on terrorism worth it? Yes.

Earlier this year—I would say this was a real highlight—I went to Iraq and Afghanistan with Senators SESSIONS and LIEBERMAN. I have done a lot of things, and I have been to a lot of places around the world, but I cannot tell you how proud I was to be in Iraq, basically when there was a transition of power, when Mr. Allawi assumed control of Iraq.

We met with the Defense Minister and he said: Yes, we want to protect our country. When we met with our military leadership and theirs, we were in the process of training 210,000 Iraqis, and we had a chance to meet with Iraqis there that are hungry for freedom and thankful for our support and eager to assume and take control.

They are talking about elections in January, and I am hopeful and prayerful that those will be successful. I believe they will be. Senator SESSIONS and I also went to Afghanistan and met with now-President Karzai. It was around July 4. They were scheduled to have elections in October. They did

that and he was elected overwhelmingly.

The success we have had in Afghanistan has been absolutely phenomenal. I remember well the debates here, with many people saying: You are going to be involved in a quagmire; you will never be able to have democracy. You cannot get in there. The Soviets were there 10 years and lost tens of thousands of troops. You are going to do the same thing.

Frankly, our military was successful, working with the Afghan northern alliance and other Afghan people who wanted freedom in Afghanistan. We basically helped them take control of that country with a few hundred troops on the ground and our Air Force. We have liberated Afghanistan. They have had elections and they have proved they can have a democracy. They will have parliamentary elections early next year.

So the success we have had and have seen in Afghanistan is restoring freedom to millions of people there. I believe we are in the process of restoring freedom and liberating the Iraqi people for the long run so the Iraqis can control their own destiny. If you look at those things, we have had an outburst, an outgrowth of freedom.

Abraham Lincoln said in the Gettysburg Address:

This Nation under God shall have a new birth of freedom.

This country is largely responsible for not only this country having a new birth of freedom, but frankly countries throughout the world, in our own hemisphere and in the former Soviet bloc, and now even in places as remote as Afghanistan and Iraq. To have been able to play a small part in that over these last 24 years has been a real pleasure.

I thank my constituents, the people of Oklahoma, for giving me the opportunity and the privilege to serve them for the last 24 years. I thank my family, and especially my wife for her tolerance in allowing me to do this for the last 24 years. I thank my colleagues who I have had the pleasure of serving with and working with and the pleasure of knowing. Frankly, my best friends are my colleagues. I have spent a long time here and I have absolutely loved this work. I love the Senate.

I think the Senate is in very good hands. My replacement is Dr. TOM COBURN. I am honored that an active physician would leave his career and serve in the Senate. We have not seen it often. We saw it with Dr. BILL FRIST, and I am so grateful that he set aside his career as a talented physician to serve in the Senate. I am delighted he is the majority leader. He has done a fantastic job. I am delighted Dr. COBURN has left his profession to serve in the Senate. What a great addition to the Senate. I have had the pleasure of working with JIM INHOFE, and I see JIM and TOM COBURN doing an outstanding job in representing our State.

I look at the leadership in the Senate today with BILL FRIST, MITCH MCCON-

NELL, JOHN KYL, and the rest of the team on this side, and with HARRY REID and others on the Democrat side, and I see good things ahead for the Senate, positive things.

I have been so fortunate also to have what I have often said are the best staff on the Hill. I have truly been blessed. I have many staff members who have been with me for a long time.

Looking to my left is Bret Bernhardt, my chief of staff, who has worked with me for over 20 years. Hazen Marshall came in as an intern many, many years ago, and he is now chief of staff on the Budget Committee. Nobody knows the budget or taxes any better than Hazen Marshall. Both of these men are true professionals.

I have so many people to thank. I cannot go down the whole list. I will recognize some who have been with me for over 20 years. In my Oklahoma City office, there is Joey Bradford, who worked for me going back to Nickles Machine Corporation in 1978 to 1979. She is still with me. She will be the last person to turn out the lights. She is a wonderful person. Jo Stansberry goes way back. She was my secretary when I was a State senator in 1978, bless her heart. She is the sweetest person you will ever know. She is still with me today. Also, in my Oklahoma City office, Judy Albro and Maurie Cole have been with me almost the entire time. Sharon Keasler has been running my Tulsa office for over 20 years.

In my DC office, Zev Teichman and Cynthia Singleton have been with me the entire time.

They are wonderful people and true public servants, all of whom could have done much better financially on the private side, but they have stayed with us on the public side, as well as many others.

I look at our staff and we still have most of the staff still with us. I am grateful for that. They are all anxious about new careers, and they have been generous with their time and very loyal in their support, not just to me but to the people of Oklahoma and to this institution called the Senate. The Senate is a very special place.

I also would be remiss if I didn't acknowledge two or three other people who have had a profound and positive impact on my life. One is Doug Coe. Some of our colleagues know him very well. Doug Coe was a friend, brother, and mentor whom I respect and love greatly. He is also a golfer, and that is my favorite vice, I guess. Most golfers play for a little money. Doug would say, "I will play you for a Bible verse." We would do it and, of course, I would lose—predestined from on high. I will never forget when Doug said here is a verse for you to memorize. It was, I think, John 13:34: "A new commandment I give to you, that you love one another; as I have loved you, that you also love one another." He made me learn that. I learned it in, I think, about 1981 or something. He has been a very positive guiding light. I have tried

to keep that commandment in my heart when I am on this floor and conducting my business, and it is good advice. I wanted to thank him.

Also, I will mention a couple other people. One is Dick Halverson, the first Senate Chaplain with whom I had the pleasure working. He was maybe one of the most Christlike persons I have ever known. Lloyd Ogilvie, who succeeded him, was a great mentor. He led many of us in our Bible studies for years. He is a wonderful, wonderful brother and friend. And now Barry Black. Barry Black, when he was giving the prayer today, said we may seek to accomplish causes beyond our lifetime. And he is so right. That is what the Senate is about. It is about causes. It is about things that can have consequences, that can have real meaning beyond our lifetime eternally.

So I thank God for the opportunity and the privilege and the pleasure to serve in this great body.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

TRIBUTES TO RETIRING SENATORS

DON NICKLES

Mr. FRIST. Mr. President, on leader time, I want to make a few comments in tribute, not in response, to the great man we just heard on the floor of this institution. Over the last several days, all of us have taken that opportunity for three of our colleagues on this side of the aisle and others on the other side of the aisle, to reflect on the past and how people have affected us directly.

All of us have prepared remarks, and we have taken the opportunity to read them into the RECORD or enter them into the RECORD. What we just heard does reflect in many ways why so many of us have such strong feelings about DON NICKLES and his family—Linda and their children.

For me, it boils down to two general areas. One is the tremendous respect he has and continues to have and will always have for this institution. He literally reveres this institution. We heard it in his words today, the way he closed referring back to Chaplain Barry Black's opening this morning where causes beyond our lifetime is the essence of this institution, and he has captured that in his 24 years in the Senate—respect for the institution, for its traditions, for its values, for its rules, for its precedents, all of which he has manifested.

The second general area when I think of DON is his wise counseling that he has been able to reflect in different ways to each and every one of us. For me, it is the National Republican Senatorial Committee. When I was first thinking about running, I went directly to DON NICKLES because in the early 1990s he developed a model which was revolutionary at that time which really did go to what happens at the

grassroots, and it applied both in terms of politics and fundraising. That model is one that has come full cycle.

One thing he did not mention directly but touched me in a very special way is what he did 2 weeks ago, and that is run, whether it is marathons or short races or out for a daily jog—I call it a jog; he actually runs. But for about a year, at least once a week, sometimes several times a week, we ran together with a few Senators—I think there were more than two—a few Senators, but more than that, about 8, 9, 10, it got up to about 14 other people who every morning at 6 o'clock would take off and go initially for 30 minutes, an hour, an hour and a half, 2 hours, 3 hours, and DON kept going. But those are my memories.

What is interesting is that of the people running with us, there were some new people, but then there were also people who had done this for years and years, and those rich relationships were played out on the floor of the Senate or with his golf, which everybody knows about, or the running, which is touching me.

A few weeks ago, he ran in the New York City marathon. He ran it by himself. He probably ran it in 3 hours. I would go much longer than that. I was back here, but I was really with him, thinking of him when he was going to be taking off and at each of those miles, as you run through those boroughs. I was really with him because it brought back memories of us spending time together.

That was for, again, a cause that goes beyond our lifetime because our running and the group that he put together was for an effort that Linda, his wife, I think introduced him to, the Lombardi Cancer Center. Again, it shows how everything comes together, in ways beyond going out to have a good run and working for this greater cause.

He mentioned getting to know each other. In terms of counseling to me, directly or indirectly, you cannot go anywhere in this town without DON NICKLES being recognized, without him having touched or having a relationship in some special way over the last 24 years, and counseling in terms of the prayer breakfast. DON NICKLES was there every single week, and the Bible studies again touch me directly in that those few moments every week we have the opportunity to come together and share.

He mentioned the positive and guiding light of Doug Coe in the same way he has touched us in those prayer breakfast meetings.

He mentioned the budget, again the wise counsel that he set in place that we will be using over the next several years as we look at tax relief, but also the impact it has had on the jobs and growth in this country.

I have to mention his overall optimism because there is nobody more optimistic in the Senate, even in very tough times, trying times. There were

times dealing with the budget over the last 4 years that were tough, difficult, hard, challenging, especially in 2003. Even through all that, he was optimistic, upbeat, reaching out. He always knew there was some way to get the best out of people working together.

I will close by mentioning—and we had this conversation two nights ago—his overall commitment to family. Everything comes back to Linda and their four children—Don Nickles, Jr., Jenny Rossiter, Kim Nickles, and Robyn Nickles. Everything he does comes back through that unit, to Linda who has—he used the word “tolerance,” and it does take a lot of tolerance to put up with DON NICKLES, I am sure. Linda was there, I should also add, with support through every one of his endeavors.

It has been a real privilege for Karyn and me to get to know them and their entire family.

He used a Bible verse, his favorite Bible chapter, Galatians 5. The Apostle Paul lists a godly man's attributes. A godly man works hard, says Paul, lives a life of—the words that are key—love, joy, peace, kindness, goodness, and faithfulness. As we look at that string of words, those nouns, I cannot think of a better description of DON NICKLES.

So, DON, we will miss you. I say that recognizing all our relationships will continue to grow. We will clearly miss you on the floor of the Senate.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, most Americans probably do not know the Senate is a continuous body. From the day the Founding Fathers established this marvelous institution up until today, it has never had a termination point. It goes on and on. Senator BYRD can tell us exactly how many Members of the Senate there have been. The last figure I heard was something over 1,500.

Candidly, a significant number of those probably did not make much difference. They filled the seats. They made sure the continuous body continued. But very few left any footprints on the sands of time. We have honored a handful out here off the Senate floor, people such as Henry Clay, Daniel Webster, John C. Calhoun, and just a couple of others.

I have been here now a couple of decades, a little bit less than my friend from Oklahoma. I can say without fear of contradiction, from the moment I got here until today, the Senator from Oklahoma has been a leader in this body. He has been involved in virtually every issue of consequence in the 20 years I have been here in some kind of leadership capacity or providing his inspiration or, as the majority leader indicated, his enthusiasm for getting a solution to the problems confronting America at that particular moment.

So I say to my friend from Oklahoma, he has left footprints in this body.

He is one of the great Senators in the history of our country. We will always

remember his service, and we wish him Godspeed in the coming years and look forward to seeing him again in his new capacity whatever it may be.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have not been coming to the floor for a lot of speeches about our fellow Senators, nor have I given very many as they are departing. I do intend to do that in the next few months for all of them, but I would not dare let this record go today without my having an opportunity to share some remarks with the Senate about the Senator from Oklahoma.

There is nobody here that has served on as many committees together as Senator NICKLES and Senator DOMENICI. We have been thrilled to work on the Energy Committee. He has told us the facts about energy. He has told us the impact that was made by that committee, and nobody can doubt that to have the Senator from Oklahoma come to that committee, having lived with the ridiculousness of the rules on natural gas, having him there was a great stimulus to change, once and for all—we did a little bit and we opened the floodgates—to give the country a great supply of energy called natural gas.

More important than that, he is one who takes an opportunity to come forth with an idea, with a cause, and set it forth when people do not even think it has a chance. All of a sudden it gathers some more momentum, and then it is a big issue, and nobody believes it but pretty soon it passes and becomes law. There are so many that we cannot talk about them. The Senator has talked about some of them.

When you came here, your senior Senator was kind of the opposite of you. He was a great hulk of a man. He was older than you by far. If he ever bragged, it was about being a Marine lieutenant tank commander. He used to look at me and tell me: Well, I do not know. This NICKLES is just too young. I am not sure he can do this job.

Well, I am sure he told you some of those things when you were running or preparing to run, but your youth had nothing to do with your success. You were going to get it done because you have a great capacity to lead and to work with people. It has been my privilege to have you as my teammate.

There is one thing for sure, this place does not succeed without people who have talent. We can all look that over and say it is not so, but it is so. You are a very talented man, but talent is not enough. You have to be loyal.

Senator NICKLES is the second most senior serving Senator on the Budget Committee, 20 years. I am the one who was goofy enough to serve more, but he was there during most of my time. Many times, Senator DON NICKLES did not get exactly what he wanted, but when it came to the time of getting something for this Senate that would permit us to follow that Budget Act, you never worried about DON NICKLES.

He may have pushed and shoved and maybe held out to the end, but when the time came that you said, We have to do this, DON, he understood. That is because of what he just said here today. He really loves this place. He learned how to love it. He did not love it when he came here. He might have told his colleagues that he started liking it, but he did not love it the first few years like he does now.

I had the privilege once of nominating him for a leadership job. He will not ever forget that introduction because he was thinking I was not going to be speaking in behalf of him, but I surely was. I said something like, DON Nickles came here and he was just too young. Then I proceeded to say, however, I have never seen a Senator mature as much and as fast as he has in terms of acquiring the skills and the capacity and understanding to be a Senator, after which time I suggested that he should win that particular job he was seeking. He did, obviously. I did not have anything to do with it, but nonetheless that is sort of the way I saw him for the first 8, 10, or 12 years.

Senator, you never stopped. You never stopped growing, and I think to grow in this place, besides the qualities I have just described, you have to end up understanding what the Senate is.

I have heard you many times in the last part of your career talk about what a great place this is, and I really believe you understand it. I think you understand that it is not just some legislative body. You have many times cast your vote, done your work, chastised and begged, cajoled people to do things because you would tell them sometimes when it was urgent that this is the Senate and we cannot be all on our own. We have to be a part of this place, and sometimes you have to do things to make it work.

I commend you for all of that and the policies and philosophies that you brought here. We did not agree on some of them. We have not agreed on everything, but I say the Senate was better off for every single day that you were here, and it will not be quite as good until somebody comes along and fills your seat. As our distinguished whip said, it is a continuing place, and we will go on. But I honestly think there will be sort of a place here for you, and we will remember how you used to do things, and, yes, Senator, you will know how you grew in terms of working with the other side. I mean, all of a sudden you would have something and we would wonder what is going on, and you would announce your cosponsor and we would say, well, he started with something that was not going to work, but he has been working at it and it is going to work. I commend you for that. That is the end product of real growth and a real ability to get done what you thought was good.

So I will miss you and your wonderful family and your wife. You have been through some tough problems with the family just like many of us.

You have come through it strong and robust, and your children are beautiful and successful.

As far as the prayer breakfast is concerned, you have stated this morning in beautiful terms, just as a matter of fact, with Doug Coe and other names, but I can remember talking to you many times about that, how it made you mature also in terms of your faith, in terms of how we prayed and how we did other things. For that relationship, I thank you. It has little to do with the Senate, but if it were not for the Senate, we would not have had that experience together.

So this is a good day because we get to say something about a great Senator, but on the other hand not so good a day because we say goodbye. He is young enough to honestly spend another 24 years here. I am 72 and I have been here 33 years, so I clearly could have left a while ago. Then I would be out there doing whatever you are going to be doing; I am sure you will have a lot more leisure time. You can hit the ball. Me, maybe I could play with my 11 grandchildren now, and growing.

Thank you, DON. It has been great to be your friend.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I rise after listening to the words of our distinguished whip, who has been here more than a couple of decades, and the distinguished Senator from New Mexico, who has been here more than three decades. I have only been in the Senate a couple of years, but I do want to let the distinguished Senator from Oklahoma know and say very publicly what an impact he has had on me and what deep respect I have for him.

When he came here, he talked about having respect for the Senate, and I certainly understand that. It is somewhat overwhelming to me. As he kind of recapped the 24 years, talking about the love that he has for this institution, I want to let him know what that means to somebody like me who comes here certainly with that respect—that love is something that grows. Love is something that is in the heart.

As I reflect upon a colleague who has been here, who has had some tough things he has had to do, I say to my friend—truly my friend from Oklahoma, the chairman of the Budget Committee—he is in an institution, surrounded by folks who like to say yes, who like to spend money. We like to take care of those around us who have needs. That is a good thing. But we also have to have a fundamental understanding. As in any family, you have to know what you earn and you have to know what you can spend. You have to have some discipline and you have to have some values and you have to do the right thing. It is hard, because naturally we want to say yes to those who come and say, We need help.

Because of the integrity of the Senator from Oklahoma, because of the deep respect his colleagues have for

him, he was able to guide us and help us understand what it meant to hold the line, to do the right thing, in the end, to build a stronger America.

His philosophical foundation, framework, "restoring economic freedom for America," is something he said he started thinking about early, and that he always believed in it when he got here. Certainly in each and every thing I have seen him do here, it has been part of his core value, restoring economic freedom for America, so in fact we produce hope and opportunity and greater times for moms and dads. He has done it.

I cannot say I always thought it was the right thing to do. I can't say that every time we voted the same way. But I do want to let the Senator from Oklahoma know how important his words and his values and his integrity were, what they meant to me.

I have been going to the prayer breakfasts since I came to the Senate. I have listened to some of his helpful suggestions for strengthening faith. They have made a difference. They have made an impact.

You are going to be gone, physically gone, and the Senate will be different. But I have no doubt, and I feel part of that, that your faith and your love and your strength and what you have been about has had a profound impact on so many of us here. It has had a profound impact on me. Although you will not be here, know that as I go about making the decisions I make, I have no doubt I will reflect upon your words, reflect upon what you might think is the right thing to do, and then make the decisions I have to make.

You may be gone. You may move from this body. You are still a relatively young man with a great family, a magnificent wife. You are a person who can look back on all you have accomplished and still have the opportunity to accomplish so much more. But I do want to thank the Senator from Oklahoma for his service. I thank him for the opportunity he has given me to serve with him. I thank him for the impact he has had on my life, hopefully making me a better Senator, a better humble servant, a person better able to contribute with a deeper appreciation of how important faith is to the service we give. I want him to know what he is about certainly will live with me in the time I have to stay. I simply want to say for all of that: Thank you and God bless you.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Alabama.

Mr. SESSIONS. Madam President, DON NICKLES has been truly one of our great Senators for almost a quarter of a century. I join with the remarks of others who came before me, and particularly MITCH MCCONNELL's belief that DON NICKLES is one of the best of all times in this body.

He rode into Washington at the age of 30, determined to fight for a heartland vision of America with all his

strength and energy. As he leaves here, still a young man, limping a little bit from that New York marathon he just ran a few days ago, every one of us can say he was true to those ideals and extraordinarily effective in advocating them. This Senate and this Nation is losing a tremendous champion. We are losing one of our most valuable Members.

DON was a small businessman who had seen personally the oppression of mindless regulation and taxes and rules that make creating a business and creating jobs difficult and frustrating. He knows taxes stifle growth and human creativity and taxes mean a transfer of power and wealth from the people who have earned it by the fruit of their labor, sending it to Washington for governmental politicians to disperse.

He knows government spends too much and too wastefully. And he knows as a true man of faith that ultimately it is the families, the hearts, and the faith of America in which our strength resides.

Those values he holds and he holds them very strongly. For those values he has worked ably and courageously to his last day in the Senate. As his service here comes to an end, he can know that in each of these areas where he has committed himself, to a remarkable degree our country has made real progress. We have. He can and should take great pride in knowing he was a key player in effecting the historic transformation of this country from an era of big government to an era in which even President Clinton would say: Big government is over.

The battle hasn't totally ended. The roaches will come back. No doubt we will have to continue to spray. But tremendous progress has been made. DON's critical role in this historic reversal of the liberal big government vision as the answer to all our problems can be seen, in part, by examining the key positions he has held. He chaired the Budget Committee, the Republican Policy Committee, the National Republican Senatorial Committee, the Republican Platform Committee for the Republican National Convention, and he held a critical position of assistant Republican leader, the second person in charge here in the Senate.

During his career he has been involved in many key battles. One of the most crucial was the lead he took in opposing the Clinton administration one-size-fits-all health care plan in 1993. He offered a countervision of consumer choice and for Americans he won that battle by blocking what I think to be ill-advised legislation. I know he took great pride when Congress passed the Medicare prescription drug bill last year that included his vision for medical savings accounts and for more competition in the health care industry. I didn't agree with everything in that bill, but the good parts he and I battled for are going to be important for years to come in health care in America.

Two years later, in 1995, he secured passage of the Congressional Accountability Act, which made Congress abide by the same health and safety standards that employers around America did. That was an important psychological victory for those who suffered under Government regulation, that those of us who write the regulations have to abide by them, too. In 1995 he authored the bill for families to receive \$500 per child tax credit. Now it is \$1,000 per child tax credit. When I campaigned in 1996, it was one of the primary emphases of my campaign. I strongly believed, and believe to this day, that nothing has been done to strengthen families more than allowing the working families trying to raise children today to have an extra \$1,000 in their pockets to take care of their children and their families. DON NICKLES was the one who drove that home.

In 1998, the International Religious Freedom Act that he referred to in his remarks became law. He has been a champion of religious freedom and rights. He worked to establish this commission to develop appropriate responses to violations of religious liberty worldwide. Since the bill's passage, the commission has issued four annual reports on religious freedom and persecution around the world. This act will become more and more important as the years go by, as we are now seeing a rise in religious intolerance and persecution around the world. Now we have an authoritative source so the world can know how serious this problem is, and that knowledge can help us lead to positive change.

The next year, the Senate passed the Patients' Bill of Rights legislation.

Throughout 1998, Senator NICKLES chaired a task force of Republican Senators, on which I served, working to better understand and respond to the concerns about managed health plans. His group wrote and introduced the Patients' Bill of Rights-Plus, a responsible alternative to the plan that would have dramatically increased health care costs. It was a terrific battle. DON called us together daily to prepare on how to carry out the debate. The opposition said a massive intervention into the American private insurance market by the Federal Government was necessary, and anybody who dared oppose this huge Federal mandate would just be run over by them. But DON proposed legislation that targeted the real abuses, with minimum cost increases and limited Federal regulation.

His bill would have, in fact, impacted the cost of premiums only a fraction of what was proposed by the opposition.

It may now seem a small matter. At the time of that debate it was a central issue before the Congress for months, and pressure from the liberal news media to pass an expansive bill was great. There could be no doubt that his personal leadership on behalf of individual citizens and small businesses was a key factor in the successful effort to avoid a fundamental takeover of private insurance in America.

In 2003, he became chairman of the Budget Committee, and I had the honor of serving as a member. During his chairmanship he made great strides to protect the fiscal sanity of our country. He led the Budget Committee during the time of war when our homeland was attacked and when we had a serious economic slowdown. He faced a surging national debt, and it was a time of heated partisanship in an evenly divided Senate. I was doubtful that anything could be accomplished because of the partisan atmosphere, and I told DON of my doubts.

I said: I am not sure we can produce a budget. He understood the difficulty he was facing but was convinced that a responsible budget was essential for America. He set to work with his usual skill and determination and commitment to principle and courtesy. He knew his budget depended on many. There was, indeed, much political posturing on all sides as all maneuvered to promote their interests. But DON never wavered. He was confident, funny, gracious, and determined.

The result was a very responsible 2004 budget with good spending limitations and caps. Wisely, he managed to make sure there would be a cap for fiscal year 2005, which we are in now, in case the budget would have failed this year. Without doubt, this was a good plan. It was critical that the Senate at that time pass a budget in a time of national insecurity and great deficits. It impacted positively, I believe, the economic situation of our country.

We didn't produce a fiscal year 2005 budget, although DON gave it his all. I have never seen him work so hard. He tried everything that could be done to achieve a budget for this year. That effort failed, but his fiscal year 2004 cap still made sure that we could maintain spending control.

I could say more, but I will just close with the remarks that were shared by Phil Gramm as I talked about DON one time. I said something good about him. And Phil Gramm, an astute observer and great Senator, shook his head and said: I am always amazed that this machine shop operator from Oklahoma is so consistently right on every issue that comes up.

I agree. He has been consistently right for every year he has been here. He has been the leader in the values that the American people share. He has played a critical role in the development of a new vision for government in America. He has produced regulations; he reduced taxes; he has empowered people around the globe. It has been an honor and a pleasure for me to call him a friend and serve with him. I admire him greatly.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I came here primarily to listen this afternoon and show my respect for the Senator from Oklahoma.

My remarks will be very brief.

I want to begin with a story that I told the Senator from Oklahoma before. My mentor in politics is former majority leader of this body, Howard Baker. I got involved in politics because of him in the 1960s, when we were building a two-party system in Tennessee. I remember the campaign of 1980. Senator Baker was the Republican leader. He changed the name on the door from "Minority Leader" to "Republican Leader" because he didn't want the Republican Party thinking of itself as a permanent minority. Many people thought he was just whistling, "Dixie," so to speak.

At that time, there were 37, 38, or 39 Republican Members, and no one saw much prospect of getting much further ahead of that.

Then came a tidal wave in 1980 with the election of President Reagan and 13 or 14 new Republican Senators. It went from fewer than 40 to more than 50. Senator Baker had predicted that. I had learned to pay attention to him.

I saw him after the election. I said: Well, you were right about that. You were about the only person who was. He said: I will tell you one thing.

I said: What is that?

He said: Pay attention to NICKLES.

I said: Who is NICKLES?

He said: He is this young, 32- or 33-year-old new Senator from Oklahoma, and he is going to be a real force to deal with.

I have paid attention to Senator NICKLES ever since then. I have served in the Senate with the Senator from Oklahoma, and during that time I have seen him a lot. We have known each other. I think Senator Baker was correct. A lot of people have paid attention to DON NICKLES ever since 1980. I am delighted to have had the privilege of serving 2 years with him in the Senate.

In my experience, I have found him highly intelligent. He has been a big help with the complex issues that we have here. He is principled. That is important. And he has been easy to work with from the point of view of a colleague.

I heard his remarks to the new Senators that he was meeting with; he and the Senator from Louisiana spoke to them as they were stepping down. He was suggesting that even though he is known as a principled, effective, and conservative Senator, he reminded them that in order to get things done in the Senate there has to be a consensus. And that usually means finding ways of dealing across the aisle with colleagues we respect.

I am simply here today to show respect, not to make a speech.

I am glad to have that opportunity and finally to say something that may be a little different from what some of your other colleagues have said.

I admire your decision, and from my perspective I think it is the right one. Life is big. It is more than politics. It is more than government.

This is a big wonderful world in which we live. We live in a magnificent country. There is a lot to savor.

For example, when I have been in and out of public life at different times and leaving the Governorship, going into the private sector was liberating. I found that my focus had been narrow and that there were a great many things about my personal life, about my family's life, about my country's life, and about the private sector that I could get involved in and found very interesting. Over time I found I could come back to the public sector with a new energy, a broader experience and a different perspective.

I don't know what the future may hold for you.

I think it is wise to make such an enormous contribution here, and at the peak of that, to step out and take that to other places. For one, I hope the future will include, in some way, a contribution in the public arena. But you certainly deserve a chance to explore the private arena.

It has been my privilege to know you and to serve with you, and to know, once again, that Howard Baker was right in 1981 when he said, "Pay attention to Nickles."

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

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

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

INVESTIGATION INTO AIR FORCE LEASING OF BOEING AERIAL REFUELING TANKERS

Mr. MCCAIN. Madam President, I intend to address the Senate for a period of time today. I believe I have as much as an hour under postcloture debate, but I will be discussing an issue I have been involved in for some 3 years now and have not reached a conclusion, although certainly enormous progress has been made in trying to address this issue.

But during these 3 years since the appropriators slipped a \$30 billion rider in the fiscal year 2002 Defense appropriations bill, a lot of strange and unusual things have happened, I am sad to say, that are a very damning commentary about the way the Pentagon in general and the Air Force in particular conducts its business.

I am going to tell a story that has not, as I said, reached its end. But it has uncovered the very strong likelihood, because of the confession by Ms. Druyun in Federal court when she pled guilty, that there could be many billions of dollars of the taxpayers' money that were wasted, criminally treated, and misused because of the decisions made by Ms. Druyun. The question is, How could Ms. Druyun have done all this by herself? Did she have accomplices or was the system in the Pentagon so broken that one individual

could make contracting decisions which entailed tens of billions of dollars, and in this case may have cost the taxpayers of America millions and even billions of dollars as well?

Nearly 3 years ago, behind closed doors, the Appropriations Committee slipped a \$30 billion rider in the fiscal year 2002 Defense appropriations bill. This rider authorized the Air Force to lease from Boeing up to 100 767s for use as aerial refueling tankers. Before the rider appeared in the bill, Air Force leadership never came to the authorizing committees about this issue. In fact, tankers have never come up in either the President's budget or the Defense Department's unfunded priority list. The Air Force's tanker lease program was born of a virgin birth.

The rider was, in fact, the result of an aggressive behind-the-scenes effort by the Boeing Corporation with considerable assistance from senior Air Force procurement official Darleen Druyun and others. After the President signed the bill into law, the Air Force embarked on negotiating with Boeing a lease that would have cost the taxpayers around \$6 billion more than an outright purchase of these aircraft would have.

Soon after Air Force Secretary Jim Roche submitted to the four Defense committees a report on plans to lease these tankers from Boeing, three out of the four authorizing committees summarily approved the lease without even looking at the contract. Two did so without even holding a single hearing.

Much to his credit, Senate Armed Services Committee Chairman JOHN WARNER held the line and refused to authorize the proposal, as did the ranking member, Senator CARL LEVIN. Through the hearings and investigations that followed, we unearthed a crushing body of evidence on how much a folly the proposal actually was.

Throughout 2002 and in the beginning of 2003, even agencies within the Defense Department and the Air Force, including Program, Analysis and Evaluation, the Office of Management and Budget, and even the Air Force's own General Counsel's Office raised salient concerns about aspects of the proposal. These concerns, however, would not get in the way of Air Force leadership.

Rather than resolve these concerns, Air Force proponents continued to aggressively push the deal in the press. A Wall Street Journal editorial entitled "John McCain's Flying Circus," published on the very same day as the tanker hearing we had in the Commerce Committee, is particularly notable. It was obviously drafted with considerable help from the Office of the Air Force Secretary. In it, tanker proponents accused me of "trying to prevent approval by running up my own Jolly Roger" and brazenly exaggerated the Air Force's need for tankers by describing how, during Secretary Roche's visit to Tinker Air Force Base, he "peeled back the skin of a tanker being refurbished and found the metal under-

neath disintegrating before his very eyes."

By this time, Air Force leadership's aggressive press campaign was well underway. On April 25, 2002, Secretary Roche's special assistant, William Bodie, told Secretary Roche that he: saw Rudy deLeon [who heads Boeing's Washington office]—

And, by the way, he has rotated back and forth between the Congress and defense corporations and the Defense Department—he:

saw Rudy deLeon at the Kennedy Center and politely asked the Great White Arab Tribe of the North [which is what these folks called Boeing] to unleash their falcons on our behalf for once. I talked to [defense analyst] Loren [Thompson], who is standing by to comment to this reporter about the national security imperatives of tanker modernization. [Editor of Defense News and Air Force Times] Vago [Muradian] is also standing by. I will get with [Assistant Air Force Secretary for Acquisitions Marvin] Sambur first thing to rehearse talking points.

Get that, "to rehearse talking points" with the editor of Defense News and Air Force Times and defense analyst Loren Thompson: We will get with you before we talk to the reporter.

Among the falcons that Boeing "unleashed" was an op-ed that subsequently appeared in Vago Muradian's Defense News. This piece, which strongly endorsed Boeing's tanker lease, was supposedly written by former Commander-in-Chief for U.S. Pacific Fleet Admiral Archie Clemins. However, Admiral Clemins has admitted, and Boeing's e-mails reflect, that it was in fact ghost-written and placed by Boeing.

As this indicates, rather than address salient concerns regarding the tanker deal raised by their own staff, Air Force leadership focused on using the press, which Mr. Bodie described as "3rd Party support at its best" to perpetuate the fiction that "the lease was the exact opposite of a Boeing 'bail-out.'" Among the spin that lease advocates fed the press, were statements like, "[I] will not succeed in blocking a 767 lease because tanker replacement is critical and [I] have offered no alternatives to leasing."

While Air Force leadership was focused on pushing the deal in the press, analyses from several independent bodies, including the Defense Department's Office of the Inspector General, the Government Accountability Office, the Congressional Budget Office, the Congressional Research Service, the National Defense University, the Center for Naval Analysis, the Institute for Defense Analyses, and others criticized almost every aspect of the program. Perhaps most notably, a Defense Science Board Task Force, vetted for conflicts with industry only after my insistence, concluded that the need to replace the current tanker fleet was not urgent. The Task Force's finding debunked the numerous representations Air Force leadership made to the contrary. Indeed, the Defense Science

Board suggested that the Air Force's case on corrosion was virtually cut from whole cloth. Air Force leadership repeatedly cited this case as the biggest reason for having taxpayers pay Boeing billions more than necessary.

About 2 months ago, Ms. Druyun was sentenced to 9 months in prison on public corruption charges. Her crime: negotiating the \$30 billion deal with Boeing while negotiating with Boeing for a job. Ms. Druyun's sentencing occurred months after Boeing's board of directors fired her and former Chief Financial Officer Michael Sears for misconduct arising from the tanker negotiations. Boeing's Chief Executive Officer Phil Condit soon left the company under a cloud of suspicion.

In court papers accompanying her sentencing, Ms. Druyun admitted to overpricing Boeing's 767s as a "parting gift" to Boeing. She admitted that she did this to "ingratiate herself" with her future employer and help secure employment for her daughter and future son-in-law at the company. Astonishingly, Ms. Druyun also admitted that she similarly harmed the United States on behalf of Boeing on several other major defense programs, including the NATO AWACS, C-130 AMP, and the C-17 programs. How much taxpayers were fleeced remains unclear. These contracts were in the billions. But this matter remains under investigation by the Justice Department and other authorities. The scope of these investigations seems to widen almost weekly. Ultimately, it is likely that Ms. Druyun's misconduct cost taxpayers an astronomical sum.

In yesterday's paper, Lockheed is bringing suit against Boeing for allegedly having involvement with bid rigging on other contracts as well.

Over the past few weeks, Air Force leadership has tried to delude the American people into believing that all of this happened because of one person, and that because no one else has been hired for her position, the problem has been solved. I don't buy it. I simply cannot believe that one person, acting alone, can rip off taxpayers out of possibly billions of dollars. This appears to be a case of either a systemic failure in procurement oversight, willful blindness, or rank corruption. Either way, full accountability among Air Force leadership is in order.

Just this week, Secretary Roche and Ms. Druyun's old boss, Assistant Secretary of the Air Force for Acquisitions Marvin Sambur, announced their resignations. But, among Air Force leadership, nor one has assumed responsibility for this debacle. Ms. Druyun is, perhaps grudgingly, accepting responsibility for her role. To some extent, Boeing has accepted responsibility for its. The Justice Department and others are continuing to ferret out others who may be responsible. However, accountability among Air Force leadership has been almost nonexistent. It seems that it is business as usual. Air Force leadership remains content laying all the

blame at the feet of a single individual, Darleen Druyun. I'm not buying it.

Just on the Tanker Lease Proposal, the conduct of Air Force leadership has been unacceptable. First, Air Force leadership was never interested in doing a formal "analysis of alternatives" for the multibillion dollar tanker program. Such AOAs are typically always done for major defense programs.

Second, Air Force leadership misrepresented to Congress how bad corrosion afflicted the current tanker fleet. They did this to devise a reason why taxpayers needed to lease new tankers from Boeing, rather than simply buy them at a much lower cost.

Third, according to independent analyses, Air Force leadership overstated "operation and supply" cost-growth estimates for the current tanker fleet. This too was done to artificially bolster the case that the current fleet needed to be replaced immediately, at a dramatically higher cost.

Fourth, Air Force leadership repeatedly misrepresented that its proposal was merely an "operating lease." Their plan was to slip the program in the budget at a relatively modest initial cost, only to have actual costs balloon in the intervening years. We now know that this was done to conceal the Tanker Lease Proposal's real budgetary impact.

By the way, they also had plans that the money to fund in the later years, known as outyears in Pentagonese, that would be taken from the other services' budget.

Fifth, according to the Defense Department's Inspector General, the commercial procurement strategy that Air Force leadership used in the tanker proposal (and, incidentally, the C-130J program) placed the Department at "high risk for paying excessive prices," and precluded "good fiduciary responsibility for DoD funds."

Sixth, the Inspector General found that, when the specifications for the tanker were being developed, Air Force leadership let Boeing tailor those specifications to Boeing's proposed tanker. They were not tailored to the operational requirements of the warfighter. They should have been. Yet, Air Force leadership allowed an Air Force briefer to tell the Joint Staff that the tanker "operational requirements document" was not tailored to Boeing's aircraft. The Defense Department Inspector General, however, found that it was.

I could go on, but I'll stop here for now. As I've gone into many of these points in excruciating detail in my letter to Secretary Rumsfeld on July 28, 2004, I'll simply ask for unanimous consent to have my letter printed into the RECORD.

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

JULY 28, 2004.

Hon. DONALD H. RUMSFELD,
Secretary, Department of Defense
The Pentagon, Washington, DC.

DEAR MR. SECRETARY: I am concerned about how the Analysis of Alternatives

(AoA) for the Tanker Lease Proposal will be conducted. In particular, I am concerned about the participation of Air Force leadership in the AoA, and the involvement of the Air Force's federally funded research and development center (FFRDC)—RAND, which I understand is spearheading this effort.

The conduct of Air Force leadership regarding the Tanker Lease Proposal has been unacceptable. Frankly, its credibility on the recapitalization of the tanker fleet has been fundamentally called into question. Notably, many of the problems that the Department of Defense Office of the Inspector General (DoD-OIG) found in the Tanker Lease Proposal are similar to those it recently found in the multibillion dollar C-130J procurement program. Bases for my concern about the participation of Air Force leadership in the AoA include, but are not limited to, the following.

First, the Air Force has provided Congress inaccurate information in an attempt to justify its original proposal to lease 100 Boeing KC-767As. For example, Air Force Secretary Jim Roche has repeatedly advised Congress that, in the existing KC-135 fleet, "corrosion is significant, pervasive, and represents an unacceptable risk." Secretary Roche has also emphasized to Congress increased operating costs in the current fleet as a basis for entering into the tanker lease. Air Force leadership has indicated that these elements create an "urgent" need to recapitalize the fleet. However, as you of course know, the DSB task force concluded that the Air Force's claims of unmanageable corrosion problems and cost growth were overstated. As such, the task force also concluded that "[t]here is no compelling material or financial reason to initiate a replacement program prior to the completion of the AoA and the MCS." Thus, the task force jettisoned the "dominant reason" Secretary Roche first cited in his July 10, 2003, report to Congress as the basis for having taxpayers pay billions of dollars more for leasing tankers than they would for buying them. The Air Force's representations on this issue remains a matter of continuing investigative concern.

In another example, to comply with the original authorizing statute, the Air Force misrepresented to Congress that its proposal to lease 100 Boeing KC-767 tankers was merely an operating lease. This would have obviated the requirement that the White House obtain advance budget authority for the whole lease proposal. But, the DoD-OIG and Program Analysis and Evaluation (PA&E), as well as the Congressional Budget Office (CBO) and the General Accounting Office (GAO) found that the procurement of these tankers is, in fact, a lease purchase. In addition, facts surrounding the original lease proposal made it clear that the transaction was a lease-purchase: under the original proposal, the Air Force conceded that the DoD is "committed to earmark[ing] an additional \$2B in FY08 and FY09 for the purchase of aircraft covered by the multi-year program under the terms of the proposed contract" to head off a funding spike over the Future Years Defense Program.

Second, the DoD-OIG and the NDU concluded that the Air Force's commercial item procurement strategy "prevented any visibility into Boeing's costs and required the Air Force to use a fixed-price type contract The strategy also exempted [Boeing] from the requirement to submit cost or pricing data. The strategy places the Department at high risk for paying excessive prices and precludes good fiduciary responsibility for DoD funds." The NDU similarly concluded that "[i]n a sole source, monopoly commercial environment, the government is not served well with limited price data" and suggested that the Air Force neglected its fiduciary/stewardship responsibilities.

Notably, the DoD-OIG arrived at similar conclusions regarding the Air Force's mismanagement of the C-130J procurement program. In particular, the DoD-OIG found that, because the C-130J was improperly acquired as a commercial item, the Air Force did not have contractor-certified information on contract prices, costs, or profits, and therefore was "limited" in its ability to protect the Government against possible overpricing.

Third, the DoD-OIG and the NDU also concluded that the operational requirements document (ORD) for tankers was not tailored, as it should have been, to the requirements of the warfighter, but rather to closely correlate to the Boeing KC-767A. The DoD-OIG found that senior Air Force staff directed that the ORD closely correlate to the Boeing KC-767A that was being developed for a foreign government, in anticipation of the authorizing legislation. This is particularly troubling where, according to an internal Boeing document regarding the ORD, Boeing planned to "establish clearly defined requirements in ORD for the USAF Tanker configuration that results in an affordable solution that meets the USAF mission needs and will prevent an AOA from being conducted." Under the current proposal, the first 100 tankers produced will not be capable of, among other things, interoperability with Navy, Marine, or coalition assets, or simultaneously refueling more than one receiver aircraft. Rear Adm. Mark P. Fitzgerald, USN, recently suggested that in theater, such a limitation restricts the Navy's long range striking capability and fosters a needlessly risky aerial refueling environment.

Notably, with respect to the C-130J procurement program, the DoD-OIG similarly found that, while the Air Force conditionally paid Lockheed Martin about \$2.6 billion, the C-130J is not operationally suitable or effective and cannot perform its intended mission. Furthermore, to date, 36 deficiency reports that "could cause death, severe injury or illness, major loss of equipment or systems, or that could directly restrict combat or operational readiness" have been received.

Finally, Boeing documents suggest that the Air Force allowed Boeing to modify the requirements in the ORD while it was being developed. These documents also reflect that the Air Force induced the Joint Requirements Oversight Council (JROC) into approving and validating the corrupted ORD by falsely representing that it was not tailored to a specific aircraft. This is of continuing investigative interest to the Committee.

Interestingly, as a result of the commercial specifications of the C-130J not meeting user needs, the Air Force (and Marine Corp) decided to "revise its requirements document" to reduce the initial capabilities required and to satisfy operational requirement deficiencies through block upgrade programs at the Government expense. I am very concerned about this.

I understand that RAND (the Air Force's FFRDC), and Project Air Force in particular, is spearheading the AoA. Generally, the Air Force, specifically Dr. Sambur, is "the overall sponsor" for Project Air Force activities. However, having argued against the need for an AoA as early as November 2002, according to a recently produced internal DoD e-mail, Dr. Sambur has apparently prejudged its outcome:

"A formal AoA will cost money, delay the program two years, and still come up with the same answer we have today. There are only a few aircraft that can serve as tankers, they are already in production, and so analyzing their respective capabilities and costs won't take long—in fact, it's already been done and the results passed to OSD. What's left to study?"

As I originally indicated in my letter of March 12, 2004, Air Force Vice Chief of Staff General T. Michael Moseley similarly touted the Air Force's proposal to lease and buy Boeing 767s during recent budget hearings. In particular, General Moseley provided "opinion" testimony suggesting that the KC-767 tanker is the Air Force's only viable option. For example, in testimony before the Projection Force Subcommittee of the House Armed Services Committee, General Moseley specifically rejected re-engining remaining KC-135Es (as the DSB task force recommended); modifying used aircraft (for example, DC-10s, also as the DSB task force suggested); using contractor support services (as the GAO recently opined), and other options that your office's AoA guidance specifically required the Air Force to examine. While General Moseley attempted to explain away his testimony as "personal opinion," at no time was he asked to provide his personal opinion and at no time during his testimony did General Moseley indicate that he was conveying a personal opinion. Considering General Moseley's role as the chairman of the Air Force Steering Group for Project Air Force and, respectfully, despite your assurances in your March 17, 2004, letter, I remain concerned that the Air Force and RAND have effectively prejudged the outcome of the AoA regarding the Tanker Lease Proposal.

Several recently produced internal DoD e-mails call into question whether the ongoing AoA will be conducted objectively. For example, in an e-mail, dated August 15, 2003, from Secretary Roche to Dr. Sambur and Acting Undersecretary Wynne, Secretary Roche dissuaded the OSD and Air Force staff from initiating an AoA. In this e-mail, Secretary Roche said the following:

"Agggggg, stop the nonsense! Don't even begin to start an unnecessary AoA at this point. All this would do is give the enemies of the lease an excuse from DoD to delay the 'lease, and really honk off the Appropriators. Let's see what comes out of conference, damn it! If the lease is approved then we can talk about how to decide on the recapitalization of the other 400 airplanes, but there is no rush here."

Soon thereafter, Acting Secretary Wynne responded, "I agree with Jim, [sic] What started this flurry of activity? I'd hate for our story to change." The foregoing does not inspire confidence that the current AoA will be conducted properly.

My concern that RAND, in particular, may have prejudged the outcome of the AoA is underscored by its conclusion regarding tanker recapitalization in a recent report. In a December 2003 report entitled "Investigating Optimal Replacement of Aging Air Force Systems," RAND, in particular Project Air Force, found—without the benefit of an AoA—that "it appears to be optimal to replace the KC-135 by the end of the decade." Apparently relying on Air Force data and analysis that was ultimately rejected by the DSB task force, this conclusion comes unacceptably close to prejudging the outcome of the AoA and is inconsistent with the conclusions of the Air Force's own Economic Service Life Study; the GAO; and, most recently, the DSB task force, all of which found that the current fleet is viable through 2040. In light of the relationship between the RAND and the Air Force, as described above, there can be no assurance that RAND will conduct the AoA here with the desired independence.

My concerns appear to be reflected in a recently released internal DoD e-mail from Eric Coulter, Deputy Director for Theater Assessments and Planning at Program, Analysis and Evaluation (PA&E) to Nancy Spruill, co-chairperson of the Leasing Re-

view Panel Working Group, dated August 7, 2003:

"I do not support RAND as the sole source or lead to conduct the Congressionally-directed independent tanker AoA. First, its [sic] said that it takes Congress to direct the Department to do something it should do on its own. We've been winging it for the AF to conduct an AoA for several years, but could never get AT&L's support to direct one. The AF clearly wanted to postpone it for as long as possible to delay the issue of recapitalizing the fleet. Now the Department is playing catch up. That said, [the Institute for Defense Analyses (IDA)] has more experience to conduct this type of effort. In fact, [Air Mobility Command] relies on IDA to do a lot of its mobility analyses both for airlift and tankers. I believe the Department will get a better, more objective product than we would from RAND. I hope we're not letting IDA's cost review of the tanker lease color our opinion. Please convince me otherwise."

I am also concerned about the fact that Project Air Force may have received as much as \$50 million for FY03 and FY04 and is expected to get at least another \$25 million for FY05. This financial relationship between the Air Force and RAND renders RAND unsuitable for conducting the AoA on this multibillion dollar procurement proposal.

Given the foregoing, I respectfully suggest that the Air Force not enter into an agreement to procure aerial refueling aircraft until an entity independent of the Air Force—on the basis of a study not funded directly or indirectly by the Air Force—completes the AoA.

As always, I appreciate your consideration. Sincerely;

JOHN MCCAIN,
Chairman.

Mr. MCCAIN. What I would like to do now is discuss documents, belatedly produced by the Defense Department, that underscore the need for accountability among Air Force leadership regarding the tanker lease proposal. While the total number of documents that the Defense Department has produced remains unsatisfactory, the few that have been produced are compelling.

On February 5, 2002, Air Force Secretary Roche personally assured me, in testimony before the Senate Armed Services Committee on the tanker program, that he "believed in competition," and "would come back to Congress" if another competitive proposal was particularly good.

Secretary Roche's e-mails, however, suggests that he is indeed a man who allows his personal animus to stifle competition. For example, on September 5, 2002, Darleen Druyun wrote to Secretary Roche, "I read with disgust the article on Airbus tankers from the new EADS CEO of North America. What BS . . . should not have been surprised at the slime . . . his day of reckoning will come hopefully."

Secretary Roche answered, "Oy. I agree. I had hoped you would have stayed and tortured him slowly over the next few years until EADS got rid of him!"

This is from the guy who says he believes in competition. His personal contempt for one defense contractor, and particularly its CEO, is clearly reflected in his other e-mails.

For example, on August 7, 2002, when Secretary Roche learned that Ralph Crosby, with whom Secretary Roche once worked at Northrop Grumman, was appointed to the head EADS' North American operations, Secretary Roche wrote to his special assistant, William Bodie:

Well, well, we'll have fun with Airbus.

The day after, William Swanson at Raytheon asked Secretary Roche:

Did you see the notice on Ralph in EADS?

Secretary Roche responded:

Right. Privately between us: Go Boeing! The fools in Paris and Berlin never did their homework. And, Ralphie is the CEO and chairman of a marketing firm, for that's all there is to EADS, North America. The [Air Force] has problems with EADS on a number of levels. The widespread feelings about Crosby and the Air Staff, Jumper especially, will only make their life more difficult. Smiles.

On September 4, 2002, Mr. Bodie wrote Secretary Roche complaining about statements EADS issued about its tanker proposal:

We don't have to turn the other cheek, you know. I'm ready to tell the truth about Airbus' boom, footprint, and financial shortcomings. But maybe we should sleep on it.

In response, Secretary Roche wrote:

No, sir, save it and blow him away. He admits they were not technically qualified! And, we keep their record of bribes as our trump card!

This is the Secretary of the Air Force communicating with an assistant of his saying "we keep their record of bribes as our trump card." Remarkable.

Taken together, these documents inject serious doubt into Secretary Roche's commitment to competition in contracting, about which he assured me in congressional testimony.

During hearings on the controversy in the Senate Commerce Committee and the Senate Armed Services Committee, I expressed concern about Secretary Roche asking Boeing to pressure dissenting elements within the Office of the Secretary of Defense into playing ball on tankers.

However, in congressional testimony, Secretary Roche categorically denied this. For example, at a September 3, 2003, Commerce Committee hearing, I asked Secretary Roche about a Boeing e-mail dated 23 June 2003, "Subject: Roche Meeting 23 June 2003." In particular, I asked Secretary Roche:

Do you have any recollection whatsoever of telling . . . anyone . . . from Boeing to put pressure on [Acting Assistant Secretary for Acquisitions] Mike Wynne to convince [Program Analysis, and Evaluation] to write a new letter essentially undoing the first letter [which criticized the proposal]?

After significant waffling, Secretary Roche responded:

No, sir. I talked to [PA&E Director] Ken Krieg, and in fact, I told him, "Don't bother writing another letter." We understood these were his arguments.

Again, on September 4, 2003, at a hearing before the Senate Armed Services Committee, I asked the same question to Secretary Roche:

Do you have any recollection whatsoever of telling . . . anyone . . . from Boeing to put pressure on Mike Wynne to convince PA&E to write a new letter essentially undoing the first letter?

I might say that the first letter from this part of the Pentagon was very critical of the tanker lease deal. This time Secretary Roche testified:

I did not ask them to put pressure [on Wynne].

Finally, in testimony before the Senate Armed Services Committee on March 2, 2004, Secretary Roche adamantly denied asking the Boeing company to put pressure on Mike Wynne. Secretary Roche said:

I've told you there was no pressure. . . . [I] certainly did not tell them to pressure anybody.

Secretary Roche's e-mails, however, paint a very different picture.

From Boeing's e-mails, here is what we know. In a June 23, 2003, e-mail to Jim Albaugh, who is head of Boeing's defense subsidiary, Boeing executive Thomas Owens described a meeting during which Secretary Roche expressed serious concerns about this letter from Mr. Ken Krieg. Mr. Krieg is the Director of Program Analysis, and Evaluation at the Office of the Secretary of Defense. His letter was key. In that letter, Director Krieg concluded that the original Boeing proposal failed two key Government accounting rules and, therefore, violated the authorizing legislation.

According to Mr. Owens's e-mail, Secretary Roche "ask[ed]" [Boeing] to put pressure on [Acting Assistant Secretary of Defense for Acquisitions] Mike Wynne to convince PA&E to write a new letter essentially undoing the first letter."

Soon after, Dr. Sambur wrote Secretary Roche regarding the PA&E letter saying:

Boss, this is getting ridiculous.

Secretary Roche wrote to Acting Assistant Secretary Wynne as follows:

Ever since Pete—

They are talking about former Assistant Secretary Aldridge—

left, the bureaucrats who opposed the 767 lease have come out of the woodwork to try to kill it—yet, once again, Mike, I won't sign a letter that makes the case that we shouldn't lease the planes. Ken Krieg's memo attached is a cheap shot, and I'm sure has already been delivered to the enemies of the lease on the Hill. It is a process foul. And Ken needs to be made aware of that by you! I can't control the corporate staff on acquisition issues. Mike, this is their way of asserting dominance over you. I know this sounds wild, but animals are animals. Pete had beaten them down. Now, they're taking you on. I'm sorry. Expecting professional behavior from them is something I gave up on a while back. Among other things, they are about to embarrass SecDef—

That is Secretary of Defense—

who having approved the lease, will now have to explain why his staff is destroying the case for it. I'll do whatever I can to help you, Mike, but [it's] your job to get the corporate staff under control. If not now, then they will overrun you whenever you "don't

behave" according to their desires. This is a game they played for years. [They] and OMB are trying to set the Air Force up to be destroyed by Sen McCain with OSD—

Office of Secretary of Defense—
and OMB—

Office of Management and Budget—arguments. As you might imagine, I won't give them the chance, but I will make it clear who is responsible to Don [Rumsfeld]. I refuse to wear my flack jacket backwards!

This is after testifying before the Senate Armed Services Committee that Secretary Roche never put any pressure on anybody. This is remarkable.

Subsequently, Assistant Secretary Wynne reprimanded Director Krieg. In response to an e-mail from Director Krieg that attempted to clear the air, Secretary Roche rather disingenuously answered:

Kenny, I love you, and you know that. I think you have been had by some members of the famous PA&E staff. You never should have put what you put in writing. It will now be used against me and Don Rumsfeld.

Other e-mails corroborate that Secretary Roche suggested to Boeing that it lobby the Office of the Secretary of Defense to undercut Program Analysis and Evaluation. For example, a December 17, 2002, e-mail from Boeing's top lobbyist Andy Ellis to Rudy deLeon, who heads Boeing's Washington office and served as a Deputy Defense Secretary in 2000 and 2001 described "some quick notes from Jim [Albaugh]'s meeting today. It instructed, "Please do not re-distribute this e-mail." The e-mail memorialized what was said during "[a] meeting with Sec. Roche" as follows:

PA&E now a problem on tankers—arguments include price, 767 footprint and prospects for "used 767s." Boeing needs to do more on behalf of tankers in the Office of Secretary of Defense. PA&E working to convince Aldridge to delay—reengine while doing an analysis of alternatives. We should vector hill support for tankers at Aldridge. . . . said he is very comfortable with the price air force has on tanker, and very comfortable with overall deal. It is the right time to do this deal. He is waiting until early January to push on the Office of Management and Budget—wants to deal with the next congress, not the current. . . . Boeing needed to work White House and especially Office of Secretary of Defense.

That is from the Secretary of the Air Force.

Other e-mails recently produced by the Department of Defense corroborate the shocking dynamic whereby Secretary Roche apparently orchestrated efforts against tanker lease critics within the Office of the Secretary of Defense. For example, in a May 7, 2003, e-mail, Paul Weaver, a Boeing lobbyist and former Director of the Air National Guard, wrote Secretary Roche as follows:

Rudy [DeLeon] called me and said that Marv Sambur was getting beat up by Mike Wynne again concerning the \$125 million number per aircraft. Rudy would like to know if he needs to do anything like calling in the big guns to help out. I told him I would query you to get your advice.

In response, Secretary Roche wrote:

It's time for the big guns to quash Wynne! Boeing won't accept such a dumb contract form and price, and Wynne needs to "pay" the appropriate price!

Now, that is the Secretary of the Air Force talking about another member of the Pentagon in the Office of the Secretary of Defense, Program Analysis and Evaluation:

Wynne needs to "pay" the appropriate price.

I wonder what he was talking about.

These e-mails call into serious question whether Secretary Roche was truthful in testifying that he had not directed Boeing to pressure tanker lease critics within the Office of the Secretary of Defense to play ball.

During last year's hearings, we released e-mails indicating that Secretary Rumsfeld's policy analysts may have been improperly lobbying the Office of the Secretary of Defense in support of the tanker lease proposal. Another set of e-mails, only recently produced, give a fuller picture of this issue. For example, in an October 9, 2002, e-mail, Darleen Druyun wrote Secretary Roche and Dr. Sambur saying:

I would like to informally brief [Defense Science Board Chairman] Bill Schneider on tanker leasing when he gets back from Germany. I had briefed him during the transition about the idea of leasing as a viable acquisition alternative. He has apparently had a positive conversation with Wolfowitz on leasing and is interested in quietly helping us.

This is the head of the Defense Science Board, who is supposed to be making decisions about weapons systems and other acquisitions, and he is "interested in quietly helping us."

If you give the nod we will use the same charts we used to brief Gingrich which was very positively received by him.

Secretary Roche responded:

Please do. Thanks much.

This e-mail, and others I have released, raise serious questions about the undue influence that industry exerts on procurement decisions in the Pentagon. What is striking here is that in this case, Air Force leadership seems to have been deep in the middle of it.

To what I have described already, add the doctoring of documents produced to Congress. After SASC, Senate Armed Services Committee, staff returned from their visit from Tinker Air Force Base in October 2003, they asked for some placards that reflected unusually low failure rates associated with component parts of the KC-135s maintained there. That is the present Air Force fleet of tankers. Shockingly, what the Senate Armed Services Committee staff received were altered versions of what they asked for. I conveyed my concerns about these doctored documents directly to Secretary Roche. In Secretary Roche's February 27, 2004, response to me, he conceded that the information that the Senate Armed Services Committee requested was intentionally deleted. In particular, he explained:

As those placards featured "Tinker-only" information, and because our installations and logistics professionals strive to present a complete and timely picture of our fleet, they amended the placard file by omitting the "Tinker-only" occurrence factors.

To add insult to injury, the explanation that the Air Force leadership provided to the press about what happened was different entirely. Furthermore, we have yet to learn who in Secretary Roche's office directed that the information that Congress asked for be doctored before it was delivered.

It seems that whatever documents Air Force leadership did not doctor, they improperly withheld.

For example, on Friday, September 10, 2004, the White House Counsel's Office and the Office of Management and Budget brought to my staff's attention a very troubling e-mail stream between Secretary Roche and senior OMB official, Robin Cleveland. After Darleen Druyun went to work for Boeing, Ms. Cleveland, the Associate Director for National Security Programs, represented the Government in negotiating with Boeing on the tanker lease proposal.

In this e-mail stream beginning on May 9, 2003, Ms. Cleveland asked Secretary Roche to help her brother get a job at Northrop Grumman. The e-mail said:

Jim, this is my brother's [Peter Cleveland's] stuff. I would appreciate anything you can do to help with NG—

that means Northrop Grumman—

He is an incredibly hard working, disciplined guy—worked full-time, with two little kids, putting himself through law school at night. I would be grateful. Thanks very much. Robin

About half an hour later, Secretary Roche gave Mr. Cleveland's resume and cover letter, and, under color of his office and title, vouched for him to Steve Dyslas, a Northrop Grumman executive:

I know this guy. He is good. His sister (Robin) is in charge of defense and intel at OMB. We used to work together in senior staff. If Peter Cleveland looks good to you, pls [sic] add my endorsement.

A few minutes later, Secretary Roche wrote Ms. Cleveland in an e-mail:

Be well. Smile. Give me tankers now. (Oops. Did I say that? My new deal is terrific.)

Now, the person who is responsible for overseeing the national security programs at the Office of Management and Budget, the watchdog of all the budgetary issues in America, that one specifically charged with overseeing tankers, asked the Secretary of the Air Force to get her brother a job. He, under his title and name, contacts the defense corporation that does business with the U.S. Air Force and asks them to give Ms. Cleveland's brother a job, and then after sending it, sends an e-mail back to Ms. Cleveland:

Be well. Smile. Give me tankers now. (Oops. Did I say that? My new deal is terrific.)

On May 15, 2003, Ms. Cleveland responded to her brother in an e-mail en-

titled: "Interview at NG," saying, "Great. Hope it works before the tanker leasing issue gets fouled up."

Until these e-mails were brought to our attention by the White House, we never even knew about them. In a meeting with me on September 13, 2004, White House Counsel Judge Alberto Gonzales told me that someone in Secretary Roche's office concluded that these e-mails were a joke and therefore they did not need to be produced.

That has to be taken in the context that they told me that they would give me these e-mails as part of our oversight responsibility. The Secretary of the Air Force decided the e-mails that I just cited were not relevant to the tanker deal. So if there is some level of mistrust that exists between me and my office and the Secretary, maybe that clears up that degree of mistrust a little bit.

Given all the scandal and controversy surrounding the tanker lease proposal, and especially given the keen interest that Chairman WARNER and I have expressed regarding potential Air Force misconduct, the unilateral decision made by Air Force leadership to withhold this document is profoundly disturbing.

Keeping a defense contractor's "record of bribes" as a "trump card"; "torturing" a defense contractor "slowly"; pressuring dissenting elements within the Office of the Secretary of Defense whose job it was, particularly in the absence of a Defense Acquisition Board—in other words a formal analysis—to vet this procurement program; signing off on a plan to get the chairman of the Defense Science Board to "quietly help" on the tanker lease inside the OSD; doctoring and improperly withholding documents requested by Congress: this is the picture that we are getting on what happened with the tanker proposal, and we have received only a few documents from 6 out of 30 people we have asked for. This is the picture we are getting, but no one among Air Force leadership stands up to assume responsibility. Instead, what we get from Air Force leadership is deeply troubling statements in the press about how rosy things are. For example, in a recent op-ed appearing in Defense News, Dr. Sambur describes the current acquisition process as "healthy" and "on track."

Hoping that Air Force leadership will "get it" now may perhaps be too much, when they didn't "get it" then. In that context, I find particularly troubling an e-mail from Air Force Under Secretary Teets to Secretary Roche sent just 3 days after Boeing announced the firing of CFO Michael Sears and Vice President Darlene Druyun. In it, Under Secretary Teets writes:

Jim, I think it is important for you to know all I know about the situation surrounding the tankers . . . Late Tuesday afternoon I talked to Marv Sambur and got his assurance that a thorough review of the Darlene situation had been completed and there was no way Darlene had any influence on our plan for tankers. Furthermore, Marv said

that a letter had been prepared for the DepSecDef to send over to the SASC indicating same, and notifying them of our intent to proceed.

So two people are fired by Boeing because of information that has come to light about improper behavior and later the individual pleads guilty in court—in fact, both of them have now pled guilty in court. Ms. Druyun has confessed that she rigged the contracts as a "parting gift to Boeing" in behalf of her daughter and son-in-law's employment.

Meanwhile, the Under Secretary of the Air Force writes to the Secretary of the Air Force that he talked to Marv Sambur, the Assistant Secretary of the Air Force for Acquisition, and got his assurance that "a thorough review of the Darlene situation had been completed and there was no way Darlene had any influence on our plan for the tankers."

I am amazed. I am amazed.

One thing is for sure: the final chapter on the tanker lease proposal cannot be closed until all the stewards of taxpayers funds who committed wrongdoing, are held accountable. In order to get a full accounting of what happened on the tanker lease proposal, I will continue to insist that all the documents that the Senate Armed Services Committee has asked for, be produced—no matter how long it takes.

In closing, Air Force Doctrine Document 1-1 on Leadership and Force Development contains a section setting forth the Air Force's core values. There are three: integrity, service before self, and excellence in all they do. The first, integrity, includes the indispensable characteristics of accountability, responsibility, honesty, and honor. When it comes to Air Force leadership's conduct regarding the tanker lease proposal and related congressional probes, I must however ask: where is the accountability and the responsibility; where is the honesty and the honor; where have these core values been over the past 3 years, and where are they now? To eschew accountability here is to do a profound disservice to the good men and women who wear the uniform of the United States Air Force honorably, capably, and proudly.

For those in the public interested in what I have discussed today, I will be posting all of these documents on my website, www.mccain.senate.gov.

In closing, the scandal continues to widen. Yesterday one of the competitors of Boeing alleged that information was leaked by Ms. Druyun, and the CEO of Boeing. I don't know if it is true. I doubt if it is true. I have no way of knowing. But the scandal continues to unfold. As I said, we have only received a small percentage of the documents and e-mails that we have asked for.

This is a very sad chapter. I was asked last week by a reporter for the Air Force Times if this was personal with me, this issue I have discussed on the Senate floor for the past half hour or so.

It is personal in this respect. It is personal that I had the privilege of serving in the U.S. military and wearing the uniform. I believe we always expect not only the same standard but a higher standard of conduct of the men and women who wear the uniform, and the vast majority, 99 and 44/100 percent of the men and women who wear the uniform conduct themselves with the highest degree of honor, courage, and integrity. But here we have individuals who have, obviously, behaved in a less than honorable fashion. That is why it is necessary we get to the bottom of this.

Next year, beginning January, we are going to have to look at the whole procurement process as it works today in the Department of Defense, because we have just found out that Ms. Druyun, in her guilty plea, said she was involved in rewarding Boeing on several other contracts, not just the Boeing tanker lease. We have no idea how much money that is. But it brings a profound question here: How could one person do this? How could one person alone in the whole Pentagon—I have forgotten how many thousands of people work there—have done this and they not know about it? If they didn't know about it, what kind of a system is it that allows such a thing to take place, over a period of years?

I deeply regret having been involved in this. But I also remind my colleagues that the way this thing started was the insertion in an appropriations bill that was one line that no member of the Senate Armed Services Committee had any knowledge of nor did the Senate Armed Services Committee have a single hearing on before this appeared as a line item in an appropriations bill. That is not the way to do business.

I would allege to you right now, if it had gone through the normal authorization process perhaps this whole scandal wouldn't have unfolded the way it did because we would have had a hearing. We would have scrutinized the proposal. We would have gone through the normal process. Instead, we spent 3 years fighting a rearguard action and through the sheerest kind of luck, in many respects, we are able to identify this wrongdoing.

I hope we can get to the bottom of this as quickly as possible and find lessons learned, find out how much money we can reclaim, if necessary, on behalf of the taxpayers, so that if, indeed, Ms. Druyun's statement is true—and I have no reason not to believe what she confessed to, that she issued a number of contracts that were detrimental to the cause of the American taxpayer—we can reform the system so this kind of thing can never happen again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask it be in order for me to speak for a couple of minutes as in morning business about some of our retiring Senators.

The PRESIDING OFFICER. The Senate is considering the miscellaneous

trade bill. The Senator will need to ask unanimous consent.

Mr. KYL. I ask unanimous consent to speak as in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, I will not object, but I would like to see if I can ask if I can be recognized after the Senator completes his remarks?

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

TRIBUTES TO RETIRING SENATORS

Mr. KYL. Mr. President, obviously, in the brief time here I am not going to be able to say everything that comes to mind about the Senators who are retiring but to summarize a little bit of the information for the benefit of those who might be watching.

When you have long, distinguished careers of Senators and they decide not to run for reelection but leave the body, there is a lot that comes to mind about their service. I think it is good to remind ourselves of just a few of these things because of the service they have provided, both to the people of their own States and to the United States.

DON NICKLES

Starting, for example, with our colleague from Oklahoma, DON NICKLES, he served both in the leadership of the Senate Republican Conference as well as chairman of the Budget Committee. The last 2 years of his time, during his chairmanship of that committee, he was deeply involved on behalf of taxpayers in saving literally hundreds of billions of dollars in taxpayer money that might otherwise have been spent but for his hard work in ensuring that we had the procedural mechanisms in place to object to excess spending.

Second, ensuring that taxpayers could keep more of their money. Helping to get passed significant tax reform, especially during the first term of President Bush, the 2001 and 2003 tax cuts in particular, coupled with the tax cuts of this past year, has meant substantial savings for all American taxpayers.

The marginal rate reductions accelerated in 2003, and the reduction in capital gains and dividend tax rates, have been a substantial reason that the economy has moved forward as quickly as it has.

Senator DON NICKLES was significantly involved in every one of those, and his leadership in tax policy is going to be sorely missed when he leaves the Senate.

He got his start in Nickles Machinery back in Ponca City, OK, and he understood early on the lessons of how Government involvement in business could make it much more difficult to not only grow a business but to employ people and to contribute to the economy. It is one of the reasons, when his father passed away, that he began to understand how the estate tax can act

in a pernicious way on American families when his business had to actually sell off part of its equity in order to pay the estate tax, to make it more difficult for them to stay in business, to employ the people they did, and do the work they did. He understood, therefore, from practical experience why we needed to reform the Tax Code, and he was instrumental in the reformation of the estate tax as well with the spouses' deduction, which was largely his work.

There is so much more one could say about the efforts of Senator DON NICKLES. He is a great friend of all of us. In addition to being very focused on getting the work done, he always managed to do so with a smile on his face and a slap on the back in a way that made it hard for people to disagree with him even when they didn't particularly follow his legislative agenda.

DON NICKLES will be very much missed in the Senate. He leaves, even after 24 years, at such a young age that he will be in Washington and around this country in a way to continue to have interaction with us. We all cherish that because of our friendship with DON NICKLES.

It is bittersweet that DON will be leaving the Senate, but we know after his significant contributions to this country he certainly deserves an opportunity to move on.

SENATOR BEN NIGHTHORSE CAMPBELL

Mr. KYL. Mr. President, I wish to say a word about another of our colleagues, BEN NIGHTHORSE CAMPBELL. Senator CAMPBELL and I served together in the House of Representatives. He is unique in the history of the Senate. He is a Native American who came first to the House and then to the Senate. He represents the people of the State of Colorado, as does the Presiding Officer, with distinction. He is a real man of the people. He is a jeweler, a motorcycle enthusiast, a real athlete—an Olympian, as a matter of fact, in judo. He is a man whose interests are extensive beyond the kind of humdrum interests sometimes we in the Senate focus on. He brought a lot of spirit and a lot of light to this body. I know BEN will be missed by every one of us as well.

SENATOR PETER FITZGERALD

Mr. KYL. Mr. President, my colleague PETER FITZGERALD from Illinois is an extraordinarily smart and focused individual who came to the Senate to represent his State of Illinois and did so with great passion, enthusiasm, and courage, in some cases, when he had to stand against a lot of other Members who were attempting to act in ways he felt were inimical to the interests of his State.

PETER FITZGERALD, though here only one term, I think will be remembered as a great Senator from the State of Illinois and certainly a colleague I will miss personally.

SENATOR ZELL MILLER

Mr. KYL. Mr. President, let me mention our colleague ZELL MILLER. ZELL

MILLER is another person who will be in the history books of this body because of his passion and because of his unique character as well. He is probably best exemplified by one of the books he has written called "Corps Values," obviously a reference to the U.S. Marine Corps, in which he describes how a lot of the values that have animated the course of his career and the values he has held dear throughout the rest of his life came from his training as a marine and from his drill sergeant whom he describes so vividly in the book as having almost literally pounded some very important lessons of life into ZELL's head at a very young age—lessons that he took away to apply throughout the rest of his life and which have stood him in very good stead throughout his career.

He has represented the people of his State of Georgia with passion and with great capability, not only as Governor but then to come to the Senate. He has certainly been a friend of people on both sides of the aisle. He is a Democrat, but he still, of course, has many friends here on the Republican side of the aisle.

I can't think of ZELL without thinking of some of the more humorous things he has done as well because despite his passion and enthusiasm, he also has a very good sense of humor. I remember one case in particular when he and Phil Gramm from Texas, who has left the Senate, teamed up to offer an amendment which had no chance of passing. There was no real rationale for it. It was an amendment to exempt pickup trucks from the mileage standards we were going to apply to all other vehicles in the Energy bill, but they thought there was something kind of un-American about having these standards applied to pickup trucks. The two of them offered the amendment.

During the course of the debate, more and more people came over here to listen to them. Their case made such great sense that one by one the Senators began to think maybe this is an amendment that ought to pass. At the end of the day, when they pointed out that, after all, there was no other place to haul your coon dogs when you are going to hunt, or have the rack for your gun, and all of the other things they pointed out what a pickup is for, and no other vehicle could do that job, the Senate finally, I think on a voice vote, acquiesced in their amendment. Because, after all, it made sense when ZELL MILLER and Phil Gramm argued that pickup trucks should be exempted from that standard, we exempted pickup trucks from that standard.

In other words, they knew how to have fun with the seriousness of this body to point out some of the common-sense things most Americans believe and we sometimes forget here in this body.

He is a man of great common sense, a man of the people who loves America greatly, and who certainly inspired me, Senator ZELL MILLER from Georgia.

These are only four of the colleagues who are going to be leaving us at the

end of this session. These are Senators whom I became particularly close to. I wanted to say a word about each one of them, to wish them all the very best, bid them farewell, also to know they have too many friends around here to ignore. And we are going to be staying in touch with every one of them.

We thank them for their service to the people of their States, to the Senate, and to the people of the United States of America.

The PRESIDING OFFICER. The Senator from Massachusetts.

IDEA

Mr. KENNEDY. Mr. President, a little later today, the House and the Senate, Republicans and Democrats, will come together for a monumental achievement to strengthen special education for millions of children with disabilities.

The agreement we have reached demonstrates what Americans have to come to realize—that students with disabilities are a far too important priority to be used as a political tool or cast aside because of an election schedule. Their education is not a partisan issue. It is an issue that touches families in every State and in every community.

This has been a long and arduous march for our country as we fought to recognize the civil rights of children with disabilities. When Congress first passed IDEA, disabled children were shuttered away. They had no place in our society. We have all heard the horror stories. There is no need to revisit those dark days, but we should never, ever forget from where we have come.

Then they were sent to separate schools. We know from another battle for integration that separate and equal are not synonymous. All of our children must be educated under the same schoolhouse roof.

Gradually, they were allowed to attend regular public schools, but had to remain in separate wings in those schools. Still, separate and unequal.

At long last, America is coming to know what parents of disabled children have known all along—that their children have hopes and dreams, just like every other child—that they have parents who love them and want the best for their children, just like any other parent.

America is coming to learn that children with disabilities want to be asked what every other child is asked: "What do you want to be when you grow up?"

America is coming to understand that disabled does not mean unable—that we shortchange our communities when we deny them the gifts and contributions of those with disabilities.

So today, all children in America—including those with disabilities have—the right to a free and appropriate education. No one can take that away. And now, 6.5 million children with disabilities attend public schools, and two-thirds of them spend most of the day in a regular education classroom.

The IDEA is about making a better life for children like Zachary Morris of

Newton, MA, who has Down's syndrome. Zachary enjoys reading, and loves to play the characters in Dr. Seuss books in class.

It is about Valerie Sims of Attleboro, MA. When her mother Katie noticed her daughter was having difficulty reading at home, she asked her school for an evaluation. The school discovered that Valeria has a learning disability. She spends a couple hours a day in a special classroom and now is able to read at grade level.

The bill before the Senate is a milestone. With this legislation, the debate is no longer whether children with disabilities should learn alongside all other children, but how best to do it. That is why this bill strengthens services to disabled children, works with their parents, improves teaching, and provides practical help to their schools.

This bill also involves changes in the IDEA law, changes which I know cause uncertainty and anxiety for many parents here today, especially when it comes to the proposed new discipline procedures. With the help of Senator SESSIONS, I believe we have reached a workable compromise. It makes sure no child is ever punished for behavior that is caused by their disability or has to go without the educational services they need to meet their goals. And for students whose behavior is caused by their disability, they will get new help under this compromise.

I know that around other issues related to discipline, many parents are worried that the changes in this bill will take away their rights to fight for their child. I want to address several of these issues to clarify what the intent of the conference committee was in making these changes and to reassure parents that we are not, in any way, taking away their rights.

Parents must be trained to be knowledgeable about the changes that were made in this bill and to be skilled advocates for their children. We must assure that misinformation is corrected so that parents do not believe that this bill stripped them of rights to advocate for their children and if necessary have representation by lawyers.

For example, this bill incorporate for the first time, well established civil rights guidelines setting forth the rare circumstances when school districts can recover fees from parents or their attorney's. These standards were developed in *Christiansburg Garment Co., v EEOC*, 1978. Defendants can only get fees against a parent's attorney if the case is wholly without legal merit and against parents only in the most egregious case where the parent acts in bad faith, knowingly filing a complaint for the sole purpose of embarrassing or harassing the school district. Since we know that parents of children with disabilities are far too busy to file complaints on these grounds, we do not expect this provision to be used by Local Educational Agencies and State Educational Agencies. No parent should be

in any way deterred from filing their legitimate complaint on behalf of their child.

Another example is that this bill for the first time provides a timeline for when a parent must file a due process complaint. Although the complaint must be filed within 2 years of the alleged violation, the remedy for lost services is not limited to 2 years. For example, a parent might first realize that their child may have a learning disability in sixth grade. If the school should have assessed the child in first grade and provided services, compensatory education would need to cover the entire period. The child with a disability should never be deprived educational opportunity because the schools are not holding up their end of the bargain.

This is also true for disciplinary matters. If the school has not developed an appropriate IEP or has failed to implement the IEP, the child should not be disciplined for conduct arising from the school's failure. It goes without saying that a child should never be punished for conduct that arises from the disability itself. Since the "manifestation determination" is so critical, it is imperative that parents be trained how to be skillful advocates in the manifestation determination process. A child with a disability may engage in the same conduct as a child without a disability, but not have the same ability to understand or control the conduct. In these situations it is inequitable to treat the children the same for disciplinary purposes.

This bill aims at remediation, not punishment. By adding strong requirements for functional behavioral assessments and positive and skillful behavioral interventions, we hope to address the conduct before it becomes misconduct. Suspensions and expulsions are the easy way out and I encourage school districts across the country to institute positive behavioral supports for all children. For the schools that have, the results have been remarkable. I strongly urge school districts to apply educational approaches and to use disciplinary approaches as a last resort.

Regarding the important issue of attorney's fees a sentence in the Statement of Managers' language of the conference report that provided the explanation for the attorney's fees language was inadvertently left out. By adding at Note 231 sections detailing the limited circumstances in which Local Educational Agencies and State Educational Agencies can recover attorney's fees, specifically Sections 615(i)(3)(B)(i)(II) and (III), the conferees intend to codify the standards set forth in *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412 (1978).

According to *Christiansburg*, attorney's fees may only be awarded to defendants in civil rights cases where the plaintiff's claims are frivolous, without foundation or brought in bad faith.

The primary contribution of this legislation is that it strengthens the

broader community of those involved in the education of our children, and gives them a greater stake in the success of our children.

For our children, this bill provides at least 30,000 additional fully certified special education teachers in our schools. It will expand access to technologies that will help disabled children learn and become independent.

And for the first time, we will ensure that students with disabilities are provided with job training and other services that enable them to support themselves after they graduate. Five years after they complete their special education programs, more than half of those with disabilities still are not working or are not involved in continuing education. We spend more than \$12 billion for their education, only to abandon them once they finish school. Surely, we owe it to them, to their parents, and to our communities to provide the training and support they need to lead independent lives.

Our agreement will simplify the rules for services that help disabled students make the transition from the classroom to the rest of their lives. It requires early planning, and that transition services begin at age 16. It requires the evaluation of all students with disabilities to assist them in meeting post-secondary goals, and to help them apply for jobs, after graduation.

While the major transition provisions included in the Senate bill are not in this bill, Chairman BOEHNER assures me that they will be included in job training legislation next year.

Students with disabilities, more so than their peers, need an education plan that takes into account their academic needs, but also their life goals. Because for children with disabilities, success means more than learning the three R's, it means being able to live independently after they leave school and to contribute and be a part of their community. For this reason, this bill makes sure that a child's education plan lays out a clear roadmap to success in school and in life.

Related services, such as speech and language therapy, physical and occupational therapy, and psychological services are of extraordinary importance for disabled students and the IDEA law has always included them. This bill adds new services, such as interpreters and school nurses.

For parents, this bill assures that they have a strong voice in their children's education. It makes sure that students are evaluated quickly for IDEA services when a parent calls for them, and it works with parents to improve the coordination of educational services for students who change schools during a school year. Parents need to be kept informed of their children's progress. It requires all schools to give parents quarterly reports about their child's progress.

It provides new resources to parent training centers to help resolve dis-

putes between parents and schools, and it gives parents more flexible options to participate in their child's education. And above all, it holds schools accountable for results, and imposes sanctions on States that ignore the law, so that parents don't always have to fight failing schools alone.

For too long, the Department of Education has been a toothless tiger, with little interest in monitoring State compliance with the law and with too few tools to take action where there's need for improvement. We know that as a result, States are woefully out of compliance with the law. Every reliable source shows it, and it's the children who pay the price of this negligence.

According to the National Council on Disability, every State in the country is out of compliance with this law in some way.

A recent General Accounting Office report identified compliance failures in 30 of the 31 States visited. Over half of the failures were directly related to providing student services, the lifeblood of the IDEA, services such as counseling, speech therapy and assistive technology, which make the impossible possible.

The monitoring and enforcement provisions in this bill will hold the Department of Education to a higher standard. And it will improve their capacity to hold States accountable for fixing problems.

For teachers, the bill provides new training opportunities. And it recognizes that special education teachers face 2½ times the paperwork burden as other teachers by allowing 15 States to test new ways of giving teachers more time with students and less with needless paperwork.

It streamlines State and local requirements to ensure that paperwork focuses only on improving educational results for children with disabilities and it requires the Secretary of Education to develop simple model forms for individual education plans and other key requirements.

Teachers, principals and other school personnel are also given improved training options and special grants dedicated for this purpose. And a new grant program is created to help institutes of higher education to train our teachers.

States and local schools are allowed to use funds to provide professional development for teachers.

The new law also expands training options for general education teachers, principals and other administrators in how to make the IDEA work for their whole school community.

Most importantly, the bill sets a high standard of competency for special education teachers to meet so disabled students get the best education possible from the best trained professionals.

Special education teachers are modern-day heroes. They are teachers because they care and they do a remarkable job. But we are facing a shortage

crisis now, and in the coming years. One of the reasons so many teachers leave special education is they are not adequately prepared for the job. Better trained teachers remain in the field for longer and improve the results for students.

In No Child Left Behind we made a commitment to have a highly qualified teacher in every regular education classroom, and with this bill we do the same thing with students with disabilities. The new law requires that all special education teachers obtain a bachelor's degree, hold a license in their State to teach special education, and demonstrate subject knowledge. It is the right thing to do for students and it will help schools meet the goals under No Child Left Behind. These teachers need our support, and they will receive it as they work to meet these new, high standards.

For communities—for students and parents and teachers and schools—this bill encourages everyone to work together to solve problems and meet challenges. It says that if children must be removed from school for disciplinary reasons, the community must continue to see to the educational and other needs of those children. Far too often, issues between parents and schools quickly wind up in court. This bill tries to resolve them first through a complaint process before resorting to litigation. But it also preserves parents' rights when they do go to a formal due process hearing. It encourages parents and schools to share information to facilitate early and more effective resolution of disputes.

The law will require all schools to measure the academic performance of students with disabilities on all State and district-wide assessments, including alternate assessments aligned to a State's academic content standards or extended standards. It requires all States to include students with disabilities who take alternate assessments in their No Child Left Behind accountability systems.

Communities win with this bill when it comes to financing the education of disabled children, too. They contribute the majority of funds to educate disabled students, and we recognize that by giving them a greater say over how they spend Federal funds.

I deeply regret this bill does not require the Federal Government to meet its full funding commitment to local schools to help them cover the costs of special education. The bill at least sets specific funding targets, and we will continue to fight next to see that Congress and the administration meet them.

Meeting local needs also includes continuing support for early intervention programs. We know early intervention for our youngest children ages zero to 3 can make an enormous difference in their development, and that dollar for dollar these resources are one of the most effective investments we can make.

This law also gives States the incentives and the authority to create a seamless system of early intervention from birth through kindergarten so our youngest children get the best care possible and enter kindergarten ready to learn.

As a society, we are judged by how we treat our children, and we are measured especially by how we treat those children with special needs. That is why I believe so strongly in the right of every child to a free and appropriate education, and I believe this bill advances that cause.

I thank the many people who brought us successfully to this day. First and foremost, I commend the thousands of parents who made their views known in shaping this legislation. They have been citizen leaders at their very best. Chairman BOEHNER, Senator GREGG, the chairman of our committee, and Congressman MILLER deserve special thanks for their leadership in producing an agreement with such strong and overwhelming support.

I might mention, Mr. President, the vote in the House of Representatives was 397 to 3 on this legislation. The House voted earlier today. It reflects the best judgment of Republicans and Democrats in both bodies on an issue of such fundamental, basic importance to families who have the special-needs children but to all Americans who care about the quality of our society and the value this Nation places in terms of understanding the special gifts special-needs children provide for their families and for communities and for our country.

I also commend Senator SESSIONS for his bipartisan work in dealing with the discipline issue, which has needlessly plagued the debate on IDEA for so long.

Senator HARKIN is always at the forefront of the movement for equal rights for all persons with disabilities, including children. He has led the effort for positive support for all students with disabilities, and his best ideas are in this bill.

Senator DODD and Senator JEFFORDS worked effectively on this legislation to improve early childhood programs. They have been two pioneers in the development of the legislation since the very beginning, and they have been absolutely tireless in pursuing positive, constructive, responsive changes in these programs. They are both leaders on children's programs in the Senate.

Senator BINGAMAN fought for strong enforcement of civil rights protections for every disabled student. Senator MIKULSKI strengthened support for students making the transition from schools to careers. Senator REED improved the training and recruitment of special education teachers. Senator MURRAY improved the provisions on enforcement and the monitoring of the law and for caring for homeless and foster care children so they do not fall through the cracks. Senator CLINTON deserves credit for her work to ensure

that new funds are provided to improve the quality of alternative student placements, to provide more effective behavioral support for students, and to see that all schools are safe schools.

Thanks especially to the staff, who worked endless hours over the past few weeks to produce this bill.

All of us are grateful to Denzel McGuire, Annie White, Bill Lucia and Courtney Brown on Senator GREGG's staff for their dedication to making this bipartisan process work, and to Michael Yudin with Senator BINGAMAN for his expert counsel.

Also to Sally Lovejoy, David Cleary, Melanie Looney, Krisann Pearce and Brad Thomas with Congressman BOEHNER; Alex Nock, Alice Cain and Ruth Freidman with Congressman MILLER; John Little with Senator SESSIONS; Mary Giliberti and Eric Fatemi with Senator HARKIN; Elyse Wasch and Seth Gerson with Senator REED; Maryellen McGuire and Jim Fenton with Senator DODD; Bethany Little, formerly with Senator MURRAY's staff; Jamie Fasteau with Senator MURRAY; Justin King and Jean Cook with Senator JEFFORDS; Catherine Brown, Susie Saavedra and Maryana Zubok with Senator CLINTON; Carmel Martin, formerly with Senator BINGAMAN's staff; Sara Vecchiotti with Senator BINGAMAN; Rebecca Litt with Senator MIKULSKI; Erica Buehrens with Senator EDWARDS; Joan Huffer with Senator DASCHLE; Bethany Dickerson with the Democratic Policy Committee; and Kristen Bannerman with Senator ALLEXANDER.

I especially thank Jeremy Buzzell, Michael Dannenberg, Charlotte Burrows, Jim Manley, Jane Oates, Roberto Rodriguez, Kent Mitchell, Cody Keenan, Danica Petrosius and Michael Myers on my staff for their skillful work and dedication, and above all Connie Garner for all she has done for children with disabilities and their families and for never letting us forget what this law is really about.

Our thanks also go out to the hundreds of disability and education advocates across the country who worked so hard on this legislation.

This bill represents our best bipartisan effort, and I look forward to its immediate and imminent passage and strong support from both sides of the aisle.

Mr. President, before concluding—and I am going to include an appropriate number of these letters in the RECORD—we asked, just several weeks ago, some of those children whose lives will be impacted by this legislation a question. We sent them this question:

Take a few minutes to think about being an adult. What will your life look like? How do you think that school can help prepare you to be the best that you can be and make some of your own dreams for your future come true?

This is the answer from an eighth grader:

I want to be a doctor. I know that if I try hard to read well, I can learn better and then

I have a chance to be a doctor. Teachers like Mr. McKenzie and Ms. Ann help me to learn and make me feel good.

The question was:

Take a few minutes to think about being an adult. What will your life look like? How do you think school can help prepare you to be the best that you can be and make some of your own dreams for your future come true?

Again, this was a sixth grader:

I want to be an art teacher when I grow up. I want to learn all about and to be able to work with clay, paints, pencils and everything. I want to teach kids like me.

Mr. President, we have a book that I will not, obviously, put in the RECORD, but we have a number of letters like that. The hopes and dreams of these children are the hopes and dreams of children all across the country. This bill will help those hopes and dreams be achieved.

I see my chairman on the floor at this time. Again, I thank Senator GREGG for his work.

We have worked very closely on this legislation and other legislation, No Child Left Behind. He was tireless in terms of trying to increase funding for the IDEA. We had differences. Some of us felt we ought to move in a more rapid way, but he has certainly been strong and committed to the goals of this legislation over a long period of time. He is giving up the chairmanship of this committee to go on to other service in the Senate. I think all of us who have been a part of this pathway on IDEA are particularly in his debt for his leadership and the work he has done on this very important piece of legislation.

Mr. HARKIN. Mr. President, I want to thank my colleagues, Chairman GREGG and Senator KENNEDY, as well as Chairman BOEHNER and Representative MILLER, for conducting a truly bipartisan conference. When the legislative process is working properly, we have a fair negotiation—and more often than not, that produces a better bill. Not a bill that gives each of us everything we wanted, but a fair result given the two bills that we are charged with reconciling. And that is what we have here.

Last week, Washington Post's internet site ran a cartoon by Ted Rall that was one of the most egregious things I have ever seen. I don't know if many of you saw it, but it showed a student in a wheelchair with crossed eyes and drool coming from his mouth. He had joined a class of students without disabilities and here is what one of the panels of the cartoon read, "The special needs kids make people uncomfortable and slow the pace of learning." The cartoon showed the class changing from higher level math to simple addition because of the special education student.

The cartoon was supposed to be some kind of analogy to the United States, but it was very hard to understand the point. What was crystal clear, however, was the author's bigotry and stereo-

typing of children with disabilities. I understand that the Post will no longer run cartoons by Mr. Rall because cartoons like this are not funny. They are hurtful and serve as a stark reminder of why we are here and why IDEA is such important civil rights legislation.

I was here in Congress in 1975, as were some of my Senate colleagues, when IDEA was enacted. And it is important to remember why we passed this legislation in the first place. We passed it because bigotry and discrimination were keeping a million children with disabilities completely out of school. Those children were locked out of an education and denied the bright future that comes with an education. IDEA opened the doors of opportunity for those children.

I have participated in many subsequent revisions to the law over the past 29 years. And I am supporting this reauthorization because we continue our proud tradition of ensuring that children with disabilities have the right to a free, appropriate public education, FAPE. In addition, we improve the enforcement of that right.

Over the years, I have been involved in the debate about disciplining students with disabilities—and this was a major issue for the conferees. I know that parents were very concerned about changes to this section of the law. I appreciate and understand those concerns because I have shared them.

While this reauthorization streamlines the discipline provisions, it continues several key principles. We will continue to consider the impact of the disability on what the child is doing and we will not punish children for behavior that is related to their disability. It is also important that we continue to require that children receive educational services when they are being disciplined so they do not fall further behind. We also continue to emphasize that an assessment and services must be provided to children who have more serious behaviors so we can prevent future discipline problems.

I believe that discipline will become less and less of an issue over time as schools implement positive behavior supports more widely. Section 614(d)(3)(B), entitled consideration of special factors, was added in 1997 to provide special emphasis on certain related services, modifications and auxiliary aides which were not being considered by IEP teams and therefore not provided. The Senate bill modified subsection 614(d)(3)(B)(i) to state that behavioral supports must be provided when the child's behavior impeded his/her education or that of others. In conference, current law was re-instated in order to make the subsection consistent with the other special consideration subsections.

By instructing the IEP team to consider the specified services, it goes without saying that the services must be provided if the IEP team finds that the services will assist the child in benefiting from his/her educational pro-

gram. In the case of behavioral interventions, the section sets forth the circumstances when the services would be required.

The regulations to IDEA specify that "if, in considering the special factors ... the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive FAPE, the IEP team must include a statement to that effect in the child's IEP." 34 C.F.R. Sec. 346(c). And IEP services must be provided to the student. See Office of Special Education Programs Letter to Osterhout, 35 IDELR 9 (2000).

There has been widespread non-compliance with this requirement. However, with reauthorization's increased emphasis on monitoring and enforcement, we expect that this implementation will improve. Children whose behavior is impeding them or others from learning should get the positive behavioral supports they need when the IEP team considers this issue and finds that the services are part of FAPE for that child.

In addition, we allow schools to use up to 15 percent of their funds to address behavior issues for children who have not been identified as special education students. Also, Senator CLINTON has worked to include authorization for a program that would provide funding for systemic positive behavioral supports in schools.

Research by Dr. George Sugai and others indicates that the implementation of positive behavioral supports can have a dramatic impact on disciplinary problems. Dr. Sugai testified in 2002 before the Health, Education and Labor Committee that by shifting to schoolwide positive behavioral supports, an urban elementary school decreased its office referrals from 600 to 100. It also decreased in 1 year its days of suspension from 80 to 35. Schools can save administrators' time and resources and cut down on discipline problems by implementing these programs.

Another area that generated discussion in this reauthorization is litigation and attorneys fees. However, the facts show that there is very little litigation under IDEA. GAO examined the data and concluded that the use of "formal dispute resolution mechanisms has been generally low relative to the number of children with disabilities," according to a 2003 report titled, *Special Education: Numbers of Formal Disputes Are Low and States Are Using Mediation and Other Strategies To Resolve Conflicts*.

My own State of Iowa follows the general trend of very low hearings and court cases. A graduate student in Iowa did a thorough analysis of due process hearings in Iowa from 1989-2001. Since the amendments in 1997, there were three hearings in 1998; three also in 1999 and four hearings in 2000. The Department of Education informs me that this trend continues, with only

three hearings in each of the past 2 years. And there are thousands of children in special education in the State of Iowa.

Given the fact that litigation is generally not a problem in IDEA, in this reauthorization we merely include a standard that is used in other civil rights contexts—it is generally referred to by the case, *Christiansburg Garment Company vs. Equal Employment Opportunity Commission*, 98 S.Ct. 694 (1978). Both prongs of the Christiansburg standard (filing or pursuing litigation that is groundless or for bad faith/improper purpose) adopted today are very high standards and prevailing defendants are rarely able to meet them. They are designed for only the most egregious cases.

Also, in deciding cases under this standard, courts have considered the party's ability to pay. This is important because Congress does not intend to impose a harsh financial penalty on parents who are merely trying to help their child get needed services and supports. So in applying this standard and deciding whether to grant defendants' fees, the court must also consider the ability of the parents to pay.

A school district would be foolhardy to try to use these provisions in any but the most egregious cases. Not only would the school be wasting its own resources if it did not prevail, but it would be liable for the parents' fees defending the action.

Unlike parents who are entitled to attorney fees if they win the case, the fact that a LEA ultimately prevailed is not grounds for assessing fees against a parent or parent's attorney. As the Supreme Court concluded in *Christiansburg*, courts should not engage in "post hoc reasoning by concluding that, because a plaintiff did not ultimately prevail, his action must have been unreasonable or without foundation. This kind of hindsight logic could discourage all but the most airtight claims, for seldom can a prospective plaintiff be sure of ultimate success."

As GAO found, there has been a low incidence of litigation under IDEA. The cases that are filed are generally pursued because parents have no other choice. Congress does not intend to discourage these parents from enforcing their child's right to a free, appropriate, public education. This is merely to address the most egregious type of behavior in very rare circumstances where it might arise.

In this reauthorization, we also include a 2-year statute of limitations on claims. However, it should be noted that this limitation is not designed to have any impact on the ability of a child to receive compensatory damages for the entire period in which he or she has been deprived of services. The statute of limitations goes only to the filing of the complaint, not the crafting of remedy. This is important because it is only fair that if a school district repeatedly failed to provide services to a

child, they should be required to provide compensatory services to rectify this problem and help the child achieve despite the school's failings.

Therefore, compensatory education must cover the entire period and must belatedly provide all education and related services previously denied and needed to make the child whole. Children whose parents can't afford to pay for special education and related services when school districts fail to provide FAPE should be treated the same as children whose parents can. Children whose parents have the funds can be fully reimbursed under the Supreme Courts decisions in Burlington and Florence County, subject to certain equitable considerations, and children whose parents lack the funds should not be treated differently.

I also want to discuss the monitoring and enforcement sections of this bill. I want to thank Senator KENNEDY for his leadership on this issue. Again, GAO has issued a report that has informed our deliberations around this issue. They noted that the Department of Education found violations of IDEA in 30 of the 31 States monitored. In addition, GAO found that the majority of these violations were for failure to provide actual services to children. That report, issued this year, is titled, *Special Education: Improved Timeliness and Better Use of Enforcement Actions Could Strengthen Education's Monitoring System*.

When we passed the Americans with Disabilities Act, we said that our four national goals for people with disabilities were equality of opportunity, full participation, independent living, and economic self-sufficiency. But children with disabilities are never going to meet any of those goals if they don't get the tools that they need when they are young. So if we truly want equal opportunity for individuals with disabilities, it has to start with IDEA, and with our youth, who are our future. The law must be enforced so they receive the services and supports they need to get a quality education and a brighter future.

As part of the enforcement of this law, States must ensure that local education agencies are meeting their targets to provide a free, appropriate public education. If they fail to do so, the State must take action, including prohibiting the flexible use of any of the local education agency's resources.

In addition to monitoring and enforcement, there are other improvements in this bill. I will mention one area that is near and dear to my heart because of my brother, Frank, who many of you know, was deaf. In this bill, we add interpreter services to the list of related services, a change that is long overdue. And we continue to require the Department of Education to fund captioning so deaf and hard-of-hearing individuals will have equal access to the media.

While I support the bill, I must point out, however, that I am deeply dis-

appointed that this bill does not include mandatory full funding of IDEA.

SECTION 615(K)

Mr. President, I say to my colleague, Senator KENNEDY, with whom I have worked on these issues for many years, there are revisions in this bill to the provisions concerning the authority of school personnel to place a student with a disability in an alternative educational setting. That is section 615(k). As you know, this was a subject of much discussion when IDEA was reauthorized in 1997, and I think we reached a good balance at that time. Is there an attempt here in this new reauthorization to change the balance we created in 1997?

Mr. KENNEDY. I can answer without hesitation that there is no attempt to change the basic principles of what was done in 1997. As was recognized at that time, the general rule is that a child with a disability cannot be suspended or placed in an alternative placement for more than 10 days. In order to meet safety concerns of school personnel, Congress added specific exemptions in 1997 to deal with the most dangerous situations. In keeping with that concern, the school may place a child in an alternative setting if he has inflicted serious bodily injury on another person at school. However, even in these circumstances, the child may not be removed for more than 45 days and must receive a free, appropriate, public education and behavioral supports in the alternate setting.

Mr. HARKIN. I thank my colleague, and I agree with his explanation. I ask the Senator, what about the child with a disability who violates a code of conduct in a way which does not reach that level of dangerousness? In 1997, we distinguished between situations where the conduct was related to their disability and those where it was not. Is this distinction also preserved in our new bill?

Mr. KENNEDY. Absolutely, it is a basic premise of disability civil rights law that someone should not be punished for disability-related conduct. Nowhere is this more true than in the educational setting. That is why we have placed an emphasis on functional behavioral assessments and positive behavioral supports. We want to address behavior educationally, hopefully before it becomes misconduct.

Mr. HARKIN. I wonder whether my colleague believes this reauthorization changes the factors for deciding whether the behavior is a manifestation of the disability?

Mr. KENNEDY. I say to my friend from Iowa, the answer is no. While there was an attempt to streamline the language, the information that should be reviewed and the factors that should be considered should be the same. In 1997, the act set forth specific instances when the child's behavior would be a manifestation, when the child's disability impaired the ability to understand or control the behavior, or when the individualized education program

or IEP was not being appropriately implemented. These instances would still constitute grounds for finding that the conduct is a manifestation of the disability, as would any other relevant factor or special circumstance which indicated that the conduct in question was caused by, or in the alternative, substantially related to the child's disability. If the student's conduct is a manifestation of their disability, the student may not be moved to an alternative placement for more than 10 school days unless one of the specific dangerousness exceptions apply.

Mr. HARKIN. I thank my colleague for his explanation.

Mr. GREGG. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes.

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

Mr. GREGG. Mr. President, let me first thank the Senator from Massachusetts for his very generous comments, but more importantly for his extremely positive and constructive and aggressive role in bringing this bill to fruition. He and his staff have done an exceptional job of reaching across the aisle to make sure that this bill, so critical to so many children in our Nation, was completed and completed in a manner where everybody could feel comfortable that the product was good and was going to improve the lives of these special-needs children.

This bill has some exceptional strengths. It doesn't respond to all of the problems we know are out there relative to IDEA, but it makes dramatic strides forward in improving this very significant piece of legislation, which many of us have worked on for a long time. I think it is a reflection of the good faith and the good attitude brought to the table that we were able to reach an agreement.

This was not an easy piece of legislation to put together. It came together not only because of our side, in the Senate, with myself, Senator KENNEDY, and other Members of the committee, but because over on the House side Congressmen BOEHNER and MILLER played a very positive role in making sure we reached an agreement.

This bill's uniqueness is that it changes the paradigm relative to how we help these children. The goal is to make sure the special-needs children have a reasonably decent shot at making sure they accomplish as much as they are capable of accomplishing. So we go from an input system, where we had a lot of T's to cross and I's to dot, where we ask are these children getting the best education they can get, and are there results? It is an output look, a look at accountability to make sure these children are trained and given skills and the academic preparation they need. So it changes the emphasis of IDEA to that of being one of input and regulation—to say how far can we go to improve this child's life and education capabilities? We have trained the teachers and given them

more flexibility, hopefully, and less regulation and less paperwork and more time with students. We also hope we have given parents tools to work with and given the school board tools to work with. We hope we have dramatically released the litigiousness of this exercise that created an atmosphere where parents and school boards and teachers can work out a game plan for their children and not feel they have to resort to lawsuits.

In addition, we have addressed critical issues, such as the question of discipline in the classroom and how best to deal with a child who has special needs, and how that child can interface with the classroom in a positive way. I thank Senator SESSIONS for that. This was the most difficult part of the bill. Senator SESSIONS gave strong leadership and we were able to work out a strong compromise.

Again, the reason this bill succeeded was because everybody came to the table in good faith and tried to reach an agreement that would be positive for the children who have special needs in our Nation. And we have been successful, in my opinion, in moving this ball well down the field toward that goal. Will there need to be more tweaking and effort in this area? Of course. That is a fact of life. But have we made dramatic strides toward giving these children a better shot at a better life? Absolutely, under this legislation.

Senator KENNEDY listed all the different Members on his side and many on ours who played a major role in making this bill work. I intend to put those in my statement, as I recognize my time is limited. A lot of players came to the table from a lot of different offices—on the staff side but, more importantly, on the Members' side, and worked very constructively. Certainly, we appreciated the genuine effort put forward by Members who serve on the HELP Committee to reach agreement here.

I especially thank Denzel McGuire of my staff, who leads our education activities. She has been the author and the energizer of a lot of good law around here. Much of it is now bearing fruit; for example, No Child Left Behind. This will be another legacy of hers, in which she can take great pride, and in which I also take great pride.

Again, I thank my ranking member, Senator KENNEDY, and his staff, including Connie Garner, for their very constructive role and their willingness to work so aggressively with us to reach a product that will have a very positive impact on lives.

This bill is going to make a lot of kids who have special needs, with special problems, have a much better life and a much better chance at an education that fulfills their strengths and gives them a chance to use those strengths in a positive way.

I yield the floor.

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

Mr. BYRD. Mr. President—

Mr. COLEMAN. Mr. President, I understand the Senator from West Virginia has the floor, and I understand he is going to give a Thanksgiving message. However, I ask the distinguished Senator from West Virginia if he will yield to me for 10 minutes to address the pending measure.

Mr. BYRD. Mr. President, I will be happy to yield.

I ask unanimous consent that I may yield to the distinguished Senator for not to exceed 10 minutes, and that I may then be recognized.

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

Mr. COLEMAN. Mr. President, I rise to address the pending measure, the Miscellaneous Trade and Technical Corrections Act. I was proud to join the bipartisan efforts in the Senate to bring this important legislation to conference. This bill is important to me and to the people of Minnesota because it helps make our State and our Nation more competitive in a world market, which can be pretty rough and tumble.

That said, however, I am equally opposed to the extension of permanent normal trade relations to Laos, a provision slipped into this trade bill in conference committee, notwithstanding the fact that neither the Senate nor the other body voted to include this provision in their respective versions of the bill.

The Laos trade provision was not included in the underlying bill moving through the regular process because, as the saying goes, "there are some things no amount of sunshine can disinfect." That is an apt way to describe the terrible human rights record of Laos. If the United States were to ever extend normal trade relations to Laos under that country's current human rights conditions, it could only be done in this way—without either body addressing the issue head on. It could only be tacked onto a popular piece of legislation that was not amendable, as was the case with the conference committee report, allowing this otherwise unacceptable provision to get a free ride without the scrutiny it deserves.

This provision did not emanate from the Senate negotiators but from the negotiators in the other body. I commend Chairman GRASSLEY and Senator BAUCUS, two good friends, for whom I have the greatest respect, for all the hard work they put into the underlying bill. It is a good bill. But because the bill wound up with this Laos trade provision on it, I was put in the position of having to oppose invoking cloture on the bill, a vote I took earlier today. This is the first time as a Senator I opposed cloture. I did not take this position lightly. I have seen too much good legislation in the Senate die not because it didn't have majority support, but because it could not get a simple up-or-down vote. My vote earlier today was also not easy because I strongly support trade. Minnesota is the seventh largest agricultural export State in the Nation, and twelfth in overall

exports. Trade is good for America and for Minnesota.

Frankly, opposing normalized trade with a country is a tough call, even when trade with that country is of nominal value to the United States, as is the case with Laos. But frankly, there are just some times where the actions of an unapologetic nation are so egregious that it is morally wrong to move forward on trade liberalization with that nation because it would effectively place the imprimatur of the United States on those actions. The actions of Laos rise to this level. I know we will not be able to stop this Laos trade provision today with it being attached to a bill that enjoys such overwhelming support on both sides of the aisle. But I am pleased that a resolution I introduced condemning Laos for its human rights abuses will be taken up by the United States Senate today.

I am pleased to be joined by Senators FEINGOLD, KOHL, and DAYTON on this resolution, and I appreciate the assistance of Chairmen LUGAR and GRASSLEY, Senators BAUCUS and BIDEN as well as the majority leader in helping to work out this very important and very strong resolution. Our resolution essentially says to Laos, you have now got normal trade relations with the United States, now, shape up and rise to that very basic level of human decency expected around the civilized world by today's standards—and probably achieved by most of us in the Dark Ages.

Laos is a Communist nation with a disturbing human rights record, particularly with regard to its treatment of ethnic minorities.

Laos is home to an ethnic minority, the Hmong. The Hmong are a brave and freedom-loving people. During the Vietnam War, thousands of Hmong aided American soldiers. The CIA trained and armed approximately 60,000 Hmong guerrillas to disrupt Viet Cong supply lines and rescue downed pilots during the Vietnam War. They served admirably and saved American lives.

When Laos fell to the Communists in 1975, the government began to systematically persecute these people, in retaliation for their support of our soldiers and their rejection of communism. Tens of thousands of Hmong were able to flee difficult conditions in Laos, and many have resettled in Minnesota, Wisconsin, and California where they are hard-working, important members of our communities. In fact, this year the U.S. is welcoming another 15,000 Hmong refugees who fear returning to Laos from their camp in Thailand.

Thousands of Hmong remain in Laos, however, and fear for their lives daily.

The Lao Government continues to employ ruthless tactics against them. Amnesty International has accused the government of Laos of using starvation as a "weapon of war against civilians." More recent reports—and even grotesque video footage—suggest the rapes and killings of several young Hmong girls at the hands of Lao soldiers.

Let me give you an example from my State. A constituent of mine, a Lutheran Minister from St. Paul who is Hmong, traveled to Laos last year to translate for two European journalists who were investigating human rights in Laos. During their trip, Reverend Mua and his associates were arrested by the Lao police on suspicion of murder. He was denied consular access for over a week and subjected to a 1-day show trial, after which he was convicted for 15 years in prison. Although he was eventually released after more than a month in captivity—thanks to the hard work of our American diplomats in Vientiane—Reverend Mua's case is one more illustration of the Lao government's disregard for human rights and due process, as well as its apparent discrimination against this ethnic minority.

The State Department's Human Rights Report on Laos catalogues the many failings of this regime with regard to human rights. Permit me to share some key findings of this report:

The Government's human rights record remained poor, and it continued to commit serious abuses . . . Members of the security forces abused detainees, especially those suspected of insurgent or anti-government activity . . . Police used arbitrary arrest, detention, and surveillance . . . The Government infringed on citizens' privacy rights and restricted freedom of speech, the press, assembly, and association. . . . The Government restricted some worker rights. Trafficking in women and children was a problem.

The report goes on and on.

According to the U.S. Commission on International Religious Freedom:

There continue to be serious religious freedom problems in Laos. The government interferes with and restricts the activities of all religious communities . . .

Now the Commission does note some recent improvement by the Lao government.

Nevertheless, "Lao officials, primarily those at the provincial and local levels, have continued to harass, detain, and arrest individuals reportedly for participating in certain religious activities." Bear in mind that this state of affairs—harassment, detention and incarceration for one's religious convictions—is apparently an improvement over the Lao Government's performance of last year.

My office has received troubling reports from Laos about shocking behavior on the part of the Lao military toward the Hmong minority. As I have mentioned, a new video documents alleged rapes and murders of a number of young Hmong girls. The Lao Government, not surprisingly, has disputed these reports. But the areas in which these atrocities appear to have been committed are not open to outside observation. Outside groups are not allowed to enter these communities to verify—or even dispute—these allegations. The Lao Government certainly has acted as though it has something to hide.

This United States is not alone in our concern. In August 2003 the United

Nations Committee to Eliminate Racial Discrimination "deeply regretted that the Lao People's Democratic Republic had failed to honor its obligations . . . expressed its grave concern at the information it had received of serious and repeated human rights violations in that country; was extremely disturbed to learn that some members of the Hmong minority had been subjected to serve brutalities;" and, "deplored the measures taken by the Lao authorities to prevent the reporting of any information concerning the situation of the Hmong people . . ."

Finally, they say you can tell a lot about a man by the company he keeps. Let us then consider the government of Laos, which counts among its closest friends such nations as North Korea and Burma. Last year Laotian representatives met with representatives of North Korea where, according to the BBC, "both sides . . . exchanged views on the need to boost cooperation . . . (in) talks (that) proceeded in a friendly atmosphere."

And according to the Vietnam News Agency and other sources, in May of last year, "Top leaders of Myanmar and Laos . . . expressed their delight with the two countries' growing friendship and highly valued the mutual assistance and successful cooperation in the spheres of politics, security, economy, trade and socio-culture." I am sure I do not need to remind the members of this body that North Korea is a charter member of the "axis of evil," nor need I recall that this very body has voted twice in the last two years to impose sanctions against Burma. A country that seeks to boost "friendly" cooperation with North Korea and delights in its "growing friendship" with Burma ought to give us some pause, some opportunity to examine this normalized trade relationship, giving us an opportunity to vote against it rather than putting it in a bill we all know will pass.

I believe in trade. I believe it helps the people in my state, and that it can help to create a more inter-connected and ultimately more peaceful world.

But I am wary about the signals we send by extending permanent normal trade relations to a nation with such an abysmal human rights record.

The timing is particularly troublesome, coming as it does on the heels of such highly disturbing reports.

I wish we had an opportunity to debate this issue on its face. I wish we had a chance to hold a hearing on trade with Laos, or to debate it as part of an amendable piece of legislation. My colleagues in the other body also wish they had been afforded the opportunities, or even been advised of the inclusion of the Laos measure in what is otherwise a very popular bill. I will be watching Laos closely and if progress is not made, expect to revisit this issue.

I know my colleague, Senator FEINGOLD, will expect to revisit the issue. This is a bipartisan issue.

Finally, let me say, 99 percent of this bill is good for the country and good for Minnesota. My home State has a strong tradition in support of trade, and normally the underlying bill would be a slam-dunk back home. But Minnesota also has a strong tradition of respect for human rights and the culture of life, and at least with this Senator, and with respect to this extremely egregious case, the human rights and the culture of life must be the first consideration.

Mr. President, I yield the floor.

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

Mr. BYRD. I thank the Chair. Mr. President, I ask unanimous consent that I may speak without regard to germaneness, with the understanding that the time be charged against me under the cloture rule, and that I not speak beyond 10 minutes.

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

Mr. BYRD. I thank the Chair.

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

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

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

Mr. FEINGOLD. Mr. President, I would like to take a minute to explain or review where we are procedurally. The Senate has voted for cloture on the miscellaneous trade bill, including the Laos NTR issue. Under rule XXII, 30 hours of debate is available postcloture for further debate on the conference report.

I would like to ask how much time remains available for debate on the miscellaneous trade bill?

The PRESIDING OFFICER. There is 30 hours for all consideration, which includes the debate, quorum calls, and votes, which would end tomorrow at 4:44 in the afternoon.

Mr. FEINGOLD. Mr. President, how much time have we consumed of the 30 hours?

The PRESIDING OFFICER. Cloture was invoked this morning at 10:44, so we have consumed slightly less than 5 hours.

Mr. FEINGOLD. Mr. President, we apparently have a little over 25 hours remaining of the 30-hour period. I have with me a number of State Department and international reports from which I would at some point like to read. They describe further some of the horrific human rights abuses that have been perpetrated by the Lao Government. Senators COLEMAN, KOHL, DAYTON, and I have drafted a resolution condemning these abuses and urging the Lao Government to allow international access to vulnerable populations.

I don't want to shut this place down, but this is a very important issue, and it is my intention to remain on the floor and to prevent us from transacting any business unrelated to the conference report before us until we reach agreement to pass this important resolution. I realize I do not have the votes to block NTR from passing, but I cannot stand by and let that pass without insisting the Senate take strong action noting and condemning the Lao Government's actions.

I hope we can work things out quickly, and I think we can. I appreciate the support and hard work of my colleagues, particularly Senators KOHL and COLEMAN, who are working hard to get this resolution through.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senate is considering a conference report under cloture.

Mr. DORGAN. I ask unanimous consent to speak in morning business for as much time as I may consume.

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

COUNTRY-OF-ORIGIN LABELING

Mr. DORGAN. Mr. President, as we near the end of the legislative session and its final day or 2 day, it is interesting what kicks around these Chambers: some people have ideas about adding things to the Omnibus appropriations bill. Other people want to take something out that they think is in that bill.

I came across a story in the newspaper this morning that describes something I discussed on the floor of the Senate yesterday. It says, "GOP looks to repeal food label law." Then it quotes the House majority whip saying he expects the Senate to agree to repeal the country-of-origin labeling law now that its proponent, Senator TOM DASCHLE, is no longer in office.

First of all, Senator TOM DASCHLE remains in office until the end of his term.

Second, it is true that Senator DASCHLE is the strongest proponent and actually the architect and the author of the legislation that has created country-of-origin labeling. But I say to those in the GOP who look now to repeal the country-of-origin labeling law that they are in for a fight. Repeal is not going to happen just because somebody has a hiccup in the morning and decides they don't like this law. It is the law. We passed it.

The Secretary of Agriculture dragged her feet and didn't want to implement it. The omnibus conference legislation

last fall actually delayed the implementation time for the law, and now they just want to kill it outright, apparently. Let me describe again what it is we are talking about. We are talking about labeling for meats and vegetables.

In the morning, when you put your T-shirt on, there is a label that tells you where that T-shirt was produced. Slip on a pair of shoes or slippers and you will find out where they were produced because they have a label. Go to the grocery store and pick up a can of peas off the shelf and take a look at its label and what is in this can, and you can see where it was produced. Most items that consumers are able to buy these days has a label that tells you where those things were produced. But that is not the case with meats and vegetables.

Country-of-origin labeling is something that is important for our farmers and ranchers because they produce the finest quality of food in the world for the lowest percent of consumers' disposable income. And it is also very important for consumers.

I held up a piece of beef on the floor of the Senate the other day. I said: I defy anyone to tell me where that piece of beef was produced. Where does it come from? Does it come from the processing plant in Mexico that was processing beef and shipping it to the dinner tables of American consumers?

By the way, that processing plant was only inspected once. And when it was inspected, the inspector found that carcasses were hanging in rooms that were not cooled, with feces on the carcasses. The meat was being walked on by the folks who were working in that plant, with bacteria all around. The most unclean conditions you can imagine were in that plant, and eventually it was shut down. But that meat was going to the American kitchen table. Meat was produced in that Mexican processing plant under the most unsanitary of conditions.

That plant was closed down, but it has reopened under a new name, a new ownership.

Does anybody know whether the slab of beef that I held up the other day came from that plant? You don't. It is because there is no labeling. No one has any idea where any of it comes from. That is why farmers and ranchers in this country support labeling. Fruits and vegetables ought to be labeled. Consumers deserve it.

Farmers and ranchers in this country produce the best quality food in the world, and we ought to have country-of-origin labeling for meats and vegetables. Who doesn't want it? The big economic interests don't want it.

When they start whistling, we have people around here who start dancing. The faster they whistle, the faster these folks dance.

Now, apparently, they say let us just dump this proposal that is now law, or let us rather repeal the country-of-origin labeling law.

I say, again, there are those of us who will wage an aggressive fight with those who want to decide to repeal that law.

Not only do we have people who want to stick legislation like this to repeal the country-of-origin labeling in the omnibus bill at the end of this session, which would be a huge step backwards and a real slap in the face not only of consumers but also of farmers and ranchers, but we also still have people blocking legislation that should be completed by this Congress. Let me describe specifically what that is.

We have been working in the Senate for a long while to allow the reimportation of prescription drugs. U.S. consumers pay the highest prices in the world for prescription drugs. Brand-name prescription drugs cost a great deal of money in our country. Miracle drugs offer no miracles to those who can't afford to buy them. I commend the drug companies for producing miracle medicines. But there is no excuse for charging the American consumer the highest prices in the world.

I will give you some examples.

If you are a woman and have breast cancer, God forbid and have to take the drug tamoxifen, I have had people tell me that they went to Canada and paid one-tenth of the price they were charged in the United States for that anti-cancer drug.

I spoke just recently, in fact, to a couple in North Dakota who have gone to Canada for 3 straight years to buy tamoxifen. They said they paid one-sixth of the price that was charged locally in this country.

As I indicated, I have heard people say they paid 10 times more in the United States for that drug than you would pay in Canada for that.

What about Lipitor for cholesterol? Lipitor is one of the top selling cholesterol-lowering drugs in the United States. I have two bottles in my office that I have used previously on the floor of the Senate. They look identical because they are made by the same company; the same pill put in the same bottle, sold by the same pharmaceutical company. One was sold in Winnipeg, Canada, and the other one in Grand Forks, ND—the same pill, the same tablet called Lipitor.

The only difference is the price. Buy it in the United States and you pay \$1.86 per tablet. Buy it in Canada and you pay \$1.01 per tablet.

Why is the price for that cholesterol-lowering drug almost double in the United States? It is because U.S. consumers are charged the highest prices in the world for most brand-name prescription drugs.

We have been trying very hard in the Congress to pass a bill that would allow the consumers to make the choice where to purchase those drugs. In fact, the legislation Senator SNOWE and I and others have introduced would allow American pharmacists to go to Canada and buy that lower priced prescription drug and bring it back to our

country and pass the savings along to the consumers. But we have been blocked in this effort.

Many of us in the Senate put together a bipartisan bill, and that bipartisan legislation was authored by myself, Senator SNOWE, Senator KENNEDY, Senator MCCAIN, Senator DASCHLE, and many others. That bill did not get through the Senate because it was blocked.

I thought I had an agreement with the majority leader. He believed that he had reached a different agreement at about midnight one evening in exchange for releasing a hold on a key nominee. I believe I was told that we were going to be able to see action on that legislation. The majority leader feels differently. I regret that we have that disagreement.

But we come to the end of this session, and the fact is that the effort to help American consumers by putting downward pressure on prescription drug prices in this country has been scuttled. It has been blocked. The White House has blocked it. The FDA has blocked it. The majority in the Senate has blocked it.

In the Presidential debates, in fact, this issue came up. The President was asked, why are you blocking the reimporting of prescription drugs to put downward pressure on prescription drug prices? And the President said, "I haven't yet"—meaning he hasn't blocked it yet. Of course he has, he has continually blocked it. The President went on to say during the debate:

Just want to make sure they're safe. When a drug comes in from Canada, I want to make sure it cures you and doesn't kill you. Now it may well be here in December you'll hear me say, I think there's a safe way to do it. If they're safe, they're coming.

But the President meanwhile goes on blocking the reimportation of prescription drugs.

The bill we have written is a bipartisan bill. This is not Democrat versus Republican. It is a bipartisan piece of legislation.

Let me point out with respect to the safety issue, in testimony from an executive of a drug company, a vice president for marketing at Pfizer, Dr. Peter Rost:

The biggest argument against reimportation is safety. What everyone has conveniently forgotten to tell you is that in Europe reimportation of drugs has been in place for 20 years. It is called parallel trading.

In Germany, if you want to buy a prescription drug from Spain because it is cheaper, you can. If you are in France and you want to buy it from Italy, you can do it. It is called parallel trading. The Europeans have done it for 20 years routinely and there is no safety issue.

Our legislation would give American consumers and pharmacists the ability to access FDA-approved drugs that are produced in FDA-approved plants. This approach allows the marketplace to put downward pressure on prescription drug prices here by being able to buy

the identical prescription drug, FDA-approved, from Canada, or another country. As long as there is a chain of custody that is safe—and no one argues that the Canadian chain of custody for prescription drugs is not safe—there is no reason why we should not allow the marketplace to work for the benefit of consumers.

We end this legislative session with this proposal having been blocked.

It is estimated that if Americans could pay the same price as the Canadians for prescription drugs, the consumers of this country would save \$38 billion. This is not a small issue. This is a big issue. The fastest rising portion of health care costs is prescription drugs, and we are trying desperately to do something about it.

I don't denigrate the pharmaceutical industry. They are a big industry, strong and tough. They fight hard to protect what they have. I don't denigrate that. But there needs to be some competition in order to put downward pressure on prices. It is unsound public policy for our country to decide to allow the pharmaceutical industry to charge the American consumer the highest prices in the world. It is especially tough for senior citizens. Senior citizens are about 12 percent of the population of this country and they consume one-third of the prescription drugs in America. They have reached that point in their life where they are receiving a lower income and having to shell out substantially more for prescription drugs. Many of them simply say, we cannot afford it.

That is why Republicans and Democrats, together in a bipartisan effort, have tried very hard this year to get this reimportation legislation through the Senate. I regret we come to the final day or days and it remains blocked.

My hope is that those who I felt had reached an agreement with us to give us an opportunity to have a vote on this legislation will understand we will be back the minute the Congress returns, in a new Congress, ready to fight this battle again. This battle is not over. We are not quitting. On behalf of the consumers of this country, they deserve fair treatment with respect to the prices of prescription drugs.

It appears to me we are one or two days from completing this legislative session. I will have great regrets—I believe I speak for my colleagues Senator MCCAIN, Senator SNOWE on the Republican side, Senator DASCHLE, Senator KENNEDY, Senator STABENOW and Senator FEINGOLD on the Democratic side—that we have gotten to this point and have been blocked each and every step of the way.

Then we have the President say, I haven't blocked it. Of course, he has blocked it. The FDA, the White House, and the majority in the Senate have blocked our bipartisan bill, an opportunity to try to do something to put downward pressure on prescription drug prices. That, in my judgment, is a

failure of this Congress, and it is a failure I hope we will soon remedy when we turn the calendar over to January and begin a new Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I ask unanimous consent that following my remarks, the senior Senator from Minnesota, Senator DAYTON, be recognized.

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

MEDICAL RESEARCH

Mr. SPECTER. Mr. President, I have sought recognition to speak briefly about medical research in the United States. The Senate is now working through, as we all know, an Omnibus appropriation bill, which includes the appropriations bill for the subcommittee which I chair on the Department of Labor, Health and Human Services, and Education. One of the component parts of this bill involves the funding for the National Institutes of Health. Our allocation is grossly insufficient. It impacts on many areas. It impacts on education. It impacts on worker training. It impacts on many aspects of the delivery of health services.

One line which I think is particularly troublesome is the absence of adequate funding for the National Institutes of Health. I say that because of the very remarkable advances which NIH has made in the past, and the enormous potential for the future.

I was elected to the Senate in 1980. In the first year I served on the subcommittee, which I have for the full 24 years of service, the NIH funding was something less than \$3.6 billion. By this current fiscal year, funding had increased to some \$28 billion, significantly as a result of the leadership of Senator TOM HARKIN, who is the senior Democrat on the subcommittee, and my pressure to increase the funding, backed up by the full committee and by the full subcommittee, Senator STEVENS, Senator BYRD, and then approved most of the time by the full body. This year, our funding is very insufficient.

If we look at where medical research has brought us, it is remarkable. Life expectancy has increased from 47 years in the year 1900 to 77 years in the year 2001. Polio, smallpox, and other infectious diseases no longer kill or cause suffering to large numbers of people. The rate of death due to heart disease has been cut by more than half since 1950. Death rates from cancer for 11 of the top 15 cancers in men have decreased; 8 of the top 15 cancers in women have been decreased. Diagnoses with multiple myelomas have been reduced from a death sentence to living with a chronic condition as a result of new drugs developed through biomedical research.

But there is still an enormous challenge. Heart disease continues to be the number one killer; cancer, the number 2 killer, not far behind. The tragic aspect of these deadly diseases is

that they could all be cured, I do believe, if we had sufficient funding.

Two of my closest friends have died recently as a result of breast cancer. Being the chairman of this subcommittee for many years has brought me into contact with many people who have maladies, whose children have maladies, who suffer from Parkinson's, whose family suffers from Alzheimer's, and varying categories of cancer.

My Chief of Staff, a young woman named Carey Lackman Slease—well known in the Senate community—died on July 14 of this year at the tender age of 48. She was known by practically everybody in the Senate. She came to the Senate to work for Senator Heinz 24 years ago when she was 24. She left the Senate for a time for a variety of private enterprises, but her heart and soul belonged to the Senate, and she came back as my Chief of Staff and did a spectacular job.

The breast cancer disease lingered in her body, and notwithstanding the pain, suffering, and torture she went through; she stayed at the job. And she stayed at her desk, insisting on staying, although many of us tried, including me personally, to have her ease off. She was in love with the Senate and found the Senate work the best therapy, so that when she passed, it was a shock to people who had been working with her in very recent periods of time before. All of us took her death very hard, especially in the context of our thinking that her death could have been avoided had medical research had sufficient funds and sufficient resources to do the job.

A few days ago, on November 11, a very close personal friend, Paula Kline, who was the wife of my son's law partner, who I was very close to, who was practically a daughter, died at the age of 54 of breast cancer. In a very valiant and very courageous way, Paula Kline struggled with all of the advanced protocols and possibilities which might have spared her or elongated her life. And going through the various forms of treatment, they turned out to be worse than the cancers themselves. But again, the tragedy is that Paula Kline's death could have been avoided had sufficient resources been devoted by this very wealthy country to medical research. We have a gross national product in excess of \$11 trillion. We have a Federal budget of \$2.4 trillion this year, and it will be more next year. And when we take a look at the budget for the National Institutes of Health at \$28 billion, it is, candidly, scandalous that with our resources, our resource capability, research capability in biomedical science, that people are still dying of breast cancer or colon cancer or heart disease.

There is a long list of maladies that people suffer from where there could be cures: autism, Parkinson's, scleroderma, muscular dystrophy, osteoporosis, cervical cancer, lymphoma, prostate cancer, colon cancer, brain cancer, pediatric renal dis-

orders, glaucoma, sickle cell anemia, spinal cord injury, arthritis, a variety of mental health disorders, hepatitis, deafness, stroke, Alzheimer's, spinal muscular atrophy, amyotrophic lateral sclerosis—commonly known as Lou Gehrig's Disease—diabetes, breast cancer, ovarian cancer, multiple myeloma, pancreatic cancer, head and neck cancer, lung cancer, multiple sclerosis, macular degeneration, heart disease, infant sudden death syndrome, schizophrenia, polycystic kidney disease, Cooley's anemia, stroke, primary immune deficiency disorders.

That list was compiled by Bettilou Taylor, who is the most—I was about to say the most extraordinary staffer; we have a lot of extraordinary staffers in the Senate family—but a most devoted worker. I will take just a moment to commend her and the staff on the Appropriations Subcommittee of Labor, Health and Human Services, and Education. They have been working around the clock, home for an early morning shower, and back at work, turning out an omnibus bill for some eight of the subcommittees which had not been able to turn out bills before.

It continues to be mystifying to me, after being here for 24 years, that we cannot complete our work in a more orderly way. It is a regrettable fact of life, but it is a fact of life that everything is done in the Congress at 11:59 if there is a 12 o'clock curfew. Some of it does not get done until after midnight, until after the curfew. We have worked the bill every which way. A couple years ago, we had the bill concluded on June 29, floor action by the Senate. But by the time we get through the complex conferencing—and I do not ascribe any fault anywhere, to the other body or to this body—it seems to be endemic of the way we do our business.

But we are about to have a bill filed. There have been various predictions. The most recent one is for 5 o'clock. We will see if that happens. There are so many items that our constituents come to us for, and they want included in the bill. It is such a complex and difficult matter. We struggle with it. And the House will take it up some time tonight. I do not know how anybody can intelligently or intelligibly read that bill, let alone to comprehend it, through the limited period of time which is available.

In struggling through the bill this year, for my subcommittee, there are many disappointments, but the biggest one is on the National Institutes of Health. I focus particularly on the tragic death of my Chief of Staff, Carey Lackman Slease, who died July 14 at the age of 48, and a very close personal friend, Mrs. Paula Kline, who died on November 11, just a few days ago, at the age of 54. The deaths are marked by the tragedy of the fact they could have been eliminated had we devoted sufficient resources to medical research.

I call this to the attention of my colleagues in the Congress and the people who may be watching on C-SPAN or

who may read the CONGRESSIONAL RECORD of the importance of renewing our efforts, in a wealthy country with a gross national product of \$11 trillion and a Federal budget of \$2.4 trillion, that we could do better than \$28 billion for this very important subject.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I ask unanimous consent that the pending matters be set aside and I be allowed to speak 10 minutes on another matter, and that the 10 minutes count against my hour under the cloture rules.

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

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Mr. DAYTON. Mr. President, on another matter, I am rising to support the conference report that is being proposed for the Individuals with Disabilities Education Act. I support this legislation. I commend the conferees for their efforts to streamline, make less bureaucratic and less time-consuming, the current IDEA legislation and its administration.

In Minnesota, my home State, special education teachers—in fact, some of our most experienced special education teachers—are leaving that field, leaving special education classrooms, because of the bureaucratic burdens, the time-consuming paperwork.

They lament the time they cannot spend in those classrooms, the time lost to working directly with schoolchildren, in order to have to comply with all of the State, Federal, and local school district reporting requirements.

Those reporting requirements are mostly well intended, and one layer of them is mostly necessary and appropriate. However, the second and the third layers of bureaucracy have become duplicative, redundant, excessive, and oppressive.

Sadly, previous attempts to “reform” this bureaucratic overload have resulted, according to many of the teachers in Minnesota, in more, not less, reporting requirements, more forms, more time required away from their classrooms and from their students. No one benefits from that bureaucratic overload—not the special education students, their families, the teachers, or the taxpayers.

Like too many other well-intended programs, we try to micromanage the process, rather than analyze the results. We tell educators, or other experts in their fields, how they ought to do their jobs, rather than telling them to do their jobs as efficiently and effectively as possible, and then report to us and to our constituents their progress—in this case, improving the educational attainments and ability of their students, and what they need from us to do their jobs even more effectively.

When IDEA was enacted back in 1975, there was opposition to it from some States and school districts and from some schools. But now, in my State,

schools and teachers are committed to doing special education as well as possible. We need to get out of the way and let them do it. So I hope this legislation will be a step in that direction—better yet, two or three steps in that direction.

Something else we should do, though—and we should have done it long ago, and certainly have done it during the last 4 years I have been here—is fully fund the Federal commitment to IDEA, to fulfill a promise Congress made 29 years ago—29 years ago, when it passed the special education mandate. Congress back then promised the States, promised local school districts and, most important, promised the children and parents of America that they would pay for 40 percent of the cost of special education. When I arrived here 4 years ago, that percentage was only 13 percent, less than one-third of the amount promised 25 years before. To his credit, President Bush has proposed in each fiscal year an increase in the amount of Federal funding for special education. To our credit, we have passed those increases, and even somewhat more, so that this year the Federal funding for special education totals 19 percent of total spending nationwide, which is an improvement, but is still less than half of what was promised 29 years ago.

That broken promise by the Federal Government cost my State of Minnesota nearly \$200 million this year. It has cost every other State special education funding. I am, frankly, mystified at why my five pieces of legislation—five times I have attempted to increase the Federal share of special education to that promised 40-percent level—have been defeated every time in the Senate. I am mystified—because I cannot believe that most other States and most school districts in America could not use that additional special education funding. In schools in Minnesota, the underfunding of the Federal share of special education results in local school districts having to make up those shortfalls either out of funding for other school programs for students, or by increasing local property taxes, because states and schools are being mandated by us to provide special education services. They are subject to lawsuits if they don't. But we are not providing them with the money to carry out that mandate.

This bill before us would not fully fund the Federal share for special education until the year 2011. Even then, that funding level is not assured. It may not be enough. It is not guaranteed. It is not made a requirement. The appropriations still have to come each year.

So we have, once again, evidence that we lack the proper priorities. We propose and pass tax cuts for the wealthiest Americans, and the President proposes to make them permanent. Some colleagues propose eliminating the estate tax, which affects 2 percent of the people in America, by 2010, and to

make that permanent starting in 2011. While some call that the death tax, special education is a life commitment, a lifesaving commitment. Yet, we will not make that lifesaving commitment to the schoolchildren of America.

I will try again next year, and I will keep on trying with my legislation to fully fund the Federal share of special education, which should be well within our reach financially. It is the right thing to do, and it is the necessary and moral thing to do, and it would serve well the interests of this Nation in the years ahead. I regret that it is not part of this conference report coming before us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. What is the parliamentary situation?

The PRESIDING OFFICER. The Senate is under cloture on the conference report to H.R. 1047.

Mr. LEAHY. I thank the Chair.

TRIBUTES TO RETIRING SENATORS

TOM DASCHLE

Mr. LEAHY. Mr. President, when the Senate concludes its business in the coming days, the congressional career of a remarkable man will come to an end. After 26 years of representing South Dakotans as their voice in Washington, Senator DASCHLE will be leaving the Senate.

His story is a classic one. As a young man from Aberdeen, SD, TOM DASCHLE graduated from South Dakota State University and immediately began 3 years of service in the Air Force of the United States. After his service, he got an early introduction to Washington as he went to work for Senator Abourezk, eventually returning to South Dakota to work out of the Senator's state offices.

TOM was elected to Congress in 1978 and went on to serve four terms in the House of Representatives before being elected in 1986 to the Senate.

After the resignation of George Mitchell in 1994, Senator DASCHLE won a very tight race for minority leader. I was proud to have supported him at that time. 1994 was a difficult year for our party and we had some serious soul searching to do. TOM displayed the strong leadership that was necessary to take Democrats in the Senate forward. That is why, after that first tight election for leader, he was reelected unanimously as leader each time thereafter. He has always been a man who radiates optimism and hope, making him an excellent face for our party.

I have known TOM since he first came to this body in 1986. I closely followed his Senate race against James Abdnor, and I was impressed by him. A few days after TOM won that race, he and his wife Linda joined my family in Vermont for Thanksgiving dinner. When they came to the farm, my mother said to me, “That is the nicest

young man I ever met." Well, she was right. TOM is a man of deep resolve and strong character.

The Nation saw that character exhibited in the days following September 11. Senator DASCHLE showed the country the importance of setting labels aside when he publicly embraced President Bush. In the face of that terrible tragedy, America united behind our leadership.

Only a few short weeks later, Senator DASCHLE and I were both targets of anthrax attacks—some of which killed several people—in letters addressed to the two of us. I know that the attacks brought home the reality of terrorism to both of us, but also to the Senate community as a whole.

In the ensuing years, Senator DASCHLE continued to show resolute leadership in the Senate, routinely reaching across the aisle even when those on the other side of the aisle were at their most partisan.

On more than a few occasions, Senator DASCHLE and I have joined together to work on a variety of national legislative efforts. Together, we advocated for expanded benefits for members of the National Guard and Reserve. Senator DASCHLE has shown courage and resolve in holding the line against the President's most objectionable judicial nominations. We worked together on tort reform, combating corporate crime, and efforts to help off-duty police protect Americans. Those are just a few of the initiatives on which we collaborated.

But during that time, he has also been a strong voice for South Dakota on those issues important to his constituents. He has fought for improved health and education for Indians. He has led efforts to expand health services in rural areas and to prevent companies from canceling retiree benefits without notice. He is well known as a champion for ranchers and farmers in South Dakota. In fact, he made sure their voices were always heard. He worked to ensure they had drought aid, but also he worked to do what a true South Dakotan would do: He wanted to make sure they could compete on a level playing field.

Despite a well-run campaign and putting forth his best effort, Senator DASCHLE was not reelected to the Senate this fall. The morning after election day, he gave a speech before his supporters in Sioux Falls. He finished that speech by recalling two memories. The first was of a magnificent Washington skyline sunset he witnessed one fall afternoon leaving his office in the Capitol. The second was watching the Sun rise at Mount Rushmore with his family, and the warm, sweet optimistic feeling inspired by that sunrise. TOM said that, seeing both, he likes sunrises better. I agree. For the past 18 years with each daily sunrise, he sought to bring hope and optimism to this body. He has worked to better his State and his country, to ensure our children and grandchildren have a brighter world in

which to live. He is a remarkable friend and colleague, and I thank him for his service to this institution.

If I can be very personal, in my 30 years in the Senate, I have not known a more honest and more decent Senator than TOM DASCHLE. I believe that part of our Senate fabric and our Senate conscience leaves with this special person.

Mr. President, I see others seeking recognition. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, in a few minutes Senator COLEMAN will offer a resolution. I join Senators COLEMAN, KOHL, and DAYTON in supporting this resolution. By taking this up and passing it at this time, we signal that congressional concern about the deplorable human rights situation in Laos will be intense and ongoing.

As I have discussed today, I hear regular reports from constituents distraught about the conditions faced by their relatives in Laos. This is especially wrenching—and this is the point we have been trying to make all day—when we remember that the Hmong communities reportedly targeted for abuse are the same communities that worked side by side with U.S. forces during the Vietnam war. We simply cannot ignore the dismal human rights situation in Laos and be the country and the people we wish to be.

Just a word on the language of the resolution which Senator COLEMAN will describe in a moment. This resolution expresses the Senate's hope—hope—that a more open society will develop in Laos in the wake of the extension of NTR. Certainly this is my hope, although I, frankly, really see no reason to believe it will happen.

But the reality is that Laos will get NTR. The votes are there, and while I may disagree with the wisdom of colleagues taking that step, we, of course, all do hope for change in Laos—a greater respect for basic human rights, an end to repression aimed at ethnic minorities, such as the Hmong, and religious minorities, such as the Christian community, and for access to vulnerable populations.

I appreciate the efforts of my colleagues who join me in sponsoring this resolution and the efforts of the leadership on both sides, the Senate Foreign Relations Committee, and the Finance Committee.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, first, I thank Senator FEINGOLD for his leadership on this issue, for his perseverance, persistence and being on the floor, as we discuss the miscellaneous tariff provisions, to make sure that, before we finish our work, we put forth a resolution reflecting the sense of this body that there are problems with human rights in Laos. They have to be recognized. That is what this resolution does.

I thank Senator FEINGOLD. I thank my colleague, Senator DAYTON, who has been working with us, and Senator KOHL.

Mr. President, I ask unanimous consent that following the adoption of the resolution relating to Laotian human rights, which I will send to the desk in a moment, that the pending conference report to accompany H.R. 1047 be agreed to and the motion to reconsider be laid upon the table.

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

CONDEMNING HUMAN RIGHTS ABUSES IN LAOS

Mr. COLEMAN. Mr. President, I now ask unanimous consent that the Senate proceed to the resolution, which is at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 475) to condemn human rights abuses in Laos.

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

Mr. COLEMAN. Mr. President, I ask unanimous consent that the resolution be agreed to, that the preamble be agreed to, that the motions to reconsider be laid upon the table, and that any statements relating to this resolution be printed in the RECORD.

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

The resolution (S. Res. 475) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 475

Whereas the Lao People's Democratic Republic is an authoritarian, Communist, one-party state;

Whereas the Government of Laos has a poor human rights record, particularly with regard to its treatment of minorities;

Whereas the United States Central Intelligence Agency trained and armed tens of thousands of Hmong guerrillas to disrupt Viet Cong supply lines and rescue downed pilots during the Vietnam war;

Whereas in 1975, the Kingdom of Laos was overthrown by the Communist Pathet Lao regime, and tens of thousands of Laotians, including the Hmong, were killed or died at the hands of Communist forces while attempting to flee the Lao Communist regime, and many others perished in reeducation and labor camps;

Whereas tens of thousands of Hmong became refugees, eventually resettling in the United States, where they now reside as American citizens and lead constructive lives as members of our communities;

Whereas remnants of former Hmong insurgent groups and their families who once fought with the United States and the Royal Lao Government still remain in remote areas of Laos, including Xaisomboun Special Zone and the Luang Prabang Province;

Whereas in August 2003 the United Nations Committee to Eliminate Racial Discrimination strongly criticized the Lao People's Democratic Republic for failing to honor its obligations, expressed its grave concerns regarding reports of human rights violations,

including brutalities inflicted on the Hmong, and deplored the measures taken by the Lao authorities to prevent any reporting of the situation of the Hmong;

Whereas in October 2003, Amnesty International issued a statement detailing its concern about the use of starvation by the Lao Government as a "weapon of war against civilians" in Laos and the deteriorating situation facing thousands of family members of ethnic minority groups;

Whereas the Department of State reported in its most recent Country Report on Human Rights Practices for Laos that the "Government's human rights record remained poor," and highlighted press reports that one group of Hmong in Xaisomboun Special Zone, mostly women and children, was being systematically hunted down and attacked by government air and ground forces and that it was at the point of starvation;

Whereas international organizations, the Department of State, and Members of Congress have received reports of mistreatment over the past 6 months of Hmong in Laos emerging from remote areas of Laos, including the Xaisomboun Special Zone, the Luang Prabang-Xiang Khouang border area;

Whereas the Lao Government has not allowed independent organizations to monitor the treatment of the Hmong emerging from remote areas of Laos;

Whereas in September 2004, Amnesty International issued a statement condemning recent reports that Lao soldiers murdered 5 Hmong children, raping 4 girls, who were foraging for food close to their camp, and called it a war crime; and

Whereas the Lao People's Democratic Republic has failed to substantially improve the status of human rights for its citizens: Now therefore, be it

Resolved, That the Senate—

(1) Condemns the consistent pattern of serious human rights abuses in the Lao People's Democratic Republic;

(2) Urges the Government of Laos to increase international access to vulnerable populations and to respect the basic human rights of all Laotians, including ethnic and religious minorities; and

(3) Hopes that the Lao government intensifies its efforts to make its economy and society more open and transparent in light of the congressional grant of normal trade relations to the Lao People's Democratic Republic.

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

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, this is an issue in which I, Senators FEINGOLD, COLEMAN, and many others have taken a deep interest. I believe this resolution is an important statement. It makes very clear, when the Senate passes the miscellaneous tariff bill with Laos NTR, that we still condemn the consistent pattern of serious human rights abuses, and we will continue to press forward for increased access for the Hmong and other ethnic minorities in remote areas of Laos.

I thank the Chair. I yield the floor.

Mr. DAYTON. Mr. President, I thank my colleagues Senator FEINGOLD and Senator COLEMAN for permitting me to have this time and also to commend them for their outstanding leadership regarding the violation of human rights in Laos. I join with them in opposing the granting of permanent trade relations for that country due to the

oppression of Hmong and other violations of human rights in Laos. I strongly support, proudly, and am a cosponsor of their resolution to express the strong opposition of the Senate to those continuing violations.

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 2004—CONFERENCE REPORT—Continued

Mr. BYRD. Mr. President, today I voted against invoking cloture and ending debate on the conference report accompanying the Miscellaneous Tariff Bill, H.R. 1047. Normally, this is a non-controversial bill passed by unanimous consent. However, this year's bill is different. While it contains many provisions that I support and have worked with other Senators to someday enact, it also includes a specific provision to repeal the Antidumping Act of 1916. This bill would repeal the 1916 Act in response to an international ruling, which found that this U.S. trade law is WTO-violative even though no court ruling under this U.S. law has resulted in any need for the United States to compensate any of America's trading partners.

I disagree with repeal of the Antidumping Act of 1916, because I believe that this attempt by the WTO to force the United States to abolish this trade law, legitimately enacted at the start of the prior century, is misguided and unfair. Our trade foes have little reason to criticize this trade law; few cases have been brought under its provisions, and even fewer have resulted in judgements against any foreign firm. The WTO's attempt to abolish this law is simply one of a long line of decisions by this international body meant to open U.S. markets to cheap, unfairly traded imports, and to undermine the ability of the United States Congress to exercise its sovereign right to regulate domestic and foreign commerce.

Repealing this U.S. trade law would set a bad precedent and could only encourage other nations to seek similar, ill-informed "justice" at the WTO. That, in turn, will lead to disaster for the U.S. industrial base, where American producers will assuredly suffer the ill-effects of increased, dumped imports, which will drive down the prices of American-made goods and put more and more American manufacturers out of work.

The PRESIDING OFFICER. Under the previous order, the conference report is adopted and the motion to reconsider is laid upon the table.

The conference report was agreed to. The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Illinois.

Mr. FITZGERALD. Mr. President, I ask unanimous consent to speak as in morning business for 20 minutes.

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

FAREWELL

Mr. FITZGERALD. Mr. President, I rise with some sadness on my last time

to speak on the Senate floor. It is a very bittersweet occasion for me because I have loved every minute of the last 6 years, and I will miss this body greatly. I am sure I will think about it every remaining day in my life hence forward. The past 6 years have been amongst the most thrilling in my life, and it has been a privilege and honor to serve here.

I rise really to thank my colleagues for their kindness to me over the years and to thank my staff and my family and the entire Senate staff and everyone who is part of this institution for the wonderful 6 years I have had here.

I was first elected to the Senate from Illinois in 1998. I was sworn in in 1999, and almost immediately thereafter, the first Presidential impeachment trial in 130 years began. For my first 35 days, I think it was, or 38 days, on the Senate floor, I was immersed in the impeachment trial of former President Clinton. Thereafter, we had times of war, war in Kosovo and Afghanistan and now Iraq. We had the events of 9/11. I have served in times of war and peace, in times of great prosperity, as well as in times of recession. I have seen a whole lot.

What I will remember most probably is the wonderful people who are part of the Senate. When I entered the Senate in 1999, I came in as the youngest Member. I was 38 at the time. I am older now, obviously, and have probably less hair and more gray hair. The oldest Member of the Senate at that time was Strom Thurmond. He was 96 years of age. I will never forget Strom Thurmond telling me, when he was 96, about how he used to work out 45 minutes every day, and I was thinking about whether I might be as active as Strom when I am 96, if I make it that long. Even at that age, I remember Strom giving me advice, telling me about how I could help the coal industry in southern Illinois. It was remarkable to meet someone like that.

There are many who have retired. There are others like Strom who have passed away. There are some giants who are still with us, such as Senator ROBERT BYRD. One of my first memories of meeting Senator BYRD is going in to talk to him after I first got elected and asking him to sign for me a copy of his book on the history of the Roman Republic. Early on in my term in the Senate, I actually read Senator BYRD's whole book on the history of the Roman Republic. I have to say it is a marvelous book, and any Member of the Senate who has not read that book should please go out and get it because it has beautiful lessons for every Member of the Senate. It traces the decline and fall of the Roman Republic. It traces the decline of the Republic to the Roman Senate giving up more and more of its powers to the Executive, finally to the point where the Senate became meaningless and Rome was just governed by Caesars, dictators, and kings. It is an outstanding book.

To meet the man who wrote this book and to realize that book was

taken from a series of speeches that he delivered on the Senate floor, without notes, as to the hundreds of thousands of names and dates in that book, is truly astonishing.

Senator BYRD has written a much larger four-volume history of the Senate, which when I retire from this body I hope to have time to tackle. But just to think of someone who could be so productive not only in the Senate for so long but accomplish so much in other areas writing such scholarly books, I will miss people like Senator BYRD and Senator Thurmond and all the others, the leaders with whom I have had the privilege to serve.

Senator TRENT LOTT was the majority leader when I entered. For a period of time, TOM DASCHLE was the majority leader. Now Senator FRIST is the majority leader, and soon Senator HARRY REID will be the minority leader. Each one of those individuals is remarkable, in my judgment. They have always been gentlemen of the highest order, and they work very hard. They are very good at what they do in representing their perspectives. They are good and honorable people whom our country is lucky to have.

Our whips on the Republican side, DON NICKLES and MITCH MCCONNELL, DON NICKLES has done such a good job for the taxpayers of this country. It has been an absolute pleasure to watch him fighting excessive spending and confiscatory taxation. I have been pleased to join him over and over again to hold the line on spending and to vote against tax increases and for tax relief, something that I view as very important.

I am retiring at the same time as Senator NICKLES. I will miss him greatly as part of this body, but I hope to see him often in life outside of the Senate.

Other colleagues of mine are so important to me for reasons one might not think of. I did not know what I might have in common with Senator BUNNING from Kentucky. He was elected at the same time I was in 1998. Senator BUNNING is always so kind in giving me advice, as I advise my own son how to practice his pitching for his Little League games.

The other night, I saw Senator BUNNING in his car, and I said: JIM, having been a Hall of Fame baseball pitcher—where else can you get that kind of advice for your son's pitching lessons—I am not going to be able to ask you for advice on how to coach my son on pitching.

He said: You know what. You can still call me afterwards. I will always be there.

It is comments like that and the friendships like that, where I have spent so much time with the other 99 Members of this body, so many late nights and long weekends and sometimes retreats together, all of us really have become almost kind of like a family. It is much more family like than I think the media in America recognizes

because so often the differences between the parties or the personalities get emphasized by the media. But I will miss them all.

JOHN MCCAIN, the chairman of the Senate Commerce Committee on which I have been privileged to serve the last 4 of my 6 years, a man I admire greatly. Most Americans know about his heroism as a prisoner of war during the Vietnam War, where he was in the Hanoi Hilton for 5 years and the enemy forces tortured him, crushed his bones and could never get him to buckle or back down. Few men have the kind of courage that JOHN MCCAIN has. It is not just physical courage but the courage he has had to always fight for what he believes is right. Sometimes I have not agreed with him, but when he believes he is right he is willing to stand up to some very powerful forces that often threaten him politically, but nothing scares this American hero, JOHN MCCAIN. I am so thankful to him for the opportunity he gave me to chair the Consumer Affairs Subcommittee on the Senate Commerce Committee where I have been able to work on child safety and booster seat safety and automobiles and also to play a very critical role in the corporate governance hearings that we had a few years back first with Enron, Adelphia, WorldCom and those other corporate scandals.

We have also worked on aviation and transportation, the Internet, telecommunications. There is never a dull moment with Senator MCCAIN chairing the committee, and for the seven new Senators who are coming in who are thinking of what committees they might want to serve on, that is one I have always loved. With Senator MCCAIN, there is never a dull moment.

SUSAN COLLINS, the chairman of the Senate Governmental Affairs Committee—what a great American, what a hard-working American. We all saw that recently with her hard work on putting together the Intelligence bill under very difficult circumstances with a very short time to work. I thank her for giving me the opportunity to chair the Financial Management, the Budget, and International Security Subcommittee of the Governmental Affairs Committee, together with my friend and colleague DANNY AKAKA, from Hawaii, who has been my ranking member on that subcommittee. DANNY is such a gentleman. I tell you, I am going to miss him personally, and I am also going to miss the macadamia nuts that he regularly sent over to me. But I may have time to visit him on a beach in Hawaii, now that I think about it. Maybe that is where I will see him and Senator INOUE next.

But Senator AKAKA and I were able to wake up what might normally be thought of as a very sleepy subcommittee of the Governmental Affairs Committee, where we dealt with improving accountability of Government financial reporting. We increased audit requirements on Federal agencies, we

extended the Chief Financial Officers Act to the Homeland Security Department, and we put it in to apply to the new Intelligence Directorate. But, also, we have worked very hard in that subcommittee to spotlight some of the great challenges our country confronts.

I think in that regard, with the staff on that committee on both sides of the aisle being so able, we have been able to put together some of the best hearings the Senate has had on issues such as our defined benefit pension problem in this country. The Pension Benefit Guaranty Corporation has a massive deficit with no end to increasing deficits on the horizon.

We have had hearings on the Government-sponsored entities such as Fannie Mae and Freddie Mac and the Homeowner Bank Boards and other entities that are privately owned but have Government charters, and what risk they may or may not pose to the system.

We had a series of hearings on huge funds and the problem of high fees. Mr. President, I was honored to have your cosponsorship on a landmark bill to reform the mutual fund industry. While we were not successful in passing that legislation this year, the Securities and Exchange Commission has adopted many of the items in that bill, including requiring independent chairmen of the boards of mutual funds in America.

Just this week we did a hearing on the problems that we have seen in the insurance brokerage industry in which we heard from experts on all sides and got Washington's first perspective on the indictments that have come out of Attorney General Eliot Spitzer's office in New York. We had a hearing on the issue of the expensing for stock option compensation, which has been so actively debated amongst accountants in our country.

Finally, the Accounting Financial Standards Board is going to require publicly traded corporations to expense stock option compensation on their earnings statements.

On the Agriculture Committee, if I think of the word "gentleman," I would think of Senator LUGAR, who was the chairman of the Agriculture Committee when I first came in, and Senator COCHRAN, from Mississippi, who is the current chairman of the Agriculture Committee. It is regretful I will not be here a second term because I now have enough seniority on the Agriculture Committee to chair it in the second term, believe it or not.

But Senators LUGAR and COCHRAN have been a pleasure to work with. We passed a number of measures to make life better for our Nation's farmers, some very simple but important allowing farmers to file all their USDA paperwork on the Internet.

We improved child nutrition and passed legislation to make it easier for people who depend on Government assistance for their nutrition and food needs, that those people through the Food Stamp Program can now get their benefits across State lines—somebody

who may live in St. Louis and goes back and forth to Illinois, or somebody living in northwest Indiana and goes back and forth to Chicago.

Also, a very important industry in my State, Mr. President, and in your State as well, is the commodity futures industry. In Chicago, we have the Board of Trade and the Chicago Merchantile Exchange. We also have the Chicago Board Options Exchange. I am told, directly and indirectly, in Chicago we employ some 200,000 people in the futures industry.

The Agriculture Committee has given me the opportunity to work on the rewrite of our commodity trading laws. I was pleased to be an active participant in the Commodity Futures Modernization Act, where we first allowed the trading of futures on individual stocks in this country. That market is now developing. I hope to see it come back.

I want to say some words of thanks to the senior Senator from Illinois, Mr. DICK DURBIN. He referred to us as the political odd couple—one conservative Republican, one liberal Democrat, from the land of Lincoln.

More often than not, we probably disagreed from a policy perspective on some of the key issues confronting our Nation, but it never prevented us from working well together. In fact, we jointly held 163 breakfasts, constituent breakfasts together. Every Thursday morning at 8:30 when the Senate was in session, Senator DURBIN and I would host a breakfast, allow constituents who were visiting Washington from Illinois to ask us any question that was on their mind, whether it was political or policy related, and we paid for the breakfast. My understanding is, there are not many other examples of bipartisan breakfasts where you have one Republican and one Democrat who have such a weekly gathering for their constituents.

We worked well together on the selection of judges. We almost never had an open vacancy that we couldn't resolve on the district courts in the northern, central, or southern Illinois districts.

Senator DURBIN was terrific in supporting me in my effort to clean up corruption in Illinois. One of the most important things I did in that regard was to bring in independent U.S. attorneys to the State of Illinois who were not beholden to the political class in the State. That was something new. When I went to appoint U.S. attorneys, I found everybody and their brother, particularly all the local politicians on both sides of the aisle, trying to influence the selection of my U.S. attorney.

I didn't want to lay awake at night wondering who was trying to influence my U.S. attorney, either to go after someone unjustly or to protect someone wrongly from prosecution. I, ultimately, decided for that reason to do a nationwide search for our U.S. attorneys, which yielded, I think, amongst the best U.S. attorneys anywhere in

the country: Patrick Fitzgerald in the Northern District of Illinois, Jan Paul Miller in the Central District of Illinois, and Ron Tempas, in the Southern District of Illinois. They are doing a tremendous job and no one is asking whether they are influenced politically or what their motivation would be. I thank Senator DURBIN for supporting that effort to bring independent U.S. attorneys to Illinois.

Senator DURBIN is a man whose stamina, hard work, and intelligence I greatly admire. He is very devoted and hard working. He travels back to his hometown of Springfield every weekend. That is a harder commute than my commute. I travel back to Palatine, IL, which is only about 12 miles northwest of O'Hare. So I had a fairly easy commute; I just had an hour and a half plane flight and then a short drive and I was at my house. But Senator DURBIN would go back to O'Hare every weekend and then catch another flight down to Springfield and he does that every weekend. He is constantly back in the State of Illinois.

I think we worked well on just about everything, except aviation. We had a disagreement over O'Hare Airport. I think I am right. He thinks he is right. But aside from that difference of opinion, it has been a pleasure to work with him.

I am sure Senator DURBIN will be an effective spokesman for his side of the aisle as the whip for the incoming Democratic caucus in the 109th Congress. I do not necessarily wish Senator DURBIN success in that role, but I do wish him well.

Barack Obama, my successor, I wish him well. It was a privilege to have lunch with him yesterday in the Senate dining room. I served with Barack Obama in the State senate for 2 years. He was coming in, in the legislature in Springfield, in my last 2 years of service there. He is an uncommonly bright and talented young man. He is 1 year younger than I. He is the first African-American president of the Harvard Law School. He is almost unequaled in his potential and promise. I am confident he will be a credit to the State of Illinois. I think he may surprise the political pundits by voting, crossing party lines at times that you don't expect him to. It may be a challenge for him with Senator DURBIN as his whip. But I see Barack Obama as possibly being a fairly moderate voice, more moderate than many people suspect.

To my staff, many of whom are gathered in the Senate Chamber, I could not have been blessed with a more wonderful staff to have gotten me through the last 6 years. I first need to start by thanking former Senator Bob Dole and the current Senator ELIZABETH DOLE for recommending to me the man who is my chief of staff, Gregory Gross. Greg worked for Senator Bob Dole when he was the leader in the Senate and during his Presidential campaign in 1996. He worked for Mrs. DOLE when she was at the American Red Cross. He

is extremely bright, as Bob Dole told me when I first called for a reference on Greg Gross.

Bob Dole said to me: Greg is what you call a genius. And I thought, that is the kind of person I want, a genius on my staff. But he is more than just a brilliant and talented and knowledgeable chief of staff.

He is also incredibly devoted and incredibly loyal, and I thank him for that.

For the first 3 years, my chief of staff was Richard Hertling. He is now at the Justice Department. Richard did an outstanding job in getting us up and running. It is very hard when a new Senator is coming in and assembling a new staff, as some of the new Senators are finding out.

I have been blessed to have had an outstanding legislative director, Terry Van Doren from Macoupin County, IL, whose father owns a cattle operation in Macoupin County. Terry started out doing agriculture policy for me. Terry was just what the doctor ordered. He had straight A's from the University of Illinois in agriculture sciences. Then he got a master's in agriculture policy from Colorado State University. He had a 4.0 there. I was called by the dean of the University of Illinois Agriculture School. He told me what an outstanding young man Terry is. Terry has been instrumental in agricultural policy. He has been my legislative director.

Before him, Joe Watson was my legislative director, a brilliant young Harvard Law School graduate whom I pocketed out of the Sutter and Hopkins law firm. He is now at the Commerce Department serving under Secretary Evans.

My office manager, Sherri Hupart, has done such an outstanding job; always pleasant and kind and willing to help, and calm under pressure.

Her predecessor, Tina Tyrer, came to me from Senator Fred Thompson's office. She had some 20 years of experience in Washington running Senate offices.

My Chicago chief of staff, Maggie Hickey, is a one-woman army, entirely devoted, very hard working. I want to thank her.

My staff director for my Financial Management and Budget and International Security Subcommittee, Mike Russell, and the team he has put together, which I think enabled us to do the best hearings on some of the key issues confronting our financial markets in this country, I can't thank them enough.

I thank my schedulers and executive assistants, Lanae Denney, Julie Cate, Julie Crisolano, and Doris Gummino. Scheduler has to be the toughest job on Capitol Hill because you know how busy Senators' schedules get and how it is for them to hear when a Senator is tired, or frustrated, or thinks he is overscheduled. Senators hear about it. There is no question about that. I thank my schedulers for being there,

staying here working late into the evening. They have to be here even when the rest of the staff has gone home.

My campaign manager and first communications director, Mike Cys, is now in the private sector. He is brilliant and energetic and enthusiastic. I thank him for all his support.

I thank my communications, legislative assistants, legislative correspondents, receptionists, front office and back office, duty entry personnel, the interns, the kids we have had serve over the years.

My staff handled 6,000 to 10,000 letters a week for the past 6 years. The first year we came in, we were getting some 22,000 e-mails a day on the impeachment. My State office has handled over 22,000 individual constituent cases. They conducted traveling office hours all over the State, 1,574 traveling office hours in 675 towns. My State staff met individually with 831 mayors and village clerks telling them how to apply for Federal grants for sewer and water.

I thank the staff on the floor of the Senate: Dave Schiappa, the floor staff; Myron Fleming, the chief doorkeeper, the cloakroom staff, the Parliamentarians, leadership and Sergeant at Arms staff, and the pages who come and go every semester. I always look at them. They have to get up at 5 in the morning to do school work before they can come here. But they work so hard. I hope their experience has been as wonderful as we want it to be for them.

And, finally, I would be remiss if I didn't thank the most important people in my life, my family, my mother and father, who always supported me through my 12 years in public service, but through all the years of my life. It was always clear they would have been there to lay their lives down for their son.

Mr. DURBIN. Mr. President, if the Senator will yield, I would like to thank him for his kind words and wish him very well. We have served together for 6 years. Every Thursday morning when we were in session we had free coffee and doughnuts, a tradition that was started by Senator Paul Simon. I believe we were the only two Senators, being Democrat and Republican Senators, offering this opportunity for the visitors who come to Washington to ask a few questions and take a few photographs. But it worked very well. It became a very interesting experience for Illinoisans and others coming to Washington. We did it many times. It reached the point where I would give his answers to the questions and he would give my answers to the questions. We distinguished ourselves as being the only two Senators offering free coffee and doughnuts, which may account for the crowds that showed. But we did that for 6 years. We have worked closely together and effectively and successfully together on the appointment of judges, U.S. attorneys, and many projects that were local to Illinois. We disagreed on some issues

but managed to maintain our friendship and warm relationship throughout.

Senator FITZGERALD announced his retirement for the right reasons. He said he wanted to spend more time with his family. That is something which we all admire very much.

I have enjoyed serving with Senator FITZGERALD, and I wish him the very best, whatever the next venture might be, and I hope we will continue to work together.

Mr. FITZGERALD. Mr. President, I thank Senator DURBIN for the kind words. I hope to come back to his breakfasts and get some of those free doughnuts myself. I might not have to pay for them. But I will miss it.

I thank Senator DURBIN.

Finally, I thank my brothers and sisters, Gerry, my older brother, Jim, Tom, my sister Julie. A lot of people in public office worry that their siblings might embarrass them. I have never had to worry because they are wonderful, upstanding people, all of whom I think are probably worried about what I might do that they might worry about. They are wonderful people.

I thank my wife Nina. We met together in D.C. when we were interns back when we were 19 years old, and after college and law school we got married. I moved her, plucked her from her home State of Colorado. She came to Illinois. I want to thank her for her steadfast support through all my years in public office.

Finally, last but not least, I thank my 12-year-old son Jake. Jake missed his father at baseball and basketball games. I have been in public office for his entire 12 years. I am going to make it up to Jake now. I am pleased that he is doing so well as a baseball pitcher. I thank JIM BUNNING and others for their advice.

And finally, the people of Illinois from one end of the State to the other, to the south, from Rockport to Freeport in the north, thank you for your kindness to me. I have loved every minute of it. You gave me your trust, and I worked hard every day to keep it safe.

Thank you all. God bless. I will miss you all.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, like the distinguished Senator from Illinois, I take a couple of minutes this afternoon to come to the floor to express in the most heartfelt way, as he just has, my profound thanks for the opportunity I have had to serve in the Senate.

I congratulate him on his successful career and wish him well in all of his endeavors.

I would like to begin where he ended—by thanking my family: my wife Linda, my mother, my daughter Kelly, Eric, our son Nathan, and Jill, and our daughter Lindsey.

I thank my staff. I actually believe—and I am sure each of our colleagues

shares this view—that I have the finest staff the Senate has ever assembled. They have served me, they have served this institution, they have served the people of my State, and they have served this country with remarkable professionalism, dedication, loyalty, patriotism, and commitment in ways that nobody could possibly register.

I thank the people of South Dakota, most importantly, for the opportunities they have given me to live my passion for these past 26 years. No Senator has ever been more grateful, more fortunate than I.

I thank my colleagues for their friendship and their loyalty, their support, and the remarkable strength they have given me each and every day.

I congratulate the man on my left, HARRY REID. No Senate leader has ever had the good fortune I have had to have an assistant like the man from Searchlight. He is a profoundly decent man who loves his State, this institution, and his country. If friends are relatives that you make for yourself, then he is my brother.

I thank DICK DURBIN and congratulate him and DEBBIE STABENOW and BYRON DORGAN and HILLARY CLINTON for their willingness to take on the leadership roles in the 109th Congress. I will say that this Senate and the caucus could not be served better.

I congratulate especially CHUCK SCHUMER for taking on what may be one of the most challenging of all leadership positions. I know that he will serve us well.

I can remember so vividly 10 years ago when I was elected by one vote. I came to the Senate very nervous and filled with trepidation, but I recognized that we had a job to do. I wanted to use the power I had been given wisely, recognizing that it was entrusted to me so we might make the lives of all people better.

Shortly after I was elected leader, I was asked to come to dinner with a good friend of mine, a man in his eighties, whose name was Reiners, from Worthing, South Dakota. Dick was a farmer, had been one of my strongest supporters, most loyal and dedicated friends, one of those people we can all identify with. He asked me to come to dinner that night and I went out to his farmhouse. We had dinner. I asked him for advice. He paused and he looked at me and he said, "There are two things I will hope for you. One is that you never forget where you came from. Come home. Remember us."

And then he pointed to some pictures on the wall that I recognized very readily. They were pictures of his grandchildren. He said, "You have held each one of those grandkids, as have I. Give them hope. Every day you walk onto the Senate floor, give them hope."

We hugged each other and I left. Later on that night, I got a call in the middle of the night that Dick Reiners had passed away. I never, ever, have been given better advice in all the

years before or since and I remember it now.

We come to this body with great goals, and our challenge is to stay focused on those goals, to never lose sight of them in the daily challenges and the battles we take on as we come to these desks.

Two touchstones, in particular, have helped me remember my goals.

The first touchstone is this desk, the leader's desk. You pull open this drawer and you see the names of all the leaders carved in it. It is a constant reminder that we are part of a continuum, a continuum that makes us the heirs and the guardians of a miracle. That miracle is democracy—a government founded on the ideal of freedom.

We have sworn to protect that ideal. We have a challenge, as we sit at these desks, to do what soldiers have done for 200 years. We either have to fight for this freedom or work at it. In more than 30 wars, 1 million men and women have given their lives for that freedom, and our job is to work at it as if we have given our lives, too—every day. We have to protect and defend that freedom and we must pass it on to future generations undiminished.

My second touchstone is a practice I acquired many years ago, making it a habit to get into my car and drive without a schedule to all the counties of South Dakota. There are 66 of them. I do it to be energized, to refresh, to touch the land, to watch the sunsets and the sunrises, the majestic beauty of my State. But more than anything else I do it to be inspired, and to remember how what we do here touches the lives of those I represent.

It is an amazing feeling to drive from one county to the other and to see the results of our work in this body. I am honored and very grateful that there is not one county in the State of South Dakota that has not been touched by our work and our efforts these years I have been here, touched in ways large and small.

We now are an energy-producing State, which means a lot to me. People said that would never be possible. We have little oil, very little natural gas, no coal—but we now produce 400,000 gallons of fuel a year that otherwise might be imported. We passed farm legislation that is truly giving our farmers and ranchers hope for a better future.

My State suffers from poorly distributed water. Our challenge has always been to find a way to take the good water and get it to those locations where they have none. One of the most emotional experiences I have ever had was to watch a family turn on a tap for the first time and cry and embrace each other and pass around a glass and look at it and say "thank you."

I am honored to have been a part of creating a new future for Indian students who had long ago given up any hope of graduating in a traditional way, but who now can walk through

the doors of tribal colleges with a true sense of fulfillment and optimism that they only dreamed of just a few years ago.

The joy of walking into a town and talking to people and being embraced by total strangers who tell you that saved their lives because of something your staff did, recognizing that if it had not been for you, perhaps there would be no life to save. What an honor. What a sense of gratitude.

As leader, I have been privileged to meet some of the greatest leaders of our time. I believe that Nelson Mandela would probably rank in a class by himself. Vaclav Havel, Lech Walesa, Mother Teresa, Rosa Parks, Presidents and kings: I have been inspired by them—but not as inspired as I have been by people who are not well known:

Carolyn Downs, who runs the Banquet in Sioux Falls, SD, touching lives every day and giving them hope.

Louie and Melvina Winters on the Pine Ridge Reservation, who had absolutely nothing to their name and took a burned out trailer house, rebuilt it, and have literally saved the lives of hundreds, if not thousands, of children who had no other place to go, whom they found on their doorstep when the word got out that somehow they were the ones to whom children could turn. Chick Big Crow, who witnessed the death of her daughter, only to make the lives of young people on Pine Ridge richer with her steadfast determination to build a Boys and Girls Club.

And there are those like Elaine, who gets up at 4:30 in the morning to go to work. She's 77 years old, with \$900 a month in Social Security and \$900 a month in drug bills. She works at McDonald's to be able to pay for the rest of her living expenses, and says she is proud to do so.

And Mary Ann, who works three jobs, has a blood disease and no health insurance. She says: "I want you to know something, Senator DASCHLE. I'm going to make it. I'm going to make it, but I would like a little help along the way, if you can find a way to remember me."

They are the heart and soul of America, and they need us now maybe more than ever before.

We are each given a number when we come to the Senate. I think it is a wonderful tradition. And I have always been so proud of my number. My number is 1776, the year of our Revolution.

I think of that number not just because of its unique nature, but it reminds me every day that we are still part of an American revolution.

As a nation, we are making monumental decisions about what kind of country this will be.

Will we use our powerful might as a force just for vengeance and protection against those who would destroy us, or will we use it for progress the world around?

Will we recognize that power is not just our arms, but our wisdom, our compassion, our tolerance, our willing-

ness to cooperate not just with ourselves but with the whole world?

Will we honor the uniquely American ideal that we are responsible for passing onto our children a future that is better, or will we forfeit the promise of the future for the reward of the moment?

These are questions that we will continue to face.

Several months ago, I came to the floor and gave a speech at this desk expressing the hope that regardless of how the election turned out, we could continue mightily to search for the politics of common ground.

I am proud of those times in this body when we showed our very best.

I am proud of that moment on the Capitol steps when we joined hands and sang.

I am proud of the effort we made after 9/11 to come together to pass legislation that our country so desperately needed, not just for what it said, but for the message it sent.

I am proud of that moment, on October 15, when we were the target of the greatest biological attack in our Nation's history and again we came together.

I am proud of those moments when we found common ground on campaign finance reform and the farm bill and Patients' Bill of Rights, highways, measures that in some cases have not yet become law but demonstrated that here, collectively, with common will, there is common good.

I know we can continue to find common ground because we have found it in the past, as those instances have demonstrated.

If I could leave this body with one wish, it would be that we never give up that search for common ground.

The politics of common ground will not be found on the far right or on the far left. That is not where most Americans live. We will only find it in the firm middle ground of common sense and shared values.

Ten years ago, my wise friend pointed to his grandchildren and asked me to give them hope. Linda and I now have two beautiful grandchildren. I implore my colleagues to give my grandchildren, Henry and Ava, hope; give all the children and grandchildren of this Nation hope.

Let us treasure and protect the great freedoms that we have inherited, and let us always promise and commit that we will pass them on undiminished.

I said a moment ago that one of my touchstones is my unscheduled driving. I make notes constantly on these trips. A couple of days ago I was telling my colleagues about how I had been looking through the notes of a trip I made a few years back. I noted I had met with some tribal leaders, and met with a businessman who was trying to find a way to provide childcare for his family as well as his employees. I met a couple who wanted to tour the White House. At the end of all my notes, I made the comment: "Everything was worth doing."

The same could be said for my service here. It has had its challenges, its triumphs, its disappointments, but everything was worth doing. And I am grateful for every moment.

I love history, and there is wonderful history about the relationship between John Adams and Thomas Jefferson. They were rivals, but they respected each other. And that respect grew as they left office and began correspondence that today is some of our most treasured writing.

In one letter to John Adams, Thomas Jefferson wrote, "I like the dream of the future better than I like the history of the past." So it is with me. I have loved these years in the Senate, but I like the dream of the future.

It is with heartfelt gratitude to the people of South Dakota, with great respect and admiration for my colleagues, and with love for this institution and the power it has to make this Nation even greater that I say farewell and look to the future with great optimism, with hope and anticipation.

I yield the floor.

The PRESIDING OFFICER. The Democratic whip is recognized.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. REID. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 5:10 p.m., recessed subject to the call of the Chair and reassembled at 5:16 p.m.

The PRESIDING OFFICER. The majority leader is recognized.

TRIBUTES TO RETIRING SENATORS

TOM DASCHLE

Mr. FRIST. Mr. President, what we just heard on the floor of the Senate captures the essence of this remarkable, remarkable body, the leadership, which dictates the character, which dictates the fabric of the body that all of us have the real privilege of participating in.

I know several Members want to speak, so I will be very brief. I take a moment to pay tribute to a truly exceptional leader with whom I have had the honor to serve alongside, and whom I have had the opportunity to serve with over the last year. We first began working together 2 years ago, when I suddenly became majority leader of the Senate. Oftentimes, we have been on the opposite side of issues. But I want to say how much I deeply respect his abilities and his judgment as a Senator, as Democratic leader, and as a person.

This environment is fiercely competitive, and as leaders, both he and I are thrust into that competitive environment. Yet Senator DASCHLE has always, always, without exception, handled each and every situation in that

competition with class and with honesty, with integrity, with forthrightness, and with true grace.

Clearly, I have had the opportunity to learn from him much more than I could have ever possibly given him in any way. I was the beneficiary of that each and every day. From that very first day that I became majority leader, he has treated me in that position with respect and with that very same grace. For that, I will forever be grateful.

I wanted to pay tribute to Senator DASCHLE and close with one reference. The great Daniel Webster once remarked that the Senate is a community of equals, of men of individual honor and personal character. Indeed, Senator TOM DASCHLE is no exception. He is the epitome of that and a great credit to this venerable institution. On behalf of all of our colleagues, I wish all the best for TOM and Linda and their entire family in the years ahead.

The PRESIDING OFFICER. The majority whip is recognized.

Mr. MCCONNELL. Mr. President, all of us in the Senate have just had an opportunity to hear an extraordinary speech by the outgoing Democratic leader. We are indeed in a very tough and competitive business. On the other hand, when we enter this Chamber, we take on public responsibility and have the obligation to deal with each other in a civil and forthright manner. I think Senator DASCHLE has always met that standard. We all admire his work here. He is one of the longest serving leaders in the history of the Senate. We wish him well in the coming years. He can look back on his extraordinary career here with great pride.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, you can learn a lot about a person by the way he handles winning, and you can learn even more about someone by the way he handles and accepts defeat. TOM DASCHLE does not know that I know this, but I saw an e-mail he sent recently to someone on his staff.

TOM DASCHLE was concerned about a man with whom he talked one day late in the campaign when he was calling undecided voters in his home State of South Dakota. The man was not rich or powerful. He was just an average South Dakota citizen.

This man used to work for the Government. He received many awards at his work. This is what TOM DASCHLE wrote in that e-mail:

One day, the man started to suffer extreme stress and even depression. The psychiatrist told him he had to retire from his work . . . under a medical discharge. Afterwards, (the government) denied him a medical retirement. They said it can only be for physical reasons.

He was denied medical access and retirement pay. He has since also had a heart attack. He asked me for help in getting a medical retirement. I told him we would be happy to try and would follow up.

TOM DASCHLE in his e-mail went on to say:

Could you have someone contact him and look into this? It just doesn't seem right.

The date on that e-mail was November 8, 6 days after the election, 6 days after what had to be one of the most heartbreaking losses in his life.

The reason TOM DASCHLE got into politics in the first place, the reason he ran for leadership positions in the Senate, and the reason he worked his heart out for this job was never to get rich or to get attention. He tried to bring power to help the powerless, the average person, the people to whom life had given some unfair breaks.

Even now, until the minute he has to relinquish his power, TOM DASCHLE is using his power to help people who still look to him as their last best hope.

Golda Meir once famously told a political rival:

Don't be humble. You're not that great.

But TOM DASCHLE is great enough and good enough to be truly humble. He will never talk about all the people he helped, all the people to whom he has given hope, but I can tell you there are people all across South Dakota and all across America whose lives are better because TOM DASCHLE was in the Senate.

"It just doesn't seem right"—that is what TOM DASCHLE wrote in that e-mail, and it just doesn't seem right that we are going to have a Senate without TOM DASCHLE to keep fighting for what is all good and decent about America.

My consolation is that I know TOM and Linda and their family will find another noble way to continue serving this Nation, defending the values we cherish and making life better for people who need a champion.

Someone noted that this is a cruel business, and it is. There are three ways to leave the Senate. Two of them are not very good. In this situation, we have seen a man who has given 26 years of his personal life to South Dakota and to the Nation, and he made a decision a year ago to retire. In the past year, I am sure there would have been a succession of tributes, dinners, schools, and highways and bridges being named after him and maybe statues and plaques commissioned. But instead, he stood for election. He had the courage to stand again. Although he did not succeed, I hope the people of South Dakota realize that he was a man who loved them throughout his political life and those of us who were honored to call him a friend and a colleague love him and will miss him.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, when the 109th Congress convenes this coming January, the Senate will be a poorer place for not having TOM DASCHLE among its Members.

By nature, TOM DASCHLE is a South Dakotan to the core, born and raised and regularly returning to his hometown of Aberdeen, with a population today of not quite 25,000. He was the

eldest of four children in a family who knew the meaning of hard work and family. He went to college, the first in his family to do so, at South Dakota State University, some 150 miles from his home. When his colleagues elected him Democratic leader, TOM DASCHLE asked an old friend back in South Dakota, as he told us on the floor only a few moments ago, for advice, and was promptly told: Never forget where you came from.

That was something TOM DASCHLE knew without being told. If he had set out to forget where he came from, he could not have done it. The unscheduled driving tour that he made every year around South Dakota was a kind of pilgrimage. It did not create his close ties to South Dakota and its people; rather, it reflected them. As an editorial published on November 6 in TOM's hometown newspaper, the *Aberdeen American* news, noted, "Personal stories abound of how DASCHLE and his staff have been able to get things done for the average South Dakotan."

The editorial concluded with a tribute worth quoting:

On behalf of all the thousands of people you have helped, we would like to offer you our deep gratitude and respect. With quiet dignity, you fought for the State that raised you and which still so obviously holds a special place in your heart. Thanks, TOM, and good luck.

If by nature TOM is a South Dakotan, by choice he is a public servant. After receiving his college degree in 1969, he served 3 years in the Air Force Strategic Air Command, one of the relatively small number of Members now serving in the Congress who served in the military in that period. And he has remained a forceful advocate for veterans throughout all his years in public office.

He entered the House of Representatives after a vote so close that it took a recount almost a full year, and TOM became known as "landslide" DASCHLE.

Following his service in the House in 1986, he was elected to the Senate. In his 18 years in this body, TOM's agenda for action on behalf of the people of South Dakota has focused on health care, education, the outdoors, security and safety, economic opportunity, and rural life. Any State would be doubly fortunate to have an agenda and an advocate as dedicated and skillful as TOM DASCHLE.

By temperament, TOM DASCHLE is a Democrat in the fundamental meaning of that word—respectful of others, a scrupulous listener, seeking consensus in the middle ground on complex and controversial issues.

Time magazine has accurately described his instinct for courtesy, reputation for humility, a willingness to compromise, and a sense of Midwestern civility.

TOM DASCHLE's steadiness and reasonableness made him especially well-suited to assume the responsibilities of majority leader in that painful period when the country was dealt successive

hammerblows by a recession, the crisis in the capital markets, and, above all, the tragic attacks of 9/11 and their aftermath.

While others shouted at fever pitch, TOM DASCHLE never raised his voice because it is not in his temperament to do so. His calm manner was profoundly reassuring to worried Americans, as was the strength of his resolve.

In the end, it is TOM DASCHLE's own words that tell us all we need to know about him.

They explain why he is so respected around his State and here in the Senate. His November 3 statement to the people of South Dakota who support and love him speaks again and again of gratitude—gratitude for the opportunity to serve, gratitude to his family, gratitude to his devoted staff, gratitude to the State that is his extended family. It speaks of belief in our people, in the future, in what can be accomplished by people working together. It speaks of work—of work yet to be done. And it speaks of hope.

On November 3, TOM compared the sunset over the mall with the sunrise over Mount Rushmore and concluded, "Having seen sunsets and sunrises, I like sunrises better."

There is no question of TOM's public service having ended; the only question is the direction it will now take. TOM DASCHLE has honored Teddy Roosevelt's dictum that "Far and away the best prize that life offers is the chance to work hard at work worth doing."

It has been my privilege to work with so dedicated and honorable a public servant, a dear friend. I like to think that our work together on behalf of the people of this great country will continue as we move on into the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to join my colleagues in complimenting Senator DASCHLE for his years of service. I did not really know TOM DASCHLE when he served in the House. I have had the pleasure of serving with him for the last 18 years in the Senate. Many of those we were both in leadership, and I will just say our relationship has always been very good.

Having the pleasure of working with TOM DASCHLE and HARRY REID, both for whom I have great respect, many times we were political adversaries, but we were always friends. We never had a heated exchange, maybe elevated on occasion, but we always were friends and we could always shake hands at the time we might have somewhat of a heated discussion. We would always remain friends, and he continues to be my friend to this day.

I compliment him for his many years of public service to his State of South Dakota, for his service in the House of Representatives, his service to the Senate, and his service as the Democrat leader. He is a very competent individual, speaker, and representative of his viewpoint, and he happens to be my

friend. I wish TOM DASCHLE and his wife Linda all the best for the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I am going to be very brief. For many of us who knew TOM DASCHLE and know TOM DASCHLE, we never thought this day would come. We never thought TOM would really be defeated in an election. I thought a lot about that. Why? I mean, this man is such a good man. He is such a good friend. He is a good leader. I do not know anyone who cares more about their State and who has worked harder.

He talked about the State's energy sufficiency, and it was TOM DASCHLE's sheer will of support to develop an ethanol industry for the State. I know because I tangled with him year after year because from a California perspective this was not such a good idea; from a South Dakota perspective, it was. For TOM, his State always came first.

I thought he was unbeatable. He is for the little people. I remember being in the State. I remember hearing him talk about the Pine Ridge Indian Reservation and the state of the people in Pine Ridge and how deeply he felt. When he feels very deeply, his voice gets that quaver and it drops low.

This is a very hard day for many of us. As I went down the aisle to embrace TOM, two people said this really is a tough business. And, in fact, it is a tough business.

I also want to say that TOM DASCHLE was a great leader for our caucus. Many of us on many days watched him convince, cajole, push, and bring us together when we had to be together. We watched him on the Senate floor in the middle of the night, early in the morning, late in the day, always gracious, always patient, always articulate. We never had to worry about TOM DASCHLE's integrity or his credibility.

I still wonder, how could he be beat? This is such a good man, such a good leader, such a good State representative. For me and my husband he was a personal friend. When Dick was in Washington, early in the morning he would run with TOM and they would talk about all kinds of things. The run was always a good one and my husband would come home and always say what a great guy TOM DASCHLE is.

I think for all of us we wish him all the best. For me, I do not believe this man has reached his potential yet. I think he still has enormous gifts to give to this Nation, to his State, and I believe he will, perhaps in a different way. Perhaps we will see him come back in a different form. For TOM DASCHLE, these 10 years were very special years and for us we were so privileged because we had an opportunity to be led by a good man, by a great friend, and by a great leader.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I first join the voices of my friends and my

colleagues in talking about our dear and great friend, TOM DASCHLE, with whom I had the privilege to serve for the last 6 years, and to be led by for the last 6 years. I have never known a better human being or a better public servant than TOM DASCHLE. He is a good, honest, decent, and honorable man. The Senate will miss him. The country has benefited from his long and extraordinary service to this country.

FAREWELL

Mr. EDWARDS. Mr. President, life has a great way of handing us moments that are bittersweet. I am sad today to rise for the final time to represent the State of North Carolina as their Senator, but I am also filled with a great deal of joy because I will be heading home to the place and the people and the family I love so much. I also want to thank everyone who is listening and all Members of the Senate and the staff who have been so extraordinary about my wife Elizabeth for their prayers and their support.

Elizabeth and I and our family draw so much strength from all of you. We are comforted by your words and your prayers.

We are grateful to the more than 50,000 people who have sent e-mails and letters to Elizabeth. As Elizabeth's brother said when he was asked about it, he would not want to be cancer inside of Elizabeth's body, and I agree with that.

She is the love of my life and a woman of great strength. I am sure she will be successful in this fight. Both of us hope and pray that by talking about it in the way that Elizabeth has, and with the grace and courage that she has shown, it will help other women who are faced with the same kind of struggle so they can avoid the same kind of struggle.

Sometimes when hardship comes, one feels alone, but thanks to all of you and our family in the Senate, we know that we are not alone. We are blessed to have the love, affection, and support of our friends and our family, our great staff in Washington, DC, in the Senate office and back in North Carolina and our Senate offices there, and also the staff in the Senate.

Those who serve on the floor of the Senate who have been wonderful friends and so much help and support for all of us, we thank all of them. To Marty and to Lula, whom Elizabeth and I adore, who have been wonderful friends to us and have advised us and shown us our way around here, we appreciate both of them. To the people in the cloakroom who have helped us and taken care of us for the last 6 years, and to the men and women—and I hope they will hear my voice—who take us up and down the elevators, whom we see as we go in and out of these office buildings and the Capitol, who serve all of us and who are wonderful, extraordinary people, I have to say, since I

have come back from the campaign trail, to a person they have spoken their support and affection for Elizabeth and for our family and what we are going through. I just want them all to know how much they mean not only to us but to all of us who serve in the Senate.

And, of course, to all the men and women I have had the privilege to serve with here in the Senate. To those who think the men and women who serve in this institution do not work hard, I wish they could spend one day here and see how hard it is and how devoted everyone who serves in the Senate is, and how much they want to do good things for the country—whatever our disagreements are. We have many and they are strong. The truth is, everyone here serves because they love their country and they want to do good things for their country.

All of you, you keep us strong. You keep us going. You remind us, in good times and in bad, when we work together, everything is still possible here in America. It is the North Carolina way. That is the way I like to look at it. I have never loved my home State or my country more than I do today. We have had some triumphs, we have had some tragedies over the last 6 years. But one thing is clear: I will never stop representing the people of North Carolina, the values they represent and the values that I grew up with there and the values I believe in. The truth is, it is who I am.

It is what I learned in Robbins, NC growing up, watching my father and the men and women who worked alongside him in the mill for all those years. It is what I learned from going to church, from going to our schools, and from going to all 100 counties in North Carolina, which I am proud to have done, and listening to the people of North Carolina. It is what I learned when I shook the hands of the people who came on Tarheel Thursday, which we had on Thursday when we were here in the Senate. I will never forget you.

I will never forget the first struggle we had in the wake of Hurricane Floyd, hard-working people like Bobby Carraway. He owned a restaurant in Kinston near the Neuse River. It sat under 3 feet of water for days. He lost everything. He and so many like him didn't want a Government handout, they wanted a hand up and a chance to do what they were capable of doing and a chance to go back to work, which is all he and his family had ever known their entire lives. What we did then for so many, and this year, too, in the western part of our State, which has been hit by hurricanes and flooding, is we worked together, we picked ourselves up, we dusted away the disappointment, and we got back to work to make North Carolina stronger.

I will also never forget the men and women who worked at Pillowtex. They did everything right. They took care of their families. They went to work every day, some of them for days and

years, some of them for decades. They still couldn't stop their jobs from moving overseas.

I met one woman whose question I hear over and over—I heard it over and over again as I traveled around the country. She looked at me and said: What am I supposed to do now? Have I not done what is right in America? I worked hard, I raised my family, I was responsible. Now my job is gone and what am I supposed to do?

Together we fought to help her pay for health care and get training for a new job but, most importantly, we fought to keep North Carolina jobs in North Carolina where we need them so badly. We stood up against tax breaks that shipped our jobs overseas. We fought for fair trade that gave our workers and businesses a chance to compete, and represented the values we believe in.

I will also never forget Dr. Clay Ballantine. He works at Mission St. Joseph's Hospital in Asheville, NC. Every day he sees kids and adults and seniors who come in with respiratory problems, problems with asthma. He told his story as we fought the battle to protect the quality of our air for our children and for our seniors.

I will never forget the farmers and the men and women who live in our small towns, our rural areas where I grew up. That is who I am. The truth is, you are the heart and soul of North Carolina. When our farmers were struggling, especially our tobacco farmers, I am proud in the end we were able to do something, to do something to help them, because they deserve it. They have done so much for their towns and their communities and for my State. They deserve something, finally, to be done to help them and support them. All of us together were able to do that.

It also matters, it matters to good, hard-working people like Blythe and Gwendolyn Casey. They have had a family farm for decades. They did their part and they never dreamed they would be close to retiring, mired in debt, debt they can never recover from. Together we helped them and we maintained family farms across our State of North Carolina.

I will never forget the mothers and the fathers, the husbands and the wives, the brothers and the sisters who wanted nothing but to make sure their loved one got the care they needed in their darkest hour. Together with Senator JOHN MCCAIN and Senator KENNEDY, my friends and my colleagues, two men for whom I have enormous respect and affection, we went to work on something that matters—making sure you and your doctors could make your own health care decisions, especially when they were important to you and your family. It wasn't easy. There were lobbyists all over this place from every drug company, HMO, and big insurance company. They prowled these halls, but we did it and we got the Patients' Bill of Rights passed in the Senate. I have absolute faith that

the Senate will do it again and the President will sign the Patients' Bill of Rights into law for all Americans.

I will also never forget the brave soldiers I met in Afghanistan on a dark night. They are so proud—they were so proud and still are—of serving their country, going after terrorists and Osama bin Laden. I will never forget the thousands of men and women from Fort Bragg, Camp Lejeune, Cherry Point, Seymour Johnson, and Pope Air Force bases, who were serving this country abroad and who were serving the country at home, and whose families were there to support them. I represented them and represented their families and it was an extraordinary honor for me to be able to represent them.

It is simple for me. If you take care of us, if you serve our country to protect the freedoms and ideals we cherish, we should be there for you. Your country should be there for you. That means health care and housing, it means relief on your student loans, and help covering your child care cost when your spouse has to go to work.

The men and women who wear the uniform of the United States of America, they are who we think of and pray for when we look at our flag. The Stars and Stripes wave for them. The word "hero" was made for them. They are the best and the bravest, and we will always stand with you when you are standing in harm's way. This is what we have fought for together. It is something of which we should all be proud.

We built on North Carolina's model to improve our schools, to strengthen standards, to expand afterschool, and to pay teachers more. We fought to strengthen security at our ports and our borders, chemical and nuclear plants, and to give our police and firefighters the support they needed to keep this country safe. We fought to make Washington live within its budget, to make sure Washington did what most families in America do every single day, to live within their means, and to restore fiscal responsibility. And we fought to reward work—not just wealth, work—and to ensure that the American dream stays alive and available to every single American, no matter where they live or who their family is or what the color of their skin. This is the America we believe in. This is the America we fought for.

All my life I have fought for those who do not have a voice. I did it before I came to the Senate. I have done it here in the Senate. I will do it for the rest of my life. It is what my life has been about: Fighting for people who need someone to fight for them.

I thank Senator BYRD for all of his guidance and for showing me the ropes during the time I have been here in the Senate.

I want to take a moment and say a word about Senator REID, who has also been a great leader here in the Senate and who I want to wish Godspeed in the important work in front of him.

Again, my thanks to my leader, to our leader, Senator DASCHLE, for the work he has done and the leadership he has shown and the grace and strength and courage he has shown in leading in very difficult times, as others have said. He is a good and decent man and we all look up to him and respect him.

I thank Senator MCCAIN and Senator KENNEDY for including me in working on the Patients' Bill of Rights, two great leaders in this Senate, two great leaders for the country, two Americans that Americans do and should look up to and respect.

I thank my friend, my seatmate, Senator EVAN BAYH, for all the times we have spent together, working here on the floor of the Senate, running together. He and his wife and his family are great friends of ours. His friendship means the world to me.

I also thank my fellow Senate retirees Senator BREAUX and Senator HOLLINGS. One thing I guarantee you: Our accents will be missed here on the floor of the Senate. Hopefully, there will be others who will be able to speak the way we speak.

I also want to say a word about my friend Senator KERRY. I embarked a few months ago on a journey with Senator KERRY, a fight, as we traveled across the country and fought for the things in which we believe. We shared our hopes for this country together. We worked hard to make America stronger. I developed a very strong, close, personal friendship with JOHN KERRY during that time. JOHN KERRY is a good man and he is a good American. I got the chance to see him when others didn't, when there were no cameras around, when there were no crowds. This is a man of strength and conviction and courage. He loves his children. He has a beautiful family, by the way. He and his wife Teresa and their kids became very close with my family and our children.

We feel an enormous affection for them and enormous connection with them because we were engaged in what we thought was a very important cause. It still is a very important cause.

But the reality is that JOHN KERRY is somebody who has loved this country his entire life. He stood up and fought for this country his entire life. I am proud to have been able to spend the last few months fighting alongside him as he traveled throughout the country and the work that he did not just in this campaign but for all the years he served in this Senate before this campaign, and the years he will serve from here on are important. Every day he walks onto the floor of this Senate, the American people will be better for it.

He is my friend. He is my colleague. I trust him.

I believe, of course, that he would have made a great President, and I believe he has great work to do for this country in the days and years to come. It is an honor for me to be able to serve with him in this term.

I also want to thank my staff. I ask unanimous consent to have their names printed in the RECORD.

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

Sophie Milam, Blair B. Milligan, Joyce Mitchell, Carlos A. Monje, Kevin A. Monroe, Robert Morgan, Matthew L. Nelson, Elizabeth E. Nicholas, Ashley I. O'Bryan, Sacha M. Ostern, Joseph W. Parry-Hill, Lauren Partner, Elizabeth Pegram, Philip J. Peisch, Sarah L. Pendergraft.

Anthony Petty, Aaron S. Pickrell, Lesley Pittman, Sally Bussey Plyler, Mary Margaret Propes, Hunter L. Pruett, Jacqueline F. Ray, Karen A. Robb, David E. Roberts, Judith M. Rossabi, David A. Russell, Craig J. Saperstein, Heidi Schneble, David G. Sewell, David L. Sherlin.

Joseph L. Smalls, Julianna Smoot, Joshua H. Stein, Michael Sullivan, Johathan Sumrell, Adrian Talbott, Noelle Shelby Talley, Bradford T. Thompson, Cindy E. Townes, Brooke I. Turner, Ann S. Vaughn, Jannice T. Verne, Rebecca Walldorff, Jewell E. Wilson, Jessica F. Wintringham, Andrew A. Young, Lisa E. Zeidner.

Mr. EDWARDS. Mr. President, we couldn't do the work we do here without the support and help of all those who work so hard with us every single day. You show up every day. You show up every day, in my case as I saw it, with a simple question: What can I do to make my country better? And you did. Those of you who worked with me, I know that you did; I saw it. I saw the hard work you did, and you will continue to do it because you believe public service is an important and noble calling. I thank you personally. I thank you on behalf of the people of North Carolina and the people of this country. I have seen the hard work you have done, and it is important.

This fight goes on.

I will be home in a place I love, North Carolina, the place that made me love America to begin with. I am going to have God's gift—more time to hear the screen door slam when my young kids run through the house after school. I still have a couple of young kids, Emma Claire, who is 6, and Jack, who is 4. I will be able to spend more time with my older daughter Kate, who graduated from college and was out on the campaign trail. I am very proud of her. I will have more time to spend with my own parents and my family and more time to be there for the woman I love and have loved for a long time now, my wife Elizabeth.

It is bittersweet knowing what we have accomplished. And it is also bittersweet knowing what is left to be done. There is so much work left to be done in this country.

And in the end, I always think of North Carolina's own Thomas Wolfe. He said:

I believe that we are lost here in America, but I believe we shall be found. And this belief, which mounts now to the catharsis of knowledge and conviction, is for me—and I think for all of us—not only our own hope but, America's everlasting, living dream.

Our job is making sure that no one—no one—is lost in America; that that

dream is everlasting. And together we will continue to make it stronger and more alive for all who grace our lives.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I would like to make some comments about our friends who are departing the Senate.

I thank Senator EDWARDS for spending some time in this Chamber. When you came in, we were faced with some tough legal issues. We turned to you and you stepped up to the plate. I appreciate that. I thought you did us proud—I am not only speaking as a Democrat, I am speaking as an American—on the campaign trail with the passion for people. You are so articulate and you brought the economic issues home to everyone. I think everyone is better for it.

You are right about Senator KERRY. I think he would have made a great President. I think history will look at his campaign and be kind to him because JOHN KERRY had dignity in his campaign. He stuck to the issues. The debates were fantastic. I believe it served our President well. He had to step up to the plate as well on many of the issues.

I also want to say how much I am going to miss FRITZ HOLLINGS, an amazing man; protector of the consumers, guardian of the budget.

Senator GRAHAM is a champion on the environment and some other issues, protecting senior citizens and Social Security. We will need to hear his voice.

Senator BREAU was always out there trying to pull us together.

I have to say a word about Senator FITZGERALD because of some tough environmental votes. There he was standing with me. I remember one time he said, I have to stand with you because my son will never talk to me again. It was good to work with him as well.

I want to finish my remarks by saying TOM DASCHLE is a man of great courage and compassion and wisdom, quiet leadership. I think today as we listened to his remarks, his farewell to the Senate, we saw his goodness, we saw his intelligence, and as my senior Senator said, it is tough to imagine people wanting something different than what TOM DASCHLE offered them. But that is what it is about. It is about elections.

I say that TOM DASCHLE will go down as a great leader of this Senate, as a man who put issues ahead of his own personal gain. I think he is a role model for each and every one of us. He is a class act.

I say to him and Linda, Godspeed. I know that in future years you will be very much on the scene because you have so much to offer. You have such a sense of history and such a sense of the future. It is bittersweet. But it is an honor to have known TOM.

Thank you very much.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I want to close by associating myself with the remarks of the Senator from California and her regards and respect to the other retiring Members, particularly Senator EDWARDS who has just spoken and has distinguished himself so impressively over the last year and half in the service of our country by seeking the Vice Presidency.

I am proud of my State of Minnesota. They cast by a majority over 100,000 votes for Senator EDWARDS and Senator KERRY, reflecting the wisdom of voters in the tremendous excitement of Senator EDWARDS and Senator KERRY. But Senator EDWARDS, in my personal experience, generated tremendous courage and enthusiasm in St. Paul, MN on Labor Day and on the Iron Range in Minnesota. He has a very bright future in whatever future endeavors.

I join my colleagues in expressing to his wife Elizabeth our prayers for a speedy recovery. I think that will be the result.

I thank the Senator for his outstanding service and as leader of our party and our country.

I also want to join my colleagues in expressing my highest personal regard for Senator DASCHLE. It is, like others, a hard time for me. It was very hard in the next day after the election to hear the results in South Dakota. I have always had and will continue to have the greatest respect for the democratic process in this country. It is the ultimate and appropriate judgment of the people. I felt that way even when I disagreed with the verdicts they rendered.

I must say to the very slightest of majority, the voters of my neighboring State in South Dakota, with all due respect to them and their rightful judgment, that in my humble opinion you were wrong. You cannot fully understand the extraordinary leader, the superb public servant, and the phenomenal human being you had in TOM DASCHLE as your Senator, and as all of us in his caucus knew we had in our Democratic leader.

What makes it so hard is he has been taken away from us despite our wishes, and taken away from the country. And it is very hard. It is hard, frankly, to hear all the false praise of someone who went beyond the boundaries of comity, of bipartisanship, of deserved respect for a leader, who campaigned against TOM, who violated the boundaries of his own State and disparaged him; and, most recently, the comments of the incoming chairwoman of the Republican Senate Campaign Committee which were untrue, unwarranted, and just plain foul. TOM DASCHLE has too much decency to say so.

That was the irony in and the indecency of those remarks. They were directed after the election, after the victory against the most decent man I have ever met in politics, TOM DASCHLE. He is a gentleman in the very best sense of that word: strong in his principles, firm in his convictions,

fierce in his dedication to serving the people of South Dakota and their best interests, but a gentleman in his decency, his personal respect and the senatorial courtesies he extended to every one of his colleagues.

But TOM, being the man he is, would not want me to end on such a note. So I will not. I end by thanking him, thanking him for his leadership over the last 4 years, from the time during which I have been privileged to serve under his leadership, for mentoring me, giving me the opportunities I have had in committee assignments, to listening to me and offering his astute guidance and experience and wisdom. I thank him for showing me by his living example every day and every night in the Senate what it means to be a great Senator, what it entails, the dedication, the hard work, the hours, the travel; what it means when you can do what TOM DASCHLE has done for his State to save people's lives, to improve people's lives, create new opportunities for young and old, what he has done for his country, what he has done for people who are not his constituents who cannot even thank him and won't be able to vote for him. But that did not matter because he had the opportunity and he seized the opportunity to do things that benefited their lives.

Thank you, TOM DASCHLE. Thank you for being a superb leader. Thank you for being a great Senator. Thank you for being a phenomenal human being. I wish you well.

I yield the floor.

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

Mr. LAUTENBERG. Mr. President, we could not help but note the sadness we all experienced as our friend and leader, TOM DASCHLE, made his goodbye speech. As usual, when TOM DASCHLE spoke, it had meaning, substance. He certainly had that as he closed his chapter here—I hope not his book, just his chapter.

He talked about things he cared about and people he cared about and what it is that drove him to take this job. Everyone knows how difficult a task being a leader in the Senate is. It is not always realized outside this Chamber how hard one has to work to please so many, to sacrifice so much in terms of personal life.

TOM DASCHLE, our leader, distinguished Senator from South Dakota, outstanding leader—not just for this side of the aisle but the entire country. He lost an extremely tough, close race a couple of weeks ago.

TOM DASCHLE is the stuff of which so many of our lives in the Senate are made.

It is a sad day. It is not just a sad day for me, who treasured the friendship I had with TOM DASCHLE, listened carefully to his words and followed, for the most part, the directions he portrayed for all Members here, it is a sad day, obviously, for TOM DASCHLE's family; it is a sad day for the Senate and a sad day for everyone in this great country of ours.

I said TOM is the stuff of which so many of our lives are made. It is quite hard to see in this place of splendor the route so many Members took to get here. There is a substantial difference in age between TOM DASCHLE and me but I had a similar experience. I was the first in my family to go to college. My parents were hard-working people. They did not work on a farm but they worked in the store. They worked in the mills. My father worked in the silk mills of Patterson, NJ, a factory town.

What was the legacy they imparted? It was to work hard, to believe in America, to believe in yourself. Try to achieve a degree of respect and dignity. That is what my father did for me, even after I had enlisted in the Army and he was on his deathbed from cancer. The messages were all profound: work, study, learn.

He took me into his factory one time and said: You must never work like this, so dirty, so dusty, so noisy, so dangerous. He knew it was dangerous, that there was something in the weaving of that silk fabric where they used chemicals to keep it from growing too brittle, to keep the machinery oiled. It took my father, his brother, their father, at very young ages.

When we hear TOM DASCHLE talk about his background, how his parents worked to provide him with not the funds but the incentive to make something of his life, to give something back to America, we know TOM DASCHLE is a model for so many to follow, with that commitment to decency and honor.

It is a sad day when we reflect on what happened in TOM DASCHLE's last race. He wanted to be here. We wanted him to be here. TOM has been an effective leader for us for 10 years. The Republicans threw everything they could at him, including some \$20 million in that race, including some insults in recent days. And then to not permit the man to leave with grace and hold his head high—no, called him an obstructionist.

I know when the shoe is on the other foot what happens, when the minority has to fight like the devil to keep from being rolled over by the majority. We saw it when we were in charge. How I miss those days when we were in charge. The Republican Party, the minority party, they did their filibustering. They did their obstruction. They did the things needed to protect the interests they thought served their constituents, their States, and their country.

It was ungracious when the Republican side could not find enough of their Members to sit here out of respect. I remember being here when Bob Dole left and I could not wait to sit in my chair and salute his contribution to America and to this body, because, although Bob Dole could disagree with you, he was always interested in the well-being of the country. You saw it from the result of his service to country and the military.

I do not know why, in the closing days, some element of comity, some element of grace, some element of respect for a human being could not have gotten some of our friends out of their offices to come down to the floor. You saw the applause. The applause that I paid most of the attention to was from the people who work back here, the people who saw TOM DASCHLE at work every day. They know what he meant to them personally, to this country, to this institution. That is why they stood and applauded so vigorously. You saw TOM's colleagues standing here, hating to let go, hating to let him leave the room. They did it with their applause and their hugs, their glances, and their tears.

So we are sorry that the TOM DASCHLE segment of service to this country and to this body is over. As usual, as always, there was a characteristic graciousness in his departure, in acknowledging that he had lost the race. Everyone here has some sense of how painful it could be, especially being leader of the party, especially when they threw everything in the book at him that they could pick up.

It is not going to be easy to forget TOM DASCHLE. We are going to miss him. He had wonderful service to country. He served as an intelligence officer in the Air Force for 3 years. He won his first race. Many cited the chronology of his climb to leader of the Democratic Senate. He carved out a national reputation. People knew who he was, but he never forgot his South Dakota constituents.

We heard him talk about them. He talked about traveling to each of the State's counties every year as an unscheduled driving tour, where he stopped at the local clubs, the Elks Club, the cattle auctions, the health clinics, schools, cafes, police stations, or any other place where people could gather to hear him talk about what was on his mind, and to listen to them talk about what was on their mind.

TOM has been an effective legislator. His aim: to help his constituents, help his country, help those who were less fortunate across America. He fought hard for small farmers in his State.

We did not always agree. Those of us who come from an urban environment disagreed with some of the votes he took. But he always remembered from whence he came. He fought hard for the people that he believed in, for Native Americans from his State, veterans exposed to Agent Orange. I joined him in that fight because I always believed anyone who had any remote contact, no matter how remote or how short a period of time, with Agent Orange should be treated as any other veteran or any other soldier who had a wound because we know what Agent Orange has done to so many who have served so well, so loyally in a war we could not agree on, much like what we are seeing now in our country. And we had to respect his insistence that we remember these people, the seniors, and

the people in the rural parts of the country where the economy has never really been robust.

Nature always takes its toll. But TOM insisted we fight back, that we make sure the farm community continued to exist in this country so we could produce the nutrition that is so vital—the products we all use so regularly.

And TOM is so young looking, soft spoken, self-effacing, and fundamentally decent. He was actually mistaken for a paperboy one time. But beneath that wonderful exterior, that almost placid view of things, there was a spine of steel. He could get up and fight hard and fight for the issues. His leadership for us—and, believe me, it was not easy. It is not easy on the Democratic side, it is not easy on the Republican side, I am sure, to pull everybody together because each of us has differences that come from our geography, from our State, from the culture within our States. But the fact is, TOM could get us together on the most difficult issues, not always 100 percent, not always in victory, but always with vigor and always with commitment.

TOM has devoted practically all his entire life to public service. We are going to miss his leadership, his counsel, and his friendship.

In my closing comments to him I said: We are saying kind of so long but hopefully not really goodbye. We want to hear from TOM DASCHLE. I have made a plea to him that he stays involved with the public interest. I hope he is going to do that. TOM will have many offers for commercial development and to make lots more money, but he feels an obligation down deep, as I would think most of us or all of us do here, to try to do something that counts.

I encourage him and his great wife Linda to get through this difficult, difficult period. It is not easy when you are the leader to lose a race. It is never easy, but it is particularly difficult when you have had leadership responsibilities.

So my message to TOM is: TOM, keep that spine of steel. Keep that interest that you have in the well-being of our society, in the belief that America can recover from all kinds of difficulties, some of the worst that we are facing right now. It is not just the war, as painful as that is.

I have a display in front of my office of young faces, of people, many of whom are in their teens, late teens, 18, 19. I enlisted in the Army when I was 18. I did not realize then I was such a baby. I realize now that 18 is so, so young. But I have those photographs there as reminders about what the price of this war really is. It is not just the financial side, which is enormous. It is not just the humiliation side, which is enormous, the humiliation because we failed to have the appropriate intelligence, intelligence to tell us even most recently how difficult Fallujah was going to be. We underestimated, and as a consequence the costs

are heavy. In the last week, we lost two people from New Jersey. We are now over 1,200 who have died in the course of that fight.

But again, TOM DASCHLE, and I think all of us here, have to continue to fight for what is right. We can endure our differences here. I will tell you what we cannot endure. We cannot endure the bitterness that exists across the dividing line here. We cannot endure the vitriol that is constant in this room of ours. We cannot endure the anger that exists. We have a cause that is greater than all of us.

I am not saying it all comes flowing this way, but I am saying it is unpleasant. I have now had 22 years since I arrived. It is now 22 years since I arrived in the Senate. I remember different days. I remember days when you could disagree and still be able to say hello without grimacing when you saw one of your colleagues. Lord willing, I hope TOM DASCHLE taught us some of that, with his graciousness, his characteristic willingness to listen and to understand and get back to you when a problem existed.

So, Mr. President, I am going to yield the floor, but I do want to talk about our other colleagues who are retiring in a few minutes. There are a lot of good people here on both sides of the aisle.

We are going to miss all of our friends over here, but I am going to miss DON NICKLES. I have had a lot of fights with him, but I know he always knew where he wanted to go. I respected that.

PETER FITZGERALD, newer among us, but a gentleman to be noted, and BEN NIGHTHORSE CAMPBELL comes from a State I love. I have two grandchildren there. He is a decent fellow. We are going to miss all of them. I will talk about them later.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I know this is a time of recognition of our retiring Members on both the Republican and Democratic sides. If I can step in for a moment, we have cleared a variety of bills to be moved at this time. I will proceed to do that.

The PRESIDING OFFICER. The Senator is recognized for that purpose.

THE CALENDAR

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate proceed to the en bloc consideration of the following Indian Affairs bills: Calendar Nos. 697, H.R. 2912; 777, S. 2605; 795, S. 519; 710, S. 1530; 654, S. 1996; 787, S. 1438.

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

Mr. CRAIG. Mr. President, I ask unanimous consent that the amendments at the desk, where applicable, be agreed to, the committee amendments, where applicable, be agreed to, the bills be read a third time and passed, the

title amendments, where applicable, be agreed to, and the motions to reconsider be laid upon the table, en bloc, and that any statements relating to the bills be printed in the RECORD.

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

SOVEREIGN RIGHTS OF THE OSAGE TRIBE

The bill (H.R. 2912) to reaffirm the inherent sovereign rights of the Osage Tribe to determine its membership and form of government, was considered, ordered to a third reading, read the third time, and passed.

H.R. 2912

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

SECTION 1. REAFFIRMATION OF CERTAIN RIGHTS OF THE OSAGE TRIBE.

(a) FINDINGS.—The Congress finds as follows:

(1) The Osage Tribe is a federally recognized tribe based in Pawhuska, Oklahoma.

(2) The Osage Allotment Act of June 28, 1906 (34 Stat. 539), states that the "legal membership" of the Osage Tribe includes the persons on the January 1, 1906 roll and their children, and that each "member" on that roll is entitled to a headright share in the distribution of funds from the Osage mineral estate and an allotment of the surface lands of the Osage Reservation.

(3) Today only Osage Indians who have a headright share in the mineral estate are "members" of the Osage Tribe.

(4) Adult Osage Indians without a headright interest cannot vote in Osage government elections and are not eligible to seek elective office in the Osage Tribe as a matter of Federal law.

(5) A principal goal of Federal Indian policy is to promote tribal self-sufficiency and strong tribal government.

(b) REAFFIRMATION OF CERTAIN RIGHTS OF THE OSAGE TRIBE.—

(1) MEMBERSHIP.—Congress hereby clarifies that the term "legal membership" in section 1 of the Act entitled, "An Act For the division of lands and funds of the Osage Indians in Oklahoma Territory, and for other purposes", approved June 28, 1906 (34 Stat. 539), means the persons eligible for allotments of Osage Reservation lands and a pro rata share of the Osage mineral estate as provided in that Act, not membership in the Osage Tribe for all purposes. Congress hereby reaffirms the inherent sovereign right of the Osage Tribe to determine its own membership, provided that the rights of any person to Osage mineral estate shares are not diminished thereby.

(2) GOVERNMENT.—Notwithstanding section 9 of the Act entitled, "An Act For the division of lands and funds of the Osage Indians in Oklahoma Territory, and for other purposes", approved June 28, 1906 (34 Stat. 539), Congress hereby reaffirms the inherent sovereign right of the Osage Tribe to determine its own form of government.

(3) ELECTIONS AND REFERENDA.—At the request of the Osage Tribe, the Secretary of the Interior shall assist the Osage Tribe with conducting elections and referenda to implement this section.

SNAKE RIVER WATER RIGHTS ACT OF 2004

The Senate proceeded to consider the bill (S. 2605) to direct the Secretary of

the Interior and the heads of other Federal agencies to carry out an agreement resolving major issues relating to the adjudication of water rights in the Snake River Basin, Idaho, and for other purposes, which was reported from the Committee on Indian Affairs, as follows:

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

S. 2605

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 "Snake River Water Rights Act of 2004".

[SEC. 2. PURPOSES.

[The purposes of this Act are—

[(1) to resolve some of the largest outstanding issues with respect to the Snake River Basin Adjudication in Idaho in such a manner as to provide important benefits to the United States, the State of Idaho, the Nez Perce Tribe, the allottees, and citizens of the State;

[(2) to achieve a fair, equitable, and final settlement of all claims of the Nez Perce Tribe, its members, and allottees and the United States on behalf of the Tribe, its members, and allottees to the water of the Snake River Basin within Idaho;

[(3) to authorize, ratify, and confirm the Agreement among the parties submitted to the Snake River Basin Adjudication Court and provide all parties with the benefits of the Agreement;

[(4) to direct—

[(A) the Secretary, acting through the Bureau of Reclamation, the Bureau of Land Management, the Bureau of Indian Affairs, and other agencies; and

[(B) the heads of other Federal agencies authorized to execute and perform actions necessary to carry out the Agreement;

to perform all of their obligations under the Agreement and this Act; and

[(5) to authorize the actions and appropriations necessary for the United States to meet the obligations of the United States under the Agreement and this Act.

[SEC. 3. DEFINITIONS.

[In this Act:

[(1) AGREEMENT.—The term "Agreement" means the document titled "Mediator's Term Sheet" dated April 20, 2004, and submitted on that date to the SRBA Court in SRBA Consolidated Subcase 03-10022 and SRBA Consolidated Subcase 67-13701, with all appendices to the document.

[(2) ALLOTTEE.—The term "allottee" means a person that holds a beneficial real property interest in an Indian allotment that is—

[(A) located within the Nez Perce Reservation; and

[(B) held in trust by the United States.

[(3) CONSUMPTIVE USE RESERVED WATER RIGHT.—The term "consumptive use reserved water right" means the Federal reserved water right of 50,000 acre-feet per year, as described in the Agreement, to be decreed to the Tribe and the allottees, with a priority date of 1855.

[(4) PARTIES.—The term "parties" means the United States, the State, the Tribe, and any other entity or person that submitted, or joined in the submission, of the Agreement to the SRBA Court on April 20, 2004.

[(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

[(6) SNAKE RIVER BASIN.—The term “Snake River Basin” means the geographic area in the State described in paragraph 3 of the Commencement Order issued by the SRBA Court on November 19, 1987.

[(7) SPRINGS OR FOUNTAINS WATER RIGHT.—The term “springs or fountains water right” means the Tribe’s treaty right of access to and use of water from springs or fountains on Federal public land within the area ceded by the Tribe in the Treaty of June 9, 1863 (14 Stat. 647), as recognized under the Agreement.

[(8) SRBA.—The term “SRBA” means the Snake River Basin Adjudication litigation before the SRBA Court styled as *In re Snake River Basin Adjudication*, Case No. 39576.

[(9) SRBA COURT.—The term “SRBA Court” means the District Court of the Fifth Judicial District of the State of Idaho, In and For the County of Twin Falls in re *SNAKE RIVER BASIN ADJUDICATION*.

[(10) STATE.—The term “State” means the State of Idaho.

[(11) TRIBE.—The term “Tribe” means the Nez Perce Tribe.

[SEC. 4. APPROVAL, RATIFICATION, AND CONFIRMATION OF AGREEMENT.]

[(a) IN GENERAL.—Except to the extent that the Agreement conflicts with the express provisions of this Act, the Agreement is approved, ratified, and confirmed.

[(b) EXECUTION AND PERFORMANCE.—The Secretary and the other heads of Federal agencies with obligations under the Agreement shall execute and perform all actions, consistent with this Act, that are necessary to carry out the Agreement.

[SEC. 5. BUREAU OF RECLAMATION WATER USE.]

[(a) IN GENERAL.—As part of the overall implementation of the Agreement, the Secretary shall take such actions consistent with the Agreement, this Act, and water law of the State as are necessary to carry out the Snake River Flow Component of the Agreement.

[(b) MITIGATION FOR CHANGE OF USE OF WATER.—

[(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$2,000,000 for a 1-time payment to local governments to mitigate for the change of use of water acquired by the Bureau of Reclamation under section III.C.6 of the Agreement.

[(2) DISTRIBUTION OF FUNDS.—Funds made available under paragraph (1) shall be distributed by the Secretary to local governments in accordance with a plan provided to the Secretary by the State.

[(3) PAYMENTS.—Payments by the Secretary shall be made on a pro rata basis as water rights are acquired by the Bureau of Reclamation.

[SEC. 6. BUREAU OF LAND MANAGEMENT LAND TRANSFER.]

[(a) TRANSFER.—

[(1) IN GENERAL.—The Secretary shall transfer land selected by the Tribe under paragraph (2) to the Bureau of Indian Affairs to be held in trust for the Tribe.

[(2) LAND SELECTION.—The land transferred shall be selected by the Tribe from a list of parcels of land managed by the Bureau of Land Management that are available for transfer, as depicted on the map entitled “North Idaho BLM Land Eligible for Selection by the Nez Perce Tribe” dated May 2004, on file with the Director of the Bureau of Land Management, not including any parcel designated on the map as being on the Clearwater River or Lolo Creek.

[(3) MAXIMUM VALUE.—The land selected by the Tribe for transfer shall be limited to a maximum value in total of not more than

\$7,000,000, as determined by an independent appraisal of fair market value prepared in accordance with the Uniform Standards of Professional Appraisal Practice and the Uniform Appraisal Standards for Federal Land Acquisitions.

[(b) EXISTING RIGHTS AND USES.—

[(1) IN GENERAL.—On any land selected by the Tribe under subsection (a)(2), any use in existence on the date of transfer under subsection (a) under a lease or permit with the Bureau of Land Management, including grazing, shall remain in effect until the date of expiration of the lease or permit, unless the holder of the lease or permit requests an earlier termination of the lease or permit, in which case the Secretary shall grant the request.

[(2) AVAILABILITY OF AMOUNTS.—Amounts that accrue to the United States under a lease or permit described in paragraph (1) from sales, bonuses, royalties, and rentals relating to any land transferred to the Tribe under this section shall be made available to the Tribe by the Secretary in the same manner as amounts received from other land held by the Secretary in trust for the Tribe.

[(c) DATE OF TRANSFER.—No land shall be transferred to the Tribe under this section until the waivers and releases under section 10 take effect.

[SEC. 7. WATER RIGHTS.]

[(a) HOLDING IN TRUST.—

[(1) IN GENERAL.—The consumptive use reserved water right shall be held in trust by the United States for the benefit of the Tribe and allottees.

[(2) SPRINGS OR FOUNTAINS WATER RIGHT.—The springs or fountains water right of the Tribe shall be held in trust by the United States for the benefit of the Tribe.

[(b) WATER CODE.—

[(1) IN GENERAL.—The consumptive use reserved water right shall be subject to section 7 of the Act of February 8, 1887 (25 U.S.C. 381; 24 Stat. 390, chapter 119).

[(2) ENACTMENT OF WATER CODE.—Not later than 3 years after the date of enactment of this Act, the Tribe shall enact a water code, subject to any applicable provision of law, that—

[(A) manages, regulates, and controls the consumptive use reserved water right; and

[(B) includes, subject to approval of the Secretary—

[(i) a process by which an allottee, or any successor in interest to an allottee, may request and be provided with an allocation of water for irrigation use on allotted land of the allottee; and

[(ii) a due process system for the consideration and determination of any request by an allottee, or any successor in interest to an allottee, for an allocation of water, including a process for appeal and adjudication of denied or disputed distributions of water and for resolution of contested administrative decisions.

[(3) RIGHTS OF ALLOTTEES.—Any provision of the water code and any amendments to the water code that affect the rights of the allottees shall be subject to the approval of the Secretary, and no such provision or amendment shall be valid until approved by the Secretary.

[(4) INTERIM ADMINISTRATION.—The Secretary shall administer the consumptive use reserved water right until such date as the water code described in paragraph (2) has been enacted by the Tribe and approved by the Secretary.

[(c) SATISFACTION OF CLAIMS.—

[(1) IN GENERAL.—The water rights and other benefits granted or confirmed by the Agreement and this Act shall be in full satisfaction of all claims for water rights and injuries to water rights of the allottees.

[(2) SATISFACTION OF ENTITLEMENTS.—Any entitlement to water of any allottee under Federal law shall be satisfied out of the consumptive use reserved water right.

[(d) ABANDONMENT, FORFEITURE, OR NON-USE.—The consumptive use reserved water right and the springs or fountains water right shall not be subject to loss by abandonment, forfeiture, or nonuse.

[(e) LEASE OF WATER.—

[(1) IN GENERAL.—The Tribe, without further approval of the Secretary, may lease water to which the Tribe is entitled under the consumptive use reserved water right through any State water bank in the same manner and subject to the same rules and requirements that govern any other lessor of water to the water bank.

[(2) FUNDS.—Any funds accruing to the Tribe from any lease under paragraph (1) shall be the property of the Tribe, and the United States shall have no trust obligation or other obligation to monitor, administer, or account for any consideration received by the Tribe under any such lease.

[SEC. 8. TRIBAL FUNDS.]

[(a) DEFINITION OF FUND.—In this section, the term “Fund” means—

[(1) the Nez Perce Tribe Water and Fisheries Fund established under subsection (b)(1); and

[(2) the Nez Perce Tribe Domestic Water Supply Fund established under subsection (b)(2).

[(b) ESTABLISHMENT.—There are established in the Treasury of the United States—

[(1) a fund to be known as the “Nez Perce Tribe Water and Fisheries Fund”, to be used to pay or reimburse costs incurred by the Tribe in acquiring land and water rights, restoring or improving fish habitat, or for fish production, agricultural development, cultural preservation, water resource development, or fisheries-related projects; and

[(2) a fund to be known as the “Nez Perce Domestic Water Supply Fund”, to be used to pay the costs for design and construction of water supply and sewer systems for tribal communities, including a water quality testing laboratory.

[(c) MANAGEMENT OF THE FUNDS.—The Secretary shall manage the Funds, make investments from the Funds, and make amounts available from the Funds for distribution to the Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), this Act, and the Agreement.

[(d) INVESTMENT OF THE FUNDS.—The Secretary shall invest amounts in the Funds in accordance with—

[(1) the Act of April 1, 1880 (25 U.S.C. 161; 21 Stat. 70, chapter 41);

[(2) the first section of the Act of June 24, 1938 (25 U.S.C. 162a; 52 Stat. 1037, chapter 648); and

[(3) subsection (c).

[(e) AVAILABILITY OF AMOUNTS FROM THE FUNDS.—Amounts made available under subsection (h) shall be available for expenditure or withdrawal only after the waivers and releases under section 10 take effect.

[(f) EXPENDITURES AND WITHDRAWAL.—

[(1) TRIBAL MANAGEMENT PLAN.—

[(A) IN GENERAL.—The Tribe may withdraw all or part of amounts in the Funds on approval by the Secretary of a tribal management plan as described in the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

[(B) REQUIREMENTS.—In addition to the requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the tribal management plan shall require that the Tribe spend any amounts withdrawn from the Funds in accordance with the purposes described in subsection (b).

[(C) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any amounts withdrawn from the Funds under the plan are used in accordance with this Act and the Agreement.

[(D) LIABILITY.—If the Tribe exercises the right to withdraw amounts from the Funds, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the amounts.

[(2) EXPENDITURE PLAN.—

[(A) IN GENERAL.—The Tribe shall submit to the Secretary for approval an expenditure plan for any portion of the amounts made available under subsection (h) that the Tribe does not withdraw under this subsection.

[(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, amounts of the Tribe remaining in the Funds will be used.

[(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act and the Agreement.

[(D) ANNUAL REPORT.—For each Fund, the Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

[(g) NO PER CAPITA PAYMENTS.—No part of the principal of the Funds, or of the income accruing in the Funds, shall be distributed to any member of the Tribe on a per capita basis.

[(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

[(1) \$60,100,000 to the Nez Perce Tribe Water and Fisheries Fund; and

[(2) \$23,000,000 to the Nez Perce Tribe Domestic Water Supply Fund.

[SEC. 9. SALMON AND CLEARWATER RIVER BASINS HABITAT FUND.]

[(a) ESTABLISHMENT OF FUND.—

[(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the "Salmon and Clearwater River Basins Habitat Fund" (referred to in this section as the "Fund"), to be administered by the Secretary.

[(2) ACCOUNTS.—There is established within the Fund—

[(A) an account to be known as the "Nez Perce Tribe Salmon and Clearwater River Basins Habitat Account", which shall be administered by the Secretary for use by the Tribe subject to the same provisions for management, investment, and expenditure as the funds established by section 8; and

[(B) an account to be known as the "Idaho Salmon and Clearwater River Basins Habitat Account", which shall be administered by the Secretary and provided to the State as provided in the Agreement and this Act.

[(b) USE OF THE FUND.—

[(1) IN GENERAL.—The Fund shall be used to supplement amounts made available under other law for habitat protection and restoration in the Salmon and Clearwater River basins, including projects and programs intended to protect and restore listed fish and their habitat in the Salmon and Clearwater basins, as specified in the Agreement and this Act.

[(2) NO ALLOCATION REQUIREMENT.—The use of the Fund shall not be subject to the allocation procedures under section 6(d)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1535(d)(1)).

[(3) RELEASE OF FUNDS.—The Secretary shall release funds from the Clearwater River Basins Habitat Account in accordance with section 6(d)(2) of the Endangered Species Act (16 U.S.C. 1535(d)(2)).

[(c) AVAILABILITY OF AMOUNTS IN THE FUND.—Amounts made available under subsection (d) shall be available for expenditure or withdrawal only after the waivers and releases under section 10(a) take effect.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

[(1) \$12,666,670 to the Nez Perce Tribe Salmon and Clearwater River Basins Habitat Account; and

[(2) \$25,333,330 to the Idaho Salmon and Clearwater River Basins Habitat Account.

[SEC. 10. TRIBAL WAIVER AND RELEASE OF CLAIMS.]

[(a) WAIVER AND RELEASE OF CLAIMS IN GENERAL.—

[(1) CLAIMS TO WATER RIGHTS; CLAIMS FOR INJURIES TO WATER RIGHTS OR TREATY RIGHTS.—Except as otherwise provided in this Act, the United States on behalf of the Tribe and the allottees, and the Tribe, waive and release—

[(A) all claims to water rights within the Snake River Basin (as defined in section 3(b));

[(B) all claims for injuries to such water rights; and

[(C) all claims for injuries to the treaty rights of the Tribe to the extent that such injuries result or resulted from flow modifications or reductions in the quantity of water available that accrued at any time up to and including the effective date of the settlement, and any continuation thereafter of any such claims, against the State, any agency or political subdivision of the State, or any person, entity, corporation, municipal corporation, or quasi-municipal corporation.

[(2) CLAIMS BASED ON REDUCED WATER QUALITY OR REDUCTIONS IN WATER QUANTITY.—The United States on behalf of the Tribe and the allottees, and the Tribe, waive and release any claim, under any treaty theory, based on reduced water quality resulting directly from flow modifications or reductions in the quantity of water available in the Snake River Basin against any party to the Agreement or this Act.

[(3) NO FUTURE ASSERTION OF CLAIMS.—No water right claim that the Tribe or the allottees have asserted or may in the future assert outside the Snake River Basin shall require water to be supplied from the Snake River Basin to satisfy the claim.

[(4) EFFECT OF WAIVERS AND RELEASES.—The waivers and releases by the United States and the Tribe under this subsection—

[(A) shall be permanent and enforceable; and

[(B) shall survive any subsequent termination of any component of the settlement described in the Agreement or this Act.

[(5) EFFECTIVE DATE.—The waivers and releases under this subsection take effect on the date on which the Secretary causes to be published in the Federal Register a statement of findings that the actions set forth in section IV.L of the Agreement—

[(A) have been completed, including issuance of a judgment and decree by the SRBA court from which no further appeal may be taken; and

[(B) have been determined by the United States on behalf of the Tribe and the allottees, the Tribe, and the State of Idaho to be consistent in all material aspects with the Agreement.

[(b) WAIVER AND RELEASE OF CLAIMS AGAINST THE UNITED STATES.—

[(1) IN GENERAL.—In consideration of performance by the United States of all actions required by the Agreement and this Act, including the appropriation of all funds authorized under sections 8(h) and 9(d)(1), the Tribe shall execute a waiver and release of the United States from—

[(A) all claims for water rights within the Snake River Basin, injuries to such water

rights, or breach of trust claims for failure to protect, acquire, or develop such water rights that accrued at any time up to and including the effective date determined under paragraph (2);

[(B) all claims for injuries to the Tribe's treaty fishing rights, to the extent that such injuries result or resulted from reductions in the quantity of water available in the Snake River Basin;

[(C) all claims of breach of trust for failure to protect Nez Perce springs or fountains treaty rights reserved in article VIII of the Treaty of June 9, 1863 (14 Stat. 651); and

[(D) all claims of breach of trust arising out of the negotiation of or resulting from the adoption of the Agreement.

[(2) EFFECTIVE DATE.—The waiver and release contained in this subsection take effect on the date on which the funds authorized under sections 8(h) and 9(d)(1) of this Act have been appropriated as authorized by this Act.

[(c) RETENTION OF RIGHTS.—

[(1) IN GENERAL.—The Tribe shall retain all rights not specifically waived or released in the Agreement or this Act.

[(2) DWORSHAK PROJECT.—Nothing in the Agreement or this Act constitutes a waiver by the Tribe of any claim against the United States relating to non-water-based injuries resulting from the construction and operation of the Dworshak Project.

[(3) FUTURE ACQUISITION OF WATER RIGHTS.—Nothing in the Agreement or this Act precludes the Tribe, or the United States as trustee for the Tribe, from purchasing or otherwise acquiring water rights in the future to the same extent as any other entity the State.

[SEC. 11. MISCELLANEOUS.]

[(a) GENERAL DISCLAIMER.—The parties expressly reserve all rights not specifically granted, recognized, or relinquished by the settlement described in the Agreement or this Act.

[(b) DISCLAIMER REGARDING OTHER AGREEMENTS AND PRECEDENT.—

[(1) IN GENERAL.—Except as expressly provided in this Act, nothing in this Act amends, supersedes, or preempts any State law, Federal law, Tribal law, or interstate compact that pertains to the Snake River or its tributaries.

[(2) NO ESTABLISHMENT OF STANDARD.—Nothing in this Act—

[(A) establishes any standard for the quantification of Federal reserved water rights or any other Indian water claims of any other Indian tribes in any other judicial or administrative proceeding; or

[(B) limits the rights of the parties to litigate any issue not resolved by the Agreement or this Act.

[(3) NO ADMISSION AGAINST INTEREST.—Nothing in this Act constitutes an admission against interest against any party in any legal proceeding.

[(c) TREATY RIGHTS.—Nothing in the Agreement or this Act impairs the treaty fishing, hunting, pasturing, or gathering rights of the Tribe except to the extent expressly provided in the Agreement or this Act.

[(d) OTHER CLAIMS.—Nothing in the Agreement or this Act quantifies or otherwise affects the water rights, claims, or entitlements to water, or any other treaty right, of any Indian tribe, band, or community other than the Tribe.

[(e) RECREATION ON DWORSHAK RESERVOIR.—

[(1) IN GENERAL.—In implementing the provisions of the Agreement and this Act relating to the use of water stored in Dworshak Reservoir for flow augmentation purposes, the heads of the Federal agencies involved in

the operational Memorandum of Agreement referred to in the Agreement shall implement a flow augmentation plan beneficial to fish and consistent with the Agreement.

[(2) CONTENTS OF PLAN.—The flow augmentation plan may include provisions beneficial to recreational uses of the reservoir through maintenance of the full level of the reservoir for prolonged periods during the summer months.]

[(f) JURISDICTION.—

[(1) NO EFFECT ON SUBJECT MATTER JURISDICTION.—Nothing in the Agreement or this Act restricts, enlarges, or otherwise determines the subject matter jurisdiction of any Federal, State, or Tribal court.]

[(2) CONSENT TO JURISDICTION.—The United States consents to jurisdiction in a proper forum for purposes of enforcing the provisions of the Agreement.]

[(3) EFFECT OF SUBSECTION.—Nothing in this subsection confers jurisdiction on any State court to—

[(A) enforce Federal environmental laws regarding the duties of the United States; or

[(B) conduct judicial review of Federal agency action.]

SECTION 1. SHORT TITLE.

This Act may be cited as the “Snake River Water Rights Act of 2004”.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to resolve some of the largest outstanding issues with respect to the Snake River Basin Adjudication in Idaho in such a manner as to provide important benefits to the United States, the State of Idaho, the Nez Perce Tribe, the allottees, and citizens of the State;

(2) to achieve a fair, equitable, and final settlement of all claims of the Nez Perce Tribe, its members, and allottees and the United States on behalf of the Tribe, its members, and allottees to the water of the Snake River Basin within Idaho;

(3) to authorize, ratify, and confirm the Agreement among the parties submitted to the Snake River Basin Adjudication Court and provide all parties with the benefits of the Agreement;

(4) to direct—

(A) the Secretary, acting through the Bureau of Reclamation, the Bureau of Land Management, the Bureau of Indian Affairs, and other agencies; and

(B) the heads of other Federal agencies authorized to execute and perform actions necessary to carry out the Agreement;

to perform all of their obligations under the Agreement and this Act; and

(5) to authorize the actions and appropriations necessary for the United States to meet the obligations of the United States under the Agreement and this Act.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term “Agreement” means the document titled “Mediator’s Term Sheet” dated April 20, 2004, and submitted on that date to the SRBA Court in SRBA Consolidated Subcase 03–10022 and SRBA Consolidated Subcase 67–13701, with all appendices to the document.

(2) ALLOTTEE.—The term “allottee” means a person that holds a beneficial real property interest in an Indian allotment that is—

(A) located within the Nez Perce Reservation; and

(B) held in trust by the United States.

(3) CONSUMPTIVE USE RESERVED WATER RIGHT.—The term “consumptive use reserved water right” means the Federal reserved water right of 50,000 acre-feet per year, as described in the Agreement, to be decreed to the United States in trust for the Tribe and the allottees, with a priority date of 1855.

(4) PARTIES.—The term “parties” means the United States, the State, the Tribe, and any

other entity or person that submitted, or joined in the submission of, the Agreement to the SRBA Court on April 20, 2004.

(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(6) SNAKE RIVER BASIN.—The term “Snake River Basin” means the geographic area in the State described in paragraph 3 of the Commencement Order issued by the SRBA Court on November 19, 1987.

(7) SPRINGS OR FOUNTAINS WATER RIGHT.—The term “springs or fountains water right” means the Tribe’s treaty right of access to and use of water from springs or fountains on Federal public land within the area ceded by the Tribe in the Treaty of June 9, 1863 (14 Stat. 647), as recognized under the Agreement.

(8) SRBA.—The term “SRBA” means the Snake River Basin Adjudication litigation before the SRBA Court styled as *In re Snake River Basin Adjudication*, Case No. 39576.

(9) SRBA COURT.—The term “SRBA Court” means the District Court of the Fifth Judicial District of the State of Idaho, In and For the County of Twin Falls in *re Snake River Basin Adjudication*.

(10) STATE.—The term “State” means the State of Idaho.

(11) TRIBE.—The term “Tribe” means the Nez Perce Tribe.

SEC. 4. APPROVAL, RATIFICATION, AND CONFIRMATION OF AGREEMENT.

(a) IN GENERAL.—Except to the extent that the Agreement conflicts with this Act, the Agreement is approved, ratified, and confirmed.

(b) EXECUTION AND PERFORMANCE.—The Secretary and the other heads of Federal agencies with obligations under the Agreement shall execute and perform all actions, consistent with this Act, that are necessary to carry out the Agreement.

SEC. 5. BUREAU OF RECLAMATION WATER USE.

(a) IN GENERAL.—As part of the overall implementation of the Agreement, the Secretary shall take such actions consistent with the Agreement, this Act, and water law of the State as are necessary to carry out the Snake River Flow Component of the Agreement.

(b) MITIGATION FOR CHANGE OF USE OF WATER.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$2,000,000 for a 1-time payment to local governments to mitigate for the change of use of water acquired by the Bureau of Reclamation under section III.C.6 of the Agreement.

(2) DISTRIBUTION OF FUNDS.—Funds made available under paragraph (1) shall be distributed by the Secretary to local governments in accordance with a plan provided to the Secretary by the State.

(3) PAYMENTS.—Payments by the Secretary shall be made on a pro rata basis as water rights are acquired by the Bureau of Reclamation.

SEC. 6. BUREAU OF LAND MANAGEMENT LAND TRANSFER.

(a) TRANSFER.—

(1) IN GENERAL.—The Secretary shall transfer land selected by the Tribe under paragraph (2) to the Bureau of Indian Affairs to be held in trust for the Tribe.

(2) LAND SELECTION.—The land transferred shall be selected by the Tribe from a list of parcels of land managed by the Bureau of Land Management that are available for transfer, as depicted on the map entitled “North Idaho BLM Land Eligible for Selection by the Nez Perce Tribe” dated May 2004, on file with the Director of the Bureau of Land Management, not including any parcel designated on the map as being on the Clearwater River or Lolo Creek.

(3) MAXIMUM VALUE.—The land selected by the Tribe for transfer shall be limited to a maximum value in total of not more than \$7,000,000, as determined by an independent appraisal of fair market value prepared in accordance with the Uniform Standards of Professional Ap-

praisal Practice and the Uniform Appraisal Standards for Federal Land Acquisitions.

(b) EXISTING RIGHTS AND USES.—

(1) IN GENERAL.—On any land selected by the Tribe under subsection (a)(2), any use in existence on the date of transfer under subsection (a) under a lease or permit with the Bureau of Land Management, including grazing, shall remain in effect until the date of expiration of the lease or permit, unless the holder of the lease or permit requests an earlier termination of the lease or permit, in which case the Secretary shall grant the request.

(2) AVAILABILITY OF AMOUNTS.—Amounts that accrue to the United States under a lease or permit described in paragraph (1) from sales, bonuses, royalties, and rentals relating to any land transferred to the Tribe under this section shall be made available to the Tribe by the Secretary in the same manner as amounts received from other land held by the Secretary in trust for the Tribe.

(c) DATE OF TRANSFER.—No land shall be transferred to the Bureau of Indian Affairs to be held in trust for the Tribe under this section until the waivers and releases under section 10(a) take effect.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary \$200,000 for 1-time payments to local governments to mitigate for the transfer of land by the Bureau of Land Management to the Tribe under section I.F of the Agreement.

(2) PAYMENTS.—Payments under paragraph (1) shall be made on a pro rata basis as parcels of land are acquired by the Tribe.

SEC. 7. WATER RIGHTS.

(a) HOLDING IN TRUST.—

(1) IN GENERAL.—The consumptive use reserved water right shall—

(A) be held in trust by the United States for the benefit of the Tribe and allottees as set forth in this section; and

(B) be subject to section 7 of the Act of February 8, 1887 (25 U.S.C. 381).

(2) SPRINGS OR FOUNTAINS WATER RIGHT.—The springs or fountains water right of the Tribe shall be held in trust by the United States for the benefit of the Tribe.

(3) ALLOTTEES.—Allottees shall be entitled to a just and equitable allocation of the consumptive use reserved water right for irrigation purposes.

(b) WATER CODE.—

(1) ENACTMENT OF WATER CODE.—Not later than 3 years after the date of enactment of this Act, the Tribe shall enact a water code, subject to any applicable provision of law, that—

(A) manages, regulates, and controls the consumptive use reserved water right so as to allocate water for irrigation, domestic, commercial, municipal, industrial, cultural, or other uses; and

(B) includes, subject to approval of the Secretary—

(i) a due process system for the consideration and determination of any request by an allottee, or any successor in interest to an allottee, for an allocation of such water for irrigation purposes on allotted land, including a process for an appeal and adjudication of denied or disputed distribution of water and for resolution of contested administrative decisions; and

(ii) a process to protect the interests of allottees when entering into any lease under subsection (e).

(2) SECRETARIAL APPROVAL.—Any provision of the water code and any amendments to the water code that affect the rights of the allottees shall be subject to approval by the Secretary, and no such provision or amendment shall be valid until approved by the Secretary.

(3) INTERIM ADMINISTRATION.—The Secretary shall administer the consumptive use reserved water right until such date as the water code described in paragraph (2) has been enacted by

the Tribe and the Secretary has approved the relevant portions of the water code.

(c) EXHAUSTION OF REMEDIES.—Before asserting any claim against the United States under section 7 of the Act of February 8, 1887 (25 U.S.C. 381) or other applicable law, a claimant shall exhaust remedies available under the Tribe's water code and Tribal law.

(d) PETITION TO THE SECRETARY.—Following exhaustion of remedies in accordance with subsection (c), a claimant may petition the Secretary for relief.

(e) SATISFACTION OF CLAIMS.—

(1) IN GENERAL.—The water rights and other benefits granted or confirmed by the Agreement and this Act shall be in full satisfaction of all claims for water rights and injuries to water rights of the allottees.

(2) SATISFACTION OF ENTITLEMENTS.—Any entitlement to water of any allottee under Federal law shall be satisfied out of the consumptive use reserved water right.

(3) COMPLETE SUBSTITUTION.—The water rights, resources, and other benefits provided by this Act are a complete substitution for any rights that may have been held by, or any claims that may have been asserted by, allottees within the exterior boundaries of the Reservation before the date of enactment of this Act.

(f) ABANDONMENT, FORFEITURE, OR NONUSE.—The consumptive use reserved water right and the springs or fountains water right shall not be subject to loss by abandonment, forfeiture, or nonuse.

(g) LEASE OF WATER.—

(1) IN GENERAL.—Subject to the water code, the Tribe, without further approval of the Secretary, may lease water to which the Tribe is entitled under the consumptive use reserved water right through any State water bank in the same manner and subject to the same rules and requirements that govern any other lessor of water to the water bank.

(2) FUNDS.—Any funds accruing to the Tribe from any lease under paragraph (1) shall be the property of the Tribe, and the United States shall have no trust obligation or other obligation to monitor, administer, or account for any consideration received by the Tribe under any such lease.

SEC. 8. TRIBAL FUNDS.

(a) DEFINITION OF FUND.—In this section, the term "Fund" means—

(1) the Nez Perce Tribe Water and Fisheries Fund established under subsection (b)(1); and

(2) the Nez Perce Tribe Domestic Water Supply Fund established under subsection (b)(2).

(b) ESTABLISHMENT.—There are established in the Treasury of the United States—

(1) a fund to be known as the "Nez Perce Tribe Water and Fisheries Fund", to be used to pay or reimburse costs incurred by the Tribe in acquiring land and water rights, restoring or improving fish habitat, or for fish production, agricultural development, cultural preservation, water resource development, or fisheries-related projects; and

(2) a fund to be known as the "Nez Perce Domestic Water Supply Fund", to be used to pay the costs for design and construction of water supply and sewer systems for tribal communities, including a water quality testing laboratory.

(c) MANAGEMENT OF THE FUNDS.—The Secretary shall manage the Funds, make investments from the Funds, and make amounts available from the Funds for distribution to the Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), this Act, and the Agreement.

(d) INVESTMENT OF THE FUNDS.—The Secretary shall invest amounts in the Funds in accordance with—

(1) the Act of April 1, 1880 (25 U.S.C. 161; 21 Stat. 70, chapter 41);

(2) the first section of the Act of June 24, 1938 (25 U.S.C. 162a; 52 Stat. 1037, chapter 648); and

(3) subsection (c).

(e) AVAILABILITY OF AMOUNTS FROM THE FUNDS.—Amounts made available under subsection (h) shall be available for expenditure or withdrawal only after the waivers and releases under section 10(a) take effect.

(f) EXPENDITURES AND WITHDRAWAL.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) IN GENERAL.—The Tribe may withdraw all or part of amounts in the Funds on approval by the Secretary of a tribal management plan as described in the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(B) REQUIREMENTS.—In addition to the requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the tribal management plan shall require that the Tribe spend any amounts withdrawn from the Funds in accordance with the purposes described in subsection (b).

(C) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any amounts withdrawn from the Funds under the plan are used in accordance with this Act and the Agreement.

(D) LIABILITY.—If the Tribe exercises the right to withdraw amounts from the Funds, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the amounts.

(2) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Tribe shall submit to the Secretary for approval an expenditure plan for any portion of the amounts made available under subsection (h) that the Tribe does not withdraw under this subsection.

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, amounts of the Tribe remaining in the Funds will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act and the Agreement.

(D) ANNUAL REPORT.—For each Fund, the Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(g) NO PER CAPITA PAYMENTS.—No part of the principal of the Funds, or of the income accruing in the Funds, shall be distributed to any member of the Tribe on a per capita basis.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) to the Nez Perce Tribe Water and Fisheries Fund—

(A) for fiscal year 2007, \$7,830,000;

(B) for fiscal year 2008, \$4,730,000;

(C) for fiscal year 2009, \$7,380,000;

(D) for fiscal year 2010, \$10,080,000;

(E) for fiscal year 2011, \$11,630,000;

(F) for fiscal year 2012, \$9,450,000; and

(G) for fiscal year 2013, \$9,000,000; and

(2) to the Nez Perce Tribe Domestic Water Supply Fund—

(A) for fiscal year 2007, \$5,100,000;

(B) for fiscal year 2008, \$8,200,000;

(C) for fiscal year 2009, \$5,550,000;

(D) for fiscal year 2010, \$2,850,000; and

(E) for fiscal year 2011, \$1,300,000.

SEC. 9. SALMON AND CLEARWATER RIVER BASINS HABITAT FUND.

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the "Salmon and Clearwater River Basins Habitat Fund" (referred to in this section as the "Fund"), to be administered by the Secretary.

(2) ACCOUNTS.—There is established within the Fund—

(A) an account to be known as the "Nez Perce Tribe Salmon and Clearwater River Basins Habitat Account", which shall be administered by the Secretary for use by the Tribe subject to

the same provisions for management, investment, and expenditure as the funds established by section 8; and

(B) an account to be known as the "Idaho Salmon and Clearwater River Basins Habitat Account", which shall be administered by the Secretary and provided to the State as provided in the Agreement and this Act.

(b) USE OF THE FUND.—

(1) IN GENERAL.—The Fund shall be used to supplement amounts made available under any other law for habitat protection and restoration in the Salmon and Clearwater River Basins in Idaho, including projects and programs intended to protect and restore listed fish and their habitat in those basins, as specified in the Agreement and this Act.

(2) RELEASE OF FUNDS.—The Secretary shall release funds from the Idaho Salmon and Clearwater River Basins Habitat Account in accordance with section 6(d)(2) of the Endangered Species Act (16 U.S.C. 1535(d)(2)).

(3) NO ALLOCATION REQUIREMENT.—The use of the Fund shall not be subject to the allocation procedures under section 6(d)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1535(d)(1)).

(c) AVAILABILITY OF AMOUNTS IN THE FUND.—Amounts made available under subsection (d) shall be available for expenditure or withdrawal only after the waivers and releases under section 10(a) take effect.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to the Nez Perce Tribe Salmon and Clearwater River Basins Habitat Account, \$2,533,334 for each of fiscal years 2007 through 2011; and

(2) to the Idaho Salmon and Clearwater River Basins Habitat Account, \$5,066,666 for each of fiscal years 2007 through 2011.

SEC. 10. TRIBAL WAIVER AND RELEASE OF CLAIMS.

(a) WAIVER AND RELEASE OF CLAIMS IN GENERAL.—

(1) CLAIMS TO WATER RIGHTS; CLAIMS FOR INJURIES TO WATER RIGHTS OR TREATY RIGHTS.—Except as otherwise provided in this Act, the United States on behalf of the Tribe and the allottees, and the Tribe, waive and release—

(A) all claims to water rights within the Snake River Basin (as defined in section 3);

(B) all claims for injuries to such water rights; and

(C) all claims for injuries to the treaty rights of the Tribe to the extent that such injuries result or resulted from flow modifications or reductions in the quantity of water available that accrued at any time up to and including the effective date of the settlement, and any continuation thereafter of any such claims, against the State, any agency or political subdivision of the State, or any person, entity, corporation, municipal corporation, or quasi-municipal corporation.

(2) CLAIMS BASED ON REDUCED WATER QUALITY OR REDUCTIONS IN WATER QUANTITY.—The United States on behalf of the Tribe and the allottees, and the Tribe, waive and release any claim, under any treaty theory, based on reduced water quality resulting directly from flow modifications or reductions in the quantity of water available in the Snake River Basin against any party to the Agreement.

(3) NO FUTURE ASSERTION OF CLAIMS.—No water right claim that the Tribe or the allottees have asserted or may in the future assert outside the Snake River Basin shall require water to be supplied from the Snake River Basin to satisfy the claim.

(4) EFFECT OF WAIVERS AND RELEASES.—The waivers and releases by the United States and the Tribe under this subsection—

(A) shall be permanent and enforceable; and

(B) shall survive any subsequent termination of any component of the settlement described in the Agreement or this Act.

(5) EFFECTIVE DATE.—The waivers and releases under this subsection shall take effect on the date on which the Secretary causes to be

published in the Federal Register a statement of findings that the actions set forth in section IV.L of the Agreement—

(A) have been completed, including issuance of a judgment and decree by the SRBA court from which no further appeal may be taken; and

(B) have been determined by the United States on behalf of the Tribe and the allottees, the Tribe, and the State of Idaho to be consistent in all material aspects with the Agreement.

(b) WAIVER AND RELEASE OF CLAIMS AGAINST THE UNITED STATES.—

(1) IN GENERAL.—In consideration of performance by the United States of all actions required by the Agreement and this Act, including the appropriation of all funds authorized under sections 8(h) and 9(d)(1), the Tribe shall execute a waiver and release of the United States from—

(A) all claims for water rights within the Snake River Basin, injuries to such water rights, or breach of trust claims for failure to protect, acquire, or develop such water rights that accrued at any time up to and including the effective date determined under paragraph (2);

(B) all claims for injuries to the Tribe's treaty fishing rights, to the extent that such injuries result or resulted from reductions in the quantity of water available in the Snake River Basin;

(C) all claims of breach of trust for failure to protect Nez Perce springs or fountains treaty rights reserved in article VIII of the Treaty of June 9, 1863 (14 Stat. 651); and

(D) all claims of breach of trust arising out of the negotiation of or resulting from the adoption of the Agreement.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The waiver and release contained in this subsection shall take effect on the date on which the amounts authorized under sections 8(h) and 9(d)(1) are appropriated.

(B) PERIODS OF LIMITATION; EQUITABLE CLAIMS.—

(i) IN GENERAL.—All periods of limitation and time-based equitable defenses applicable to the claims set forth in paragraph (1) are tolled for the period between the date of enactment of this Act until the earlier of—

(1) the date on which the amounts authorized under sections 8(h) and 9(d)(1) are appropriated; or

(II) October 1, 2017.

(ii) EFFECT OF SUBPARAGRAPH.—This subparagraph neither revives any claim nor tolls any period of limitation or time-based equitable defense that may have expired before the date of enactment of this Act.

(3) DEFENSE.—The making of the amounts of appropriations authorized under sections 8(h) and 9(d)(1) shall constitute a complete defense to any claim pending in any court of the United States on the date on which the appropriations are made.

(c) RETENTION OF RIGHTS.—

(1) IN GENERAL.—The Tribe shall retain all rights not specifically waived or released in the Agreement or this Act.

(2) DWORSHAK PROJECT.—Nothing in the Agreement or this Act constitutes a waiver by the Tribe of any claim against the United States resulting from the construction and operation of the Dworshak Project (Project PWI 05090), other than those specified in subparagraphs (A) and (B) of subsection (b)(1).

(3) FUTURE ACQUISITION OF WATER RIGHTS.—Nothing in the Agreement or this Act precludes the Tribe or allottees, or the United States as trustee for the Tribe or allottees, from purchasing or otherwise acquiring water rights in the future to the same extent as any other entity in the State.

SEC. 11. MISCELLANEOUS.

(a) GENERAL DISCLAIMER.—The parties expressly reserve all rights not specifically granted, recognized, or relinquished by the settlement described in the Agreement or this Act.

(b) DISCLAIMER REGARDING OTHER AGREEMENTS AND PRECEDENT.—

(1) IN GENERAL.—Subject to section 9(b)(3), nothing in this Act amends, supersedes, or preempts any State law, Federal law, Tribal law, or interstate compact that pertains to the Snake River Basin.

(2) NO ESTABLISHMENT OF STANDARD.—Nothing in this Act—

(A) establishes any standard for the quantification of Federal reserved water rights or any other Indian water claims of any other Indian tribes in any other judicial or administrative proceeding; or

(B) limits the rights of the parties to litigate any issue not resolved by the Agreement or this Act.

(3) NO ADMISSION AGAINST INTEREST.—Nothing in this Act constitutes an admission against interest against any party in any legal proceeding.

(c) TREATY RIGHTS.—Nothing in the Agreement or this Act impairs the treaty fishing, hunting, pasturing, or gathering rights of the Tribe except to the extent expressly provided in the Agreement or this Act.

(d) OTHER CLAIMS.—Nothing in the Agreement or this Act quantifies or otherwise affects the water rights, claims, or entitlements to water, or any other treaty right, of any Indian tribe, band, or community other than the Tribe.

(e) RECREATION ON DWORSHAK RESERVOIR.—

(1) IN GENERAL.—In implementing the provisions of the Agreement and this Act relating to the use of water stored in Dworshak Reservoir for flow augmentation purposes, the heads of the Federal agencies involved in the operational Memorandum of Agreement referred to in the Agreement shall implement a flow augmentation plan beneficial to fish and consistent with the Agreement.

(2) CONTENTS OF PLAN.—The flow augmentation plan may include provisions beneficial to recreational uses of the reservoir through maintenance of the full level of the reservoir for prolonged periods during the summer months.

(f) JURISDICTION.—

(1) NO EFFECT ON SUBJECT MATTER JURISDICTION.—Nothing in the Agreement or this Act restricts, enlarges, or otherwise determines the subject matter jurisdiction of any Federal, State, or Tribal court.

(2) CONSENT TO JURISDICTION.—The United States consents to jurisdiction in a proper forum for purposes of enforcing the provisions of the Agreement.

(3) EFFECT OF SUBSECTION.—Nothing in this subsection confers jurisdiction on any State court to—

(A) enforce Federal environmental laws regarding the duties of the United States; or

(B) conduct judicial review of Federal agency action.

MEANING OF SECTION 4

Ms. CANTWELL. Mr. President, I say to Senator CAMPBELL, as chairman of the Indian Affairs Committee upon which I serve, I appreciate his leadership in helping this important bill become law. I support S. 2605 and believe it codifies a fair and equitable settlement of Snake River Basin water rights in Idaho. However, I am concerned that the bill currently pending before the Senate may have inadvertently altered the rights of my constituents and obligations of the downstream States of Washington and Oregon in the application and implementation of Federal environmental laws.

Therefore, I have a few questions to ask regarding the effect of section 4 of S. 2605 and the agreement, as expressed in the Mediator's Term Sheet, that S. 2605 would approve. Specifically, I am

concerned about (1) whether some inference might be drawn from the language in section 4(a) of the act that, by approving, ratifying and confirming the agreement, Congress has in effect altered the obligation of Federal agencies to consult under section 7 of the Endangered Species Act; (2) whether the act might be interpreted to require that Federal agencies implement the agreement without taking into consideration the interests of other affected States; and (3) whether the act or the agreement might be construed to alter any obligations that the parties might have under the Clean Water Act, particularly in relation to the protection of federally approved State water quality standards of downstream States.

I noticed that these three specific issues were not expressly addressed in the report of the Committee on Indian Affairs that has been filed and accompanies the substitute amendment.

Mr. CAMPBELL. These three issues were not specifically addressed in the report issued by the committee, although the part of the report that discusses the meaning of section 4(a) of the substitute amendment does make the point, and fairly clearly I think, that there is no intent to alter or amend Federal environmental laws like the Endangered Species Act and the Clean Water Act or to somehow limit the rights of persons or organizations to pursue any remedies that are otherwise available to them under such laws. The three precise issues you mention were not deliberately omitted from discussion in the report—to the contrary, they were not discussed in the report simply because those specific issues, as you have articulated them, were not aired during or after the hearing held on this legislation and, in fact, arose only after the amendment in the nature of a substitute was reported to the Senate on October 7, 2004.

Ms. CANTWELL. As the principal sponsor and architect of the substitute amendment approved by the Senate Committee on Indian Affairs, what was the intent about the meaning of the substitute amendment and the agreement it would approve with respect to those three issues?

Mr. CAMPBELL. My intent with respect to all three of the issues that the Senator has mentioned is consistent with my intent regarding the meaning of section 4 of the substitute amendment and the agreement itself—that is, neither the substitute amendment nor the agreement should be interpreted to somehow restrict the rights of any State, person or organization to pursue remedies otherwise available under Federal environmental laws such as the Clean Water Act and the Endangered Species Act.

I would point out that neither the substitute amendment nor the agreement should be read to create, enlarge or limit any obligation of Federal agencies to consult under section 7 of the Endangered Species Act. Also, the

intent behind the substitute amendment is that Federal agencies implement the terms of the agreement and any applicable Federal laws with due consideration of both the interests of the parties and those of other affected States so that no interests are prejudiced. Finally, neither the substitute amendment nor the agreement should be interpreted to create or alter any obligations of the parties under the Clean Water Act with respect to the protection of federally approved State water quality standards of downstream States. However, with that I do not mean to imply or suggest that any such obligations exist or do not exist.

Ms. CANTWELL. I thank the Senator for clarifying these important matters.

Mr. CAMPBELL. I thank the Senator for her inquiry.

Mr. CRAPO. Speaking as the subcommittee chairman with jurisdiction over the Endangered Species Act and the Clean Water Act, I concur in the clarifications expressed by my colleagues.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2605), as amended, was read the third time and passed.

INDIAN TRIBAL DEVELOPMENT CORPORATION FEASIBILITY ACT OF 2004

The Senate proceeded to consider the bill (S. 519) to establish a Native American-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans, and for other purposes, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 519

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

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.]

[(a) **SHORT TITLE.**—This Act may be cited as the “Native American Capital Formation and Economic Development Act of 2003”.

[(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- [Sec. 1. Short title; table of contents.
- [Sec. 2. Findings.
- [Sec. 3. Purposes.
- [Sec. 4. Definitions.

[TITLE I—NATIVE AMERICAN CAPITAL DEVELOPMENT CORPORATION]

- [Sec. 101. Establishment of the Corporation.
- [Sec. 102. Authorized assistance and service functions.
- [Sec. 103. Native American lending services grant.
- [Sec. 104. Audits.
- [Sec. 105. Annual housing and economic development reports.
- [Sec. 106. Advisory Council.

[TITLE II—CAPITALIZATION OF CORPORATION]

- [Sec. 201. Capitalization of the Corporation.
- #### **[TITLE III—REGULATION, EXAMINATION, AND REPORTS]**

- [Sec. 301. Regulation, examination, and reports.

- [Sec. 302. Authority of the Secretary of Housing and Urban Development.

[TITLE IV—FORMATION OF NEW CORPORATION]

- [Sec. 401. Formation of new corporation.
- [Sec. 402. Adoption and approval of merger plan.
- [Sec. 403. Consummation of merger.
- [Sec. 404. Transition.
- [Sec. 405. Effect of merger.

[TITLE V—OTHER NATIVE AMERICAN FUNDS]

- [Sec. 501. Native American Economies Diagnostic Studies Fund.
- [Sec. 502. Native American Economic Incubation Center Fund.

[TITLE VI—AUTHORIZATIONS OF APPROPRIATIONS]

- [Sec. 601. Native American financial institutions.
- [Sec. 602. Corporation.
- [Sec. 603. Other Native American funds.

[SEC. 2. FINDINGS.]

[Congress finds that—

[(1) there is a special legal and political relationship between the United States and the Indian tribes, as grounded in treaties, the Constitution, Federal statutes and court decisions, executive orders, and course of dealing;

[(2) despite the availability of abundant natural resources on Indian land and a rich cultural legacy that accords great value to self-determination, self-reliance, and independence, Native Americans suffer rates of unemployment, poverty, poor health, substandard housing, and associated social ills to a greater degree than any other group in the United States;

[(3) the economic success and material well-being of Native Americans depends on the combined efforts and resources of the United States, Indian tribal governments, the private sector, and individuals;

[(4) the poor performance of moribund Indian economies is due in part to the near-complete absence of private capital and private capital institutions; and

[(5) the goals of economic self-sufficiency and political self-determination for Native Americans can best be achieved by making available the resources and discipline of the private market, adequate capital, and technical expertise.

[SEC. 3. PURPOSES.]

[The purposes of this Act are—

[(1) to establish an entity dedicated to capital development and economic growth policies in Native American communities;

[(2) to provide the necessary resources of the United States, Native Americans, and the private sector on endemic problems such as fractionated and unproductive Indian land;

[(3) to provide a center for economic development policy and analysis with particular emphasis on diagnosing the systemic weaknesses with, and inhibitors to greater levels of investment in, Native American economies;

[(4) to establish a Native-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans; and

[(5) to improve the material standard of living of Native Americans.

[SEC. 4. DEFINITIONS.]

[In this Act:

[(1) **ALASKA NATIVE.**—The term “Alaska Native” has the meaning given the term “Native” in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

[(2) **BOARD.**—The term “Board” means the Board of Directors of the Corporation.

[(3) **CAPITAL DISTRIBUTION.**—The term “capital distribution” has the meaning given the term in section 1303 of the Federal Housing Enterprise Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502).

[(4) **CHAIRPERSON.**—The term “Chairperson” means the chairperson of the Board.

[(5) **CORPORATION.**—The term “Corporation” means the Native American Capital Development Corporation established by section 101(a)(1)(A).

[(6) **COUNCIL.**—The term “Council” means the Advisory Council established under section 106(a).

[(7) **DESIGNATED MERGER DATE.**—The term “designated merger date” means the specific calendar date and time of day designated by the Board under this Act.

[(8) **DEPARTMENT OF HAWAIIAN HOME LANDS.**—The term “Department of Hawaiian Home Lands” means the agency that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

[(9) **FUND.**—The term “Fund” means the Community Development Financial Institutions Fund established under section 104 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4703).

[(10) **INDIAN TRIBE.**—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

[(11) **MERGER PLAN.**—The term “merger plan” means the plan of merger adopted by the Board under this Act.

[(12) **NATIVE AMERICAN.**—The term “Native American” means—

- [(A) a member of an Indian tribe; or
- [(B) a Native Hawaiian.

[(13) **NATIVE AMERICAN FINANCIAL INSTITUTION.**—The term “Native American financial institution” means a person (other than an individual) that—

[(A) qualifies as a community development financial institution under section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702);

[(B) satisfies—

[(i) requirements established by subtitle A of title I of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.); and

[(ii) requirements applicable to persons seeking assistance from the Fund;

[(C) demonstrates a special interest and expertise in serving the primary economic development and mortgage lending needs of the Native American community; and

[(D) demonstrates that the person has the endorsement of the Native American community that the person intends to serve.

[(14) **NATIVE AMERICAN LENDER.**—The term “Native American lender” means a Native American governing body, Native American housing authority, or other Native American financial institution that acts as a primary mortgage or economic development lender in a Native American community.

[(15) **NATIVE HAWAIIAN.**—The term “Native Hawaiian” has the meaning given the term in section 201 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108).

[(16) **NEW CORPORATION.**—The term “new corporation” means the corporation formed in accordance with title IV.

[(17) **SECRETARY.**—The term “Secretary” means the Secretary of Housing and Urban Development.

[(18) **TOTAL CAPITAL.**—The term “total capital” has the meaning given the term in section 1303 of the Federal Housing Enterprise Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502).

[(19) TRANSITION PERIOD.—The term “transition period” means the period beginning on the date on which the merger plan is approved by the Secretary and ending on the designated merger date.

['TITLE 1—NATIVE AMERICAN CAPITAL DEVELOPMENT CORPORATION

['SEC. 101. ESTABLISHMENT OF THE CORPORATION.

[(a) ESTABLISHMENT; BOARD OF DIRECTORS; POLICIES; PRINCIPAL OFFICE; MEMBERSHIP; VACANCIES.—

[(1) ESTABLISHMENT.—

[(A) IN GENERAL.—There is established and chartered a corporation, to be known as the “Native American Capital Development Corporation”.

[(B) PERIOD OF TIME.—The Corporation shall be a congressionally chartered body corporate until the earlier of—

[(i) the designated merger date; or

[(ii) the date on which the charter is surrendered by the Corporation.

[(C) CHANGES TO CHARTER.—The right to revise, amend, or modify the Corporation charter is specifically and exclusively reserved to Congress.

[(2) BOARD OF DIRECTORS; PRINCIPAL OFFICE.—

[(A) BOARD.—The powers of the Corporation shall be vested in a Board of Directors, which Board shall determine the policies that govern the operations and management of the Corporation.

[(B) PRINCIPAL OFFICE; RESIDENCY.—

[(i) PRINCIPAL OFFICE.—The principal office of the Corporation shall be in the District of Columbia.

[(ii) VENUE.—For purposes of venue, the Corporation shall be considered to be a resident of the District of Columbia.

[(3) MEMBERSHIP.—

[(A) IN GENERAL.—

[(i) NINE MEMBERS.—Except as provided in clause (ii), the Board shall consist of 9 members, of which—

[(I) 3 members shall be appointed by the President; and

[(II) 6 members shall be elected by the class A stockholders, in accordance with the bylaws of the Corporation.

[(ii) THIRTEEN MEMBERS.—If class B stock is issued under section 201(b), the Board shall consist of 13 members, of which—

[(I) 9 members shall be appointed and elected in accordance with clause (i); and

[(II) 4 members shall be elected by the class B stockholders, in accordance with the bylaws of the Corporation.

[(B) TERMS.—Each member of the Board shall be elected or appointed for a 4-year term, except that the members of the initial Board shall be elected or appointed for the following terms:

[(i) Of the 3 members appointed by the President—

[(I) 1 member shall be appointed for a 2-year term;

[(II) 1 member shall be appointed for a 3-year term; and

[(III) 1 member shall be appointed for a 4-year term; as designated by the President at the time of the appointments.

[(ii) Of the 6 members elected by the class A stockholders—

[(I) 2 members shall each be elected for a 2-year term;

[(II) 2 members shall each be elected for a 3-year term; and

[(III) 2 members shall each be elected for a 4-year term.

[(iii) If class B stock is issued and 4 additional members are elected by the class B stockholders—

[(I) 1 member shall be elected for a 2-year term;

[(II) 1 member shall be elected for a 3-year term; and

[(III) 2 members shall each be elected for a 4-year term.

[(C) QUALIFICATIONS.—Each member appointed by the President shall have expertise in 1 or more of the following areas:

[(i) Native American housing and economic development matters.

[(ii) Financing in Native American communities.

[(iii) Native American governing bodies, legal infrastructure, and judicial systems.

[(iv) Restricted and trust land issues, economic development, and small consumer loans.

[(D) MEMBERS OF INDIAN TRIBES.—Not less than 2 of the members appointed by the President shall be members of different, federally-recognized Indian tribes enrolled in accordance with the applicable requirements of the Indian tribes.

[(E) CHAIRPERSON.—The Board shall select a Chairperson from among the members of the Board, except that the initial Chairperson shall be selected from among the members of the initial Board who have been appointed or elected to serve for a 4-year term.

[(F) VACANCIES.—

[(i) APPOINTED MEMBERS.—Any vacancy in the appointed membership of the Board shall be filled by appointment by the President, but only for the unexpired portion of the term.

[(ii) ELECTED MEMBERS.—Any vacancy in the elected membership of the Board shall be filled by appointment by the Board, but only for the unexpired portion of the term.

[(G) TRANSITIONS.—Any member of the Board may continue to serve after the expiration of the term for which the member was appointed or elected until a qualified successor has been appointed or elected.

[(b) POWERS OF THE CORPORATION.—The Corporation—

[(1) shall adopt bylaws, consistent with this Act, regulating, among other things, the manner in which—

[(A) the business of the Corporation shall be conducted;

[(B) the elected members of the Board shall be elected;

[(C) the stock of the Corporation shall be issued, held, and disposed of;

[(D) the property of the Corporation shall be disposed of; and

[(E) the powers and privileges granted to the Corporation by this Act and other law shall be exercised;

[(2) may make and execute contracts, agreements, and commitments, including entering into a cooperative agreement with the Secretary;

[(3) may prescribe and impose fees and charges for services provided by the Corporation;

[(4) may, if a settlement, adjustment, compromise, release, or waiver of a claim, demand, or right of, by, or against the Corporation, is not adverse to the interests of the United States—

[(A) settle, adjust, and compromise on the claim, demand, or right; and

[(B) with or without consideration or benefit to the Corporation, release or waive, in whole or in part, in advance or otherwise, the claim, demand, or right;

[(5) may sue and be sued, complain and defend, in any Federal, State, tribal, or other court;

[(6) may acquire, take, hold, and own, manage, and dispose of any property;

[(7) may—

[(A) determine the necessary expenditures of the Corporation and the manner in which those expenditures shall be incurred, allowed, and paid; and

[(B) appoint, employ, and fix and provide for the compensation and benefits of such officers, employees, attorneys, and agents as the Board determines reasonable and not inconsistent with this section;

[(8) may incorporate a new corporation under State, District of Columbia, or tribal law, as provided in this Act;

[(9) may adopt a plan of merger, as provided in this Act;

[(10) may consummate the merger of the Corporation into the new corporation, as provided in this Act; and

[(11) may have succession until the designated merger date or any earlier date on which the Corporation surrenders the Federal charter of the Corporation.

[(c) INVESTMENT OF FUNDS; DESIGNATION AS DEPOSITARY, CUSTODIAN, OR AGENT.—

[(1) INVESTMENT OF FUNDS.—Funds of the Corporation that are not required to meet current operating expenses shall be invested in—

[(A) obligations of, or obligations guaranteed by, the United States (or any agency of the United States); or

[(B) in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

[(2) DESIGNATION AS DEPOSITARY, CUSTODIAN, OR AGENT.—Any Federal Reserve bank or Federal home loan bank, or any bank as to which at the time of its designation by the Corporation there is outstanding a designation by the Secretary of the Treasury as a general or other depository of public money, may—

[(A) be designated by the Corporation as a depository or custodian or as a fiscal or other agent of the Corporation; and

[(B) act as such a depository, custodian, or agent.

[(d) ACTIONS BY AND AGAINST THE CORPORATION.—Notwithstanding section 1349 of title 28, United States Code, or any other provision of law—

[(1) the Corporation shall be deemed to be an agency covered under sections 1345 and 1442 of title 28, United States Code;

[(2) any civil action to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the appropriate district court of the United States shall have original jurisdiction over any such action, without regard to amount or value; and

[(3) in any case in which all remedies have been exhausted in accordance with the applicable ordinances of an Indian tribe, in any civil or other action, case, or controversy in a tribal court, State court, or in any court other than a district court of the United States, to which the Corporation is a party, may at any time before the commencement of the civil action be removed by the Corporation, without the giving of any bond or security and by following any procedure for removal of causes in effect at the time of the removal—

[(A) to the district court of the United States for the district and division in which the action is pending; or

[(B) if there is no such district court, to the United States District Court for the District of Columbia.

['SEC. 102. AUTHORIZED ASSISTANCE AND SERVICE FUNCTIONS.

[(The Corporation may—

[(1) assist in the planning, establishment, and organization of Native American financial institutions;

[(2) develop and provide financial expertise and technical assistance to Native American financial institutions, including methods of underwriting, securing, servicing, packaging, and selling mortgage and small commercial and consumer loans;

[(3) develop and provide specialized technical assistance on overcoming barriers to primary mortgage lending on Native American land, including issues relating to—

- [(A) trust land;
- [(B) discrimination;
- [(C) high operating costs; and

[(D) inapplicability of standard underwriting criteria;

[(4) provide mortgage underwriting assistance (but not in originating loans) under contract to Native American financial institutions;

[(5) work with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other participants in the secondary market for home mortgage instruments in identifying and eliminating barriers to the purchase of Native American mortgage loans originated by Native American financial institutions and other lenders in Native American communities;

[(6) obtain capital investments in the Corporation from Indian tribes, Native American organizations, and other entities;

[(7) act as an information clearinghouse by providing information on financial practices to Native American financial institutions;

[(8) monitor and report to Congress on the performance of Native American financial institutions in meeting the economic development and housing credit needs of Native Americans; and

[(9) provide any of the services described in this section—

- [(A) directly; or

[(B) under a contract authorizing another national or regional Native American financial services provider to assist the Corporation in carrying out the purposes of this Act.

[SEC. 103. NATIVE AMERICAN LENDING SERVICES GRANT.]

[(a) INITIAL GRANT PAYMENT.—If the Secretary and the Corporation enter into a cooperative agreement for the Corporation to provide technical assistance and other services to Native American financial institutions, the agreement shall, to the extent that funds are available as provided in this Act, provide that the initial grant payment, anticipated to be \$5,000,000, shall be made at the time at which all members of the initial Board have been appointed under this Act.

[(b) PAYMENT OF GRANT BALANCE.—The payment of the remainder of the grant shall be made to the Corporation not later than 1 year after the date on which the initial grant payment is made under subsection (a).

[SEC. 104. AUDITS.]

- [(a) INDEPENDENT AUDITS.—

[(1) IN GENERAL.—The Corporation shall have an annual independent audit made of the financial statements of the Corporation by an independent public accountant in accordance with generally accepted auditing standards.

[(2) DETERMINATIONS.—In conducting an audit under this subsection, the independent public accountant shall determine and submit to the Secretary a report on whether the financial statements of the Corporation—

[(A) are presented fairly in accordance with generally accepted accounting principles; and

[(B) to the extent determined necessary by the Secretary, comply with any disclosure requirements imposed under section 301.

- [(b) GAO AUDITS.—

[(1) IN GENERAL.—Beginning on the date that is 2 years after the date of commencement of operation of the Corporation, unless an earlier date is required by any other law, grant, or agreement, the programs, activities, receipts, expenditures, and financial transactions of the Corporation shall be subject to audit by the Comptroller General of

the United States under such rules and regulations as may be prescribed by the Comptroller General.

[(2) ACCESS.—To carry out this subsection, the representatives of the General Accounting Office shall—

[(A) have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation that are necessary to facilitate the audit;

[(B) be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians; and

[(C) have access, on request to the Corporation or any auditor for an audit of the Corporation under subsection (a), to any books, accounts, financial records, reports, files, or other papers, or property belonging to or in use by the Corporation and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.

[(3) REPORTS.—The Comptroller General of the United States shall submit to Congress a report on each audit conducted under this subsection.

[(4) REIMBURSEMENT.—The Corporation shall reimburse the General Accounting Office for the full cost of any audit conducted under this subsection.

[SEC. 105. ANNUAL HOUSING AND ECONOMIC DEVELOPMENT REPORTS.]

[Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, such data as the Secretary determines to be appropriate with respect to the activities of the Corporation relating to economic development.

[SEC. 106. ADVISORY COUNCIL.]

[(a) ESTABLISHMENT.—The Board shall establish an Advisory Council in accordance with this section.

- [(b) MEMBERSHIP.—

[(1) IN GENERAL.—The Council shall consist of 13 members, who shall be appointed by the Board, including—

[(A) 1 representative from each of the 12 districts established by the Bureau of Indian Affairs; and

[(B) 1 representative from the State of Hawaii.

[(2) QUALIFICATIONS.—Of the members of the Council—

[(A) not less than 6 members shall have expertise in financial matters; and

[(B) not less than 9 members shall be Native Americans.

[(3) TERMS.—Each member of the Council shall be appointed for a 4-year term, except that the initial Council shall be appointed, as designated by the Board at the time of appointment, as follows:

[(A) Each of 4 members shall be appointed for a 2-year term.

[(B) Each of 4 members shall be appointed for a 3-year term.

[(C) Each of 5 members shall be appointed for a 4-year term.

- [(c) DUTIES.—The Council shall—

[(1) advise the Board on all policy matters of the Corporation; and

[(2) through the regional representation of members of the Council, provide information to the Board from all sectors of the Native American community.

[TITLE II—CAPITALIZATION OF CORPORATION]

[SEC. 201. CAPITALIZATION OF THE CORPORATION.]

[(a) CLASS A STOCK.—The class A stock of the Corporation shall—

[(1) be issued only to Indian tribes and the Department of Hawaiian Home Lands;

[(2) be allocated—

[(A) with respect to Indian tribes, on the basis of Indian tribe population, as determined by the Secretary in consultation with the Secretary of the Interior, in such manner as to issue 1 share for each member of an Indian tribe; and

[(B) with respect to the Department of Hawaiian Home Lands, on the basis of the number of current leases at the time of allocation;

[(3) have such par value and other characteristics as the Corporation shall provide;

[(4) be issued in such a manner as to ensure that voting rights may be vested only on purchase of those rights from the Corporation by an Indian tribe or the Department of Hawaiian Home Lands, with each share being entitled to 1 vote; and

[(5) be nontransferable.

[(b) CLASS B STOCK.—

[(1) IN GENERAL.—The Corporation may issue class B stock evidencing capital contributions in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation.

[(2) CHARACTERISTICS.—Any class B stock issued under paragraph (1) shall—

[(A) be available for purchase by investors;

[(B) be entitled to such dividends as may be declared by the Board in accordance with subsection (c);

[(C) have such par value and other characteristics as the Corporation shall provide;

[(D) be vested with voting rights, with each share being entitled to 1 vote; and

[(E) be transferable only on the books of the Corporation.

[(c) CHARGES AND FEES; EARNINGS.—

[(1) CHARGES AND FEES.—The Corporation may impose charges or fees, which may be regarded as elements of pricing, with the objectives that—

[(A) all costs and expenses of the operations of the Corporation should be within the income of the Corporation derived from such operations; and

[(B) those operations would be fully self-supporting.

[(2) EARNINGS.—

[(A) IN GENERAL.—All earnings from the operations of the Corporation shall be annually transferred to the general surplus account of the Corporation.

[(B) TRANSFER OF GENERAL SURPLUS FUNDS.—At any time, funds in the general surplus account may, in the discretion of the Board, be transferred to the reserves of the Corporation.

[(d) CAPITAL DISTRIBUTIONS.—

[(1) DISTRIBUTIONS.—

[(A) IN GENERAL.—Except as provided in paragraph (2), the Corporation may make such capital distributions as may be declared by the Board.

[(B) CHARGING OF DISTRIBUTIONS.—All capital distributions under subparagraph (A) shall be charged against the general surplus account of the Corporation.

[(2) RESTRICTION.—The Corporation may not make any capital distribution that would decrease the total capital of the Corporation to an amount less than the capital level for the Corporation established under section 301, without prior written approval of the distribution by the Secretary.

[TITLE III—REGULATION, EXAMINATION, AND REPORTS]

[SEC. 301. REGULATION, EXAMINATION, AND REPORTS.]

[(a) IN GENERAL.—The Corporation shall be subject to the regulatory authority of the Department of Housing and Urban Development with respect to all matters relating to the financial safety and soundness of the Corporation.

[(b) DUTY OF SECRETARY.—The Secretary shall ensure that the Corporation is adequately capitalized and operating safely as a congressionally chartered body corporate.

[(c) REPORTS TO SECRETARY.—

[(1) ANNUAL REPORTS.—On such date as the Secretary shall require, but not later than 1 year after the date of enactment of this Act, and annually thereafter, the Corporation shall submit to the Secretary a report in such form and containing such information with respect to the financial condition and operations of the Corporation as the Secretary shall require.

[(2) CONTENTS OF REPORTS.—Each report submitted under this subsection shall contain a declaration by the president, vice president, treasurer, or any other officer of the Corporation designated by the Board to make the declaration, that the report is true and correct to the best of the knowledge and belief of that officer.

[SEC. 302. AUTHORITY OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.]

[The Secretary shall—

[(1) have general regulatory power over the Corporation; and

[(2) promulgate such rules and regulations applicable to the Corporation as the Secretary determines to be appropriate to ensure that the purposes specified in section 3 are accomplished.

[TITLE IV—FORMATION OF NEW CORPORATION]

[SEC. 401. FORMATION OF NEW CORPORATION.]

[(a) IN GENERAL.—In order to continue the accomplishment of the purposes specified in section 3 beyond the terms of the charter of the Corporation, the Board shall, not later than 10 years after the date of enactment of this Act, cause the formation of a new corporation under the laws of any tribe, any State, or the District of Columbia.

[(b) POWERS OF NEW CORPORATION NOT PRESCRIBED.—Except as provided in this section, the new corporation may have such corporate powers and attributes permitted under the laws of the jurisdiction of in which the new corporation is incorporated as the Board determines to be appropriate.

[(c) USE OF NAME PROHIBITED.—The new corporation may not use in any manner the names “Native American Capital Development Corporation” or “NACDCO”, or any variation of those names.

[SEC. 402. ADOPTION AND APPROVAL OF MERGER PLAN.]

[(a) IN GENERAL.—Not later than 10 years after the date of enactment of this Act, after consultation with the Indian tribes that are stockholders of class A stock referred to in section 201(a), the Board shall prepare, adopt, and submit to the Secretary for approval, a plan for merging the Corporation into the new corporation.

[(b) DESIGNATED MERGER DATE.—

[(1) IN GENERAL.—The Board shall establish the designated merger date in the merger plan as a specific calendar date on which, and time of day at which, the merger of the Corporation into the new corporation shall take effect.

[(2) CHANGES.—The Board may change the designated merger date in the merger plan by adopting an amended plan of merger.

[(3) RESTRICTION.—Except as provided in paragraph (4), the designated merger date in the merger plan or any amended merger plan shall not be later than 11 years after the date of enactment of this Act.

[(4) EXCEPTION.—Subject to the restriction contained in paragraph (5), the Board may adopt an amended plan of merger that designates a date under paragraph (3) that is later than 11 years after the date of enactment of this Act if the Board submits to the Secretary a report—

[(A) stating that an orderly merger of the Corporation into the new corporation is not feasible before the latest date designated by the Board;

[(B) explaining why an orderly merger of the Corporation into the new corporation is not feasible before the latest date designated by the Board;

[(C) describing the steps that have been taken to consummate an orderly merger of the Corporation into the new corporation not later than 11 years after the date of enactment of this Act; and

[(D) describing the steps that will be taken to consummate an orderly and timely merger of the Corporation into the new corporation.

[(5) LIMITATION.—The date designated by the Board in an amended merger plan shall not be later than 12 years after the date of enactment of this Act.

[(6) CONSUMMATION OF MERGER.—The consummation of an orderly and timely merger of the Corporation into the new corporation shall not occur later than 13 years after the date of enactment of this Act.

[(c) GOVERNMENTAL APPROVALS OF MERGER PLAN REQUIRED.—The merger plan or any amended merger plan shall take effect on the date on which the plan is approved by the Secretary.

[(d) REVISION OF DISAPPROVED MERGER PLAN REQUIRED.—If the Secretary disapproves the merger plan or any amended merger plan—

[(1) the Secretary shall—

[(A) notify the Corporation of the disapproval; and

[(B) indicate the reasons for the disapproval; and

[(2) not later than 30 days after the date of notification of disapproval under paragraph (1), the Corporation shall submit to the Secretary for approval, an amended merger plan that responds to the reasons for the disapproval indicated in that notification.

[(e) NO STOCKHOLDER APPROVAL OF MERGER PLAN REQUIRED.—The approval or consent of the stockholders of the Corporation shall not be required to accomplish the merger of the Corporation into the new corporation.

[SEC. 403. CONSUMMATION OF MERGER.]

[The Board shall ensure that the merger of the Corporation into the new corporation is accomplished in accordance with—

[(1) a merger plan approved by the Secretary under section 402; and

[(2) all applicable laws of the jurisdiction in which the new corporation is incorporated.

[SEC. 404. TRANSITION.]

[Except as provided in this section, the Corporation shall, during the transition period, continue to have all of the rights, privileges, duties, and obligations, and shall be subject to all of the limitations and restrictions, set forth in this Act.

[SEC. 405. EFFECT OF MERGER.]

[(a) TRANSFER OF ASSETS AND LIABILITIES.—On the designated merger date—

[(1) all real, personal, and mixed property, all debts due on any account, and any other interest, of or belonging to or due to the Corporation, shall be transferred to and vested in the new corporation without further act or deed; and

[(2) no title to any real, personal, or mixed property shall be impaired in any way by reason of the merger.

[(b) TERMINATION OF THE CORPORATION AND FEDERAL CHARTER.—On the designated merger date—

[(1) the surviving corporation of the merger shall be the new corporation;

[(2) the Federal charter of the Corporation shall terminate; and

[(3) the separate existence of the Corporation shall terminate.

[(c) REFERENCES TO THE CORPORATION IN LAW.—After the designated merger date, any reference to the Corporation in any law or regulation shall be deemed to refer to the new corporation.

[(d) SAVINGS CLAUSE.—

[(1) PROCEEDINGS.—The merger of the Corporation into the new corporation shall not abate any proceeding commenced by or against the Corporation before the designated merger date, except that the new corporation shall be substituted for the Corporation as a party to any such proceeding as of the designated merger date.

[(2) CONTRACTS AND AGREEMENTS.—All contracts and agreements to which the Corporation is a party and which are in effect on the day before the designated merger date shall continue in effect according to their terms, except that the new corporation shall be substituted for the Corporation as a party to those contracts and agreements as of the designated merger date.

[TITLE V—OTHER NATIVE AMERICAN FUNDS]

[SEC. 501. NATIVE AMERICAN ECONOMIES DIAGNOSTIC STUDIES FUND.]

[(a) ESTABLISHMENT.—There is established within the Corporation a fund to be known as the “Native American Economies Diagnostic Studies Fund” (referred to in this section as the “Diagnostic Fund”), to be used to strengthen Indian tribal economies by supporting investment policy reforms and technical assistance to eligible Indian tribes, consisting of—

[(1) any interest earned on investment of amounts in the Fund under subsection (d); and

[(2) such amounts as are appropriated to the Diagnostic Fund under subsection (f).

[(b) USE OF AMOUNTS FROM DIAGNOSTIC FUND.—

[(1) IN GENERAL.—The Corporation shall use amounts in the Diagnostic Fund to establish an interdisciplinary mechanism by which the Corporation and interested Indian tribes may jointly—

[(A) conduct diagnostic studies of Native economic conditions; and

[(B) provide recommendations for reforms in the policy, legal, regulatory, and investment areas and general economic environment of the interested Indian tribes.

[(2) CONDITIONS FOR STUDIES.—A diagnostic study conducted jointly by the Corporation and an Indian tribe under paragraph (1)—

[(A) shall be conducted in accordance with an agreement between the Corporation and the Indian tribe; and

[(B) at a minimum, shall identify inhibitors to greater levels of private sector investment and job creation with respect to the Indian tribe.

[(c) EXPENDITURES FROM DIAGNOSTIC FUND.—

[(1) IN GENERAL.—Subject to paragraph (2), on request by the Corporation, the Secretary of the Treasury shall transfer from the Diagnostic Fund to the Corporation such amounts as the Corporation determines are necessary to carry out this section.

[(2) ADMINISTRATIVE EXPENSES.—An amount not exceeding 12 percent of the amounts in the Diagnostic Fund shall be available in each fiscal year to pay the administrative expenses necessary to carry out this section.

[(d) INVESTMENT OF AMOUNTS.—

[(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Diagnostic Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

[(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

[(A) on original issue at the issue price; or
[(B) by purchase of outstanding obligations at the market price.

[(3) SALE OF OBLIGATIONS.—Any obligation acquired by the Diagnostic Fund may be sold by the Secretary of the Treasury at the market price.

[(4) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Diagnostic Fund shall be credited to and form a part of the Diagnostic Fund.

[(e) TRANSFERS OF AMOUNTS.—

[(1) IN GENERAL.—The amounts required to be transferred to the Diagnostic Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Diagnostic Fund on the basis of estimates made by the Secretary of the Treasury.

[(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

[(f) TRANSFERS TO DIAGNOSTIC FUND.—There are appropriated to the Diagnostic Fund, out of funds made available under section 603, such sums as are necessary to carry out this section.

[SEC. 502. NATIVE AMERICAN ECONOMIC INCUBATION CENTER FUND.]

[(a) ESTABLISHMENT.—There is established within the Corporation a fund to be known as the "Native American Economic Incubation Center Fund" (referred to in this section as the "Economic Fund"), consisting of—

[(1) any interest earned on investment of amounts in the Economic Fund under subsection (d); and

[(2) such amounts as are appropriated to the Economic Fund under subsection (f).

[(b) USE OF AMOUNTS FROM ECONOMIC FUND.—

[(1) IN GENERAL.—The Corporation shall use amounts in the Economic Fund to ensure that Federal development assistance and other resources dedicated to Native American economic development are provided only to Native American communities with demonstrated commitments to—

[(A) sound economic and political policies;
[(B) good governance; and

[(C) practices that promote increased levels of economic growth and job creation.

[(c) EXPENDITURES FROM ECONOMIC FUND.—

[(1) IN GENERAL.—Subject to paragraph (2), on request by the Corporation, the Secretary of the Treasury shall transfer from the Economic Fund to the Corporation such amounts as the Corporation determines are necessary to carry out this section.

[(2) ADMINISTRATIVE EXPENSES.—An amount not exceeding 12 percent of the amounts in the Economic Fund shall be available in each fiscal year to pay the administrative expenses necessary to carry out this section.

[(d) INVESTMENT OF AMOUNTS.—

[(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Economic Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

[(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

[(A) on original issue at the issue price; or
[(B) by purchase of outstanding obligations at the market price.

[(3) SALE OF OBLIGATIONS.—Any obligation acquired by the Economic Fund may be sold

by the Secretary of the Treasury at the market price.

[(4) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Economic Fund shall be credited to and form a part of the Economic Fund.

[(e) TRANSFERS OF AMOUNTS.—

[(1) IN GENERAL.—The amounts required to be transferred to the Economic Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Economic Fund on the basis of estimates made by the Secretary of the Treasury.

[(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

[(f) TRANSFERS TO ECONOMIC FUND.—There are appropriated to the Economic Fund, out of funds made available under section 603, such sums as are necessary to carry out this section.

[TITLE VI—AUTHORIZATIONS OF APPROPRIATIONS]

[SEC. 601. NATIVE AMERICAN FINANCIAL INSTITUTIONS.]

[(a) IN GENERAL.—There are authorized to be appropriated to the Fund, without fiscal year limitation, such sums as are necessary to provide financial assistance to Native American financial institutions.

[(b) NO CONSIDERATION AS MATCHING FUNDS.—To the extent that a Native American financial institution receives funds under subsection (a), the funds shall not be considered to be matching funds required under section 108(e) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4707(e)).

[SEC. 602. CORPORATION.]

[(a) There are authorized to be appropriated to the Secretary, for transfer to the Corporation, such sums as are necessary to carry out activities of the Corporation.

[SEC. 603. OTHER NATIVE AMERICAN FUNDS.]

[(a) There are authorized to be appropriated such sums as are necessary to carry out sections 501 and 502.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Tribal Development Corporation Feasibility Study Act of 2004".

SEC. 2. FEASIBILITY STUDY.

Section 4(b) of the Native American Business Development, Trade Promotion, and Tourism Act of 2000 (25 U.S.C. 4303(b)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

"(6) TRIBAL DEVELOPMENT CORPORATION FEASIBILITY STUDY.—

"(A) IN GENERAL.—The Secretary shall establish the Tribal Development Corporation Feasibility Study Group (referred to in this paragraph as the 'Group').

"(B) MEMBERS.—The Group shall be comprised of 12 members, as follows:

"(i) REPRESENTATIVES OF INDIAN TRIBES.—Five members of the Group shall be representatives of federally recognized Indian tribes.

"(ii) REPRESENTATIVES OF THE ALASKA NATIVE COMMUNITY.—Three members of the Group shall be representatives of the Alaska Native Community.

"(iii) REPRESENTATIVE OF THE NATIVE HAWAIIAN COMMUNITY.—One member of the Group shall be a representative of the Native Hawaiian Community.

"(iv) REPRESENTATIVE OF THE PRIVATE SECTOR.—Two members of the Group shall be representatives of nongovernmental economic activities carried out by private enterprises in the private sector.

"(v) FEDERAL OFFICIALS.—One member of the Group shall be a representative of the Department of the Treasury with demonstrated experience in international economic development and international financial institutions.

"(C) CHAIRPERSON.—The members of the Group shall select a Chairperson.

"(D) PERSONNEL AND SERVICES.—

"(i) IN GENERAL.—The Chairperson of the Group may appoint and terminate such personnel as are necessary to enable the Group to perform its duties.

"(ii) PROCUREMENT OF SERVICES.—The Chairperson may procure such services as are necessary to enable the Group to perform the duties of the Group.

"(E) STUDY.—

"(i) IN GENERAL.—Not later than 270 days after the date of enactment of this subparagraph, the Group shall—

"(I) conduct a study to determine the feasibility of establishing an Indian Tribal Development Corporation (referred to in this subparagraph as the 'Corporation'); and

"(II) submit to the Committee on Indian Affairs and the Committee on Appropriations of the Senate and the Committee on Resources and the Committee on Appropriations of the House of Representatives a report that describes the results of the study and any recommendations of the Group for further legislative action.

"(ii) CONTENTS.—The report shall contain—

"(I) a discussion and determination of the financial feasibility of the Corporation, including whether the Corporation can be, over the long term, financially self-sustainable;

"(II) a discussion and determination of the probable economic impact of the Corporation, including a demonstration of the quantitative and qualitative economic impact on Native American communities;

"(III) a discussion and determination of the best alternatives in the structure, organization, and lending terms and conditions of the Corporation, including the most appropriate structure of capital contributions to best serve, and be acceptable to, Native interests;

"(IV) a discussion and determination of the basic terms and conditions under which funding would be provided to member Indian tribes;

"(V) a discussion of nonfinancial and advisory activities to be undertaken by the Corporation, including the use of diagnostic studies by the Corporation to—

"(aa) identify tribal, Federal, or State policies and legal and regulatory conditions and infrastructure deficiencies that impede investment, both private and public, needed to promote economic development;

"(bb) provide specific recommendations for remedial actions that can be undertaken by an Indian tribe to overcome such inhibitors of investment; and

"(cc) identify and establish the terms for pre-appraisal studies of investment opportunities, both private and public, that can be developed and promoted by an Indian tribe; and

"(VI) a discussion and determination of—

"(aa) the capital structure of the Corporation, including the optimal level of initial capital contributions by both Indian tribes and the United States Government; and

"(bb) the financial instruments that will be required by the Corporation to ensure its success.

"(F) TERMINATION OF STUDY GROUP.—The Group shall terminate 120 days after the date on which the Group submits the report under subparagraph (E).

"(G) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph—

"(i) \$3,000,000 for fiscal year 2005; and

"(ii) \$2,000,000 for fiscal year 2006."

Amend the title so as to read: "A bill to determine the feasibility of establishing an Indian Tribal Development Corporation."

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 519), as amended, was read the third time and passed.

The title was amended so as to read: "A bill to determine the feasibility of establishing an Indian Tribal Development Corporation."

TRIBAL PARITY ACT

The Senate proceeded to consider the bill (S. 1530) to provide compensation to the Lower Brule and Crow Creek Sioux Tribes of South Dakota for damage to tribal land caused by Pick-Sloan projects along the Missouri River, which had been reported from the Committee on Indian Affairs with amendments, as follows:

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

S. 1530

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 "Tribal Parity Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act of December 22, 1944 (commonly known as the "Flood Control Act of 1944") (58 Stat. 891)), was approved to promote the general economic development of the United States;

(2) the Fort Randall and Big Bend dam and reservoir projects in South Dakota—

(A) are major components of the Pick-Sloan Missouri River Basin Program; and

(B) contribute to the national economy;

(3) the Fort Randall and Big Bend projects inundated the fertile bottom land of the Lower Brule and Crow Creek Sioux Tribes, which greatly damaged the economy and cultural resources of the Tribes;

(4) Congress has provided compensation to several Indian tribes, including the Lower Brule and Crow Creek Sioux Tribes, that border the Missouri River and suffered injury as a result of 1 or more Pick-Sloan Projects;

(5) the compensation provided to those Indian tribes has not been consistent;

(6) Missouri River Indian tribes that suffered injury as a result of 1 or more Pick-Sloan Projects should be adequately compensated for those injuries, and that compensation should be consistent among the Tribes; and

(7) the Lower Brule Sioux Tribe and the Crow Creek Sioux Tribe, based on methodology determined appropriate by the General Accounting Office, are entitled to receive additional compensation for injuries described in paragraph (6), so as to provide parity among compensation received by all Missouri River Indian tribes.

SEC. 3. LOWER BRULE SIOUX TRIBE.

Section 4(b) of the Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act (Public Law 105-132; 111 Stat. 2565) is amended by striking "\$39,300,000" and inserting ["\$176,398,012"] "\$186,822,140".

SEC. 4. CROW CREEK SIOUX TRIBE.

Section 4(b) of the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996 (Public Law 104-223; 110 Stat. 3027) is amended by striking "\$27,500,000" and inserting ["\$100,244,040"] "\$105,917,853".

The amendments were agreed to.

The bill (S. 1530), as amended, was read the third time and passed, as follows:

S. 1530

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 "Tribal Parity Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act of December 22, 1944 (commonly known as the "Flood Control Act of 1944") (58 Stat. 891)), was approved to promote the general economic development of the United States;

(2) the Fort Randall and Big Bend dam and reservoir projects in South Dakota—

(A) are major components of the Pick-Sloan Missouri River Basin Program; and

(B) contribute to the national economy;

(3) the Fort Randall and Big Bend projects inundated the fertile bottom land of the Lower Brule and Crow Creek Sioux Tribes, which greatly damaged the economy and cultural resources of the Tribes;

(4) Congress has provided compensation to several Indian tribes, including the Lower Brule and Crow Creek Sioux Tribes, that border the Missouri River and suffered injury as a result of 1 or more Pick-Sloan Projects;

(5) the compensation provided to those Indian tribes has not been consistent;

(6) Missouri River Indian tribes that suffered injury as a result of 1 or more Pick-Sloan Projects should be adequately compensated for those injuries, and that compensation should be consistent among the Tribes; and

(7) the Lower Brule Sioux Tribe and the Crow Creek Sioux Tribe, based on methodology determined appropriate by the General Accounting Office, are entitled to receive additional compensation for injuries described in paragraph (6), so as to provide parity among compensation received by all Missouri River Indian tribes.

SEC. 3. LOWER BRULE SIOUX TRIBE.

Section 4(b) of the Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act (Public Law 105-132; 111 Stat. 2565) is amended by striking "\$39,300,000" and inserting "\$186,822,140".

SEC. 4. CROW CREEK SIOUX TRIBE.

Section 4(b) of the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996 (Public Law 104-223; 110 Stat. 3027) is amended by striking "\$27,500,000" and inserting "\$105,917,853".

OGLALA SIOUX TRIBE ANGOSTURA IRRIGATION PROJECT MODERNIZATION AND DEVELOPMENT ACT

The Senate proceeded to consider the bill (S. 1996) to enhance and provide to the Oglala Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1996

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 "Oglala Sioux Tribe Angostura Irrigation Project Rehabilitation and Development Act".

[SEC. 2. FINDINGS.

[Congress finds that—

[(1) Congress approved the Pick-Sloan Missouri River basin program by passing the Act of December 22, 1944 (commonly known as the "Flood Control Act of 1944") (33 U.S.C. 701-1 et seq.)—

[(A) to promote the economic development of the United States;

[(B) to provide for irrigation in regions north of Sioux City, Iowa;

[(C) to protect urban and rural areas from devastating floods of the Missouri River; and

[(D) for other purposes;

[(2) the Angostura Unit—

[(A) is a component of the Pick-Sloan program; and

[(B) provides for—

[(i) irrigation of 12,218 acres of productive farm land in the State; and

[(ii) substantial recreation and fish and wildlife benefits;

[(3) the Commissioner of Reclamation has determined that—

[(A) the national economic development benefits from irrigation at the Angostura Unit total approximately \$3,410,000 annually; and

[(B) the national economic development benefits of recreation at Angostura Reservoir total approximately \$7,100,000 annually;

[(4) the Angostura Unit impounds the Cheyenne River 20 miles upstream of the Pine Ridge Indian Reservation in the State;

[(5)(A) the Reservation experiences extremely high rates of unemployment and poverty; and

[(B) there is a need for economic development on the Reservation;

[(6) the national economic development benefits of the Angostura Unit do not extend to the Reservation;

[(7) the Angostura Unit may be associated with negative affects on water quality and riparian vegetation in the Cheyenne River on the Reservation;

[(8) rehabilitation of the irrigation facilities at the Angostura Unit would—

[(A) enhance the national economic development benefits of the Angostura Unit; and

[(B) result in improved water efficiency and environmental restoration benefits on the Reservation; and

[(9) the establishment of a trust fund for the Oglala Sioux Tribe would—

[(A) produce economic development benefits for the Reservation comparable to the benefits produced at the Angostura Unit; and

[(B) provide resources that are necessary for restoration of the Cheyenne River corridor on the Reservation.

[SEC. 3. DEFINITIONS.

[In this Act:

[(1) ANGOSTURA UNIT.—The term "Angostura Unit" means the irrigation unit of the Angostura irrigation project developed under the Act of August 11, 1939 (16 U.S.C. 590y et seq.).

[(2) FUND.—The term "Fund" means the Oglala Sioux Tribal Development Trust Fund established by section 201(a).

[(3) PICK-SLOAN PROGRAM.—The term "Pick-Sloan program" means the Pick-Sloan Missouri River basin program approved under the Act of December 22, 1944 (commonly known as the "Flood Control Act of 1944") (33 U.S.C. 701-1 et seq.).

[(4) PLAN.—The term "plan" means the development plan developed by the Tribe under section 201(f).

[(5) RESERVATION.—The term "Reservation" means the Pine Ridge Indian Reservation in the State.

[(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[(7) STATE.—The term "State" means the State of South Dakota.

[(8) TRIBAL COUNCIL.—The term “Tribal Council” means the governing body of the Tribe.

[(9) TRIBE.—The term “Tribe” means the Oglala Sioux Tribe of South Dakota.

[TITLE I—REHABILITATION]

[SEC. 101. REHABILITATION OF FACILITIES AT ANGOSTURA UNIT.]

[The Secretary may carry out the rehabilitation and improvement of the facilities at the Angostura Project described in the report entitled “Angostura Unit Contract Negotiation and Water Management Final Environmental Impact Statement”, dated August 2002.

[SEC. 102. DELIVERY OF WATER TO PINE RIDGE INDIAN RESERVATION.]

[The Secretary shall provide for—

[(1) to the maximum extent practicable, the delivery of water saved through the rehabilitation and improvement of the facilities of the Angostura Unit to the Pine Ridge Indian Reservation; and

[(2) the use of that water for purposes of environmental restoration on the Pine Ridge Indian Reservation.

[SEC. 103. EFFECT ON OTHER LAW.]

[Nothing in this title affects—

[(1) any reserved water rights or other rights of the Tribe;

[(2) any service or program to which, in accordance with Federal law, the Tribe, or an individual member of the Tribe, is entitled; or

[(3) any water rights in existence on the date of enactment of this Act held by any person or entity.

[SEC. 104. AUTHORIZATION OF APPROPRIATIONS.]

[There is authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

[TITLE II—DEVELOPMENT]

[SEC. 201. OGLALA SIOUX TRIBAL DEVELOPMENT TRUST FUND.]

[(a) OGLALA SIOUX TRIBAL DEVELOPMENT TRUST FUND.—There is established in the Treasury of the United States a fund to be known as the “Oglala Sioux Tribal Development Trust Fund”, consisting of any amounts deposited in the Fund under this title.

[(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit in the Fund—

[(1) such sums as the Secretary of the Treasury, in consultation with the Secretary, the Secretary of Health and Human Services, and the Tribal Council, are necessary to carry out development under this title; and

[(2) the amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if that amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

[(c) INVESTMENT OF TRUST FUND.—

[(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

[(2) ACQUISITION OF OBLIGATIONS.—Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

[(3) INTEREST.—The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

[(d) PAYMENT OF INTEREST TO TRIBE.—

[(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall transfer the aggregate amount of interest deposited into the Fund for the fiscal year to the Secretary for use in accordance with paragraph (3).

[(2) AVAILABILITY.—Each amount transferred under paragraph (1) shall be available without fiscal year limitation.

[(3) PAYMENTS TO TRIBE.—

[(A) IN GENERAL.—The Secretary shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Tribe, as such payments are requested by the Tribe pursuant to tribal resolution.

[(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Tribe has adopted a plan under subsection (f).

[(C) USE OF PAYMENTS BY TRIBE.—The Tribe shall use the payments made under subparagraph (B) only for carrying out projects and programs under the plan prepared under subsection (f).

[(e) LIMITATION ON TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury shall not transfer or withdraw any amount deposited under subsection (b).

[(f) DEVELOPMENT PLAN.—

[(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the governing body of the Tribe shall prepare a plan for the use of the payments to the Tribe under subsection (d).

[(2) CONTENTS.—The plan shall provide for the manner in which the Tribe shall expend payments to the Tribe under subsection (d) to promote—

[(A) economic development;

[(B) infrastructure development;

[(C) the educational, health, recreational, and social welfare objectives of the Tribe and members of the Tribe; or

[(D) any combination of the activities described in subparagraphs (A) through (C).

[(3) PLAN REVIEW AND REVISION.—

[(A) IN GENERAL.—The Tribal Council shall make available for review and comment by the members of the Tribe a copy of the plan before the plan becomes final, in accordance with procedures established by the Tribal Council.

[(B) UPDATING OF PLAN.—

[(i) IN GENERAL.—The Tribal Council may, on an annual basis, revise the plan to update the plan.

[(ii) REVIEW AND COMMENT.—In revising the plan, the Tribal Council shall provide the members of the Tribe opportunity to review and comment on any proposed revision to the plan.

[(C) CONSULTATION.—In preparing the plan and any revisions to update the plan, the Tribal Council shall consult with the Secretary and the Secretary of Health and Human Services.

[(4) AUDIT.—

[(A) IN GENERAL.—The activities of the Tribe in carrying out the plan shall be audited as part of the annual single-agency audit that the Tribe is required to prepare pursuant to the Office of Management and Budget circular numbered A-133.

[(B) DETERMINATION BY AUDITORS.—The auditors that conduct the audit under subparagraph (A) shall—

[(i) determine whether funds received by the Tribe under this section for the period covered by the audit were expended to carry out the plan in a manner consistent with this section; and

[(ii) include in the written findings of the audit the determination made under clause (i).

[(C) INCLUSION OF FINDINGS WITH PUBLICATION OF PROCEEDINGS OF TRIBAL COUNCIL.—A copy of the written findings of the audit described in subparagraph (A) shall be inserted in the published minutes of the Tribal Council proceedings for the session at which the audit is presented to the Tribal Council.

[(g) PROHIBITION OF PER CAPITA PAYMENTS.—No portion of any payment made under this title may be distributed to any member of the Tribe on a per capita basis.

[SEC. 202. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.]

[No payment made to the Tribe under this title shall result in the reduction or denial of any service or program with respect to which, under Federal law—

[(1) the Tribe is otherwise entitled because of the status of the Tribe as a federally recognized Indian tribe; or

[(2) any individual who is a member of the Tribe is entitled because of the status of the individual as a member of the Tribe.

[SEC. 203. AUTHORIZATION OF APPROPRIATIONS.]

[There are authorized to be appropriated such sums as are necessary to pay the administrative expenses of the Fund.]

SECTION 1. SHORT TITLE.

This Act may be cited as the “Oglala Sioux Tribe Angostura Irrigation Project Modernization and Development Act”.

SEC. 2. FINDINGS.

Congress finds that—

(1) Congress approved the Pick-Sloan Missouri River basin program by passing the Act of December 22, 1944 (commonly known as the “Flood Control Act of 1944”) (33 U.S.C. 701-1 et seq.);—

(A) to promote the economic development of the United States;

(B) to provide for irrigation in regions north of Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the Angostura Unit—

(A) is a component of the Pick-Sloan program; and

(B) provides for—

(i) irrigation of 12,218 acres of productive farmland in South Dakota; and

(ii) substantial recreation and fish and wildlife benefits;

(3) the Commissioner of Reclamation has determined that—

(A) the national economic development benefits from irrigation at the Angostura Unit total approximately \$3,410,000 annually; and

(B) the national economic development benefits of recreation at Angostura Reservoir total approximately \$7,100,000 annually;

(4) the Angostura Unit impounds the Cheyenne River 20 miles upstream of the Pine Ridge Indian Reservation in South Dakota;

(5)(A) the Reservation experiences extremely high rates of unemployment and poverty; and

(B) there is a need for economic development on the Reservation;

(6) the national economic development benefits of the Angostura Unit do not extend to the Reservation;

(7) the Angostura Unit may be associated with negative effects on water quality and riparian vegetation in the Cheyenne River on the Reservation;

(8) modernization of the irrigation facilities at the Angostura Unit would—

(A) enhance the national economic development benefits of the Angostura Unit; and

(B) result in improved water efficiency and environmental restoration benefits on the Reservation; and

(9) the establishment of a trust fund for the Oglala Sioux Tribe would—

(A) produce economic development benefits for the Reservation comparable to the benefits produced at the Angostura Unit; and

(B) provide resources that are necessary for restoration of the Cheyenne River corridor on the Reservation.

SEC. 3. DEFINITIONS.

In this Act:

(1) **ANGOSTURA UNIT.**—The term “Angostura Unit” means the irrigation unit of the Angostura irrigation project developed under the Act of August 11, 1939 (16 U.S.C. 590y et seq.).

(2) **FUND.**—The term “Fund” means the Oglala Sioux Tribal Development Trust Fund established by section 201(a).

(3) **PICK-SLOAN PROGRAM.**—The term “Pick-Sloan program” means the Pick-Sloan Missouri River basin program approved under the Act of December 22, 1944 (commonly known as the “Flood Control Act of 1944”) (33 U.S.C. 701-1 et seq.).

(4) **PLAN.**—The term “plan” means the development plan developed by the Tribe under section 201(f).

(5) **RESERVATION.**—The term “Reservation” means the Pine Ridge Indian Reservation in the State.

(6) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(7) **TRIBE.**—The term “Tribe” means the Oglala Sioux Tribe of South Dakota.

(8) **TRIBAL COUNCIL.**—The term “Tribal Council” means the governing body of the Tribe.

TITLE I—MODERNIZATION

SEC. 101. MODERNIZATION OF FACILITIES AT ANGOSTURA UNIT.

(a) **IN GENERAL.**—The Secretary shall carry out the modernization and improvement of the facilities at the Angostura Unit as described in the Improved Efficiencies Alternative included in the report entitled “Final Environmental Impact Statement, Angostura Unit Contract Negotiation and Water Management (August 2002)”.

(b) **NONREIMBURSABILITY.**—The cost of the modernization and improvement of the facilities at the Angostura Unit shall be carried out on a nonreimbursable basis.

SEC. 102. DELIVERY OF WATER TO PINE RIDGE INDIAN RESERVATION.

The Secretary shall provide for the delivery of the water saved through the modernization and improvement of the facilities of the Angostura Unit to be used for fish and wildlife purposes and environmental restoration on the Reservation.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out section 101 \$4,660,000, to remain available until expended.

TITLE II—DEVELOPMENT

SEC. 201. OGLALA SIOUX TRIBAL DEVELOPMENT TRUST FUND.

(a) **OGLALA SIOUX TRIBAL DEVELOPMENT TRUST FUND.**—There is established in the Treasury of the United States a fund to be known as the “Oglala Sioux Tribal Development Trust Fund”, consisting of any amounts deposited in the Fund under this title.

(b) **FUNDING.**—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit in the Fund—

(1) \$92,500,000; and

(2) the amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if that amount had been invested in interest-bearing obligations of the United States on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) **INVESTMENT OF TRUST FUND.**—

(1) **IN GENERAL.**—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

(2) **ELIGIBLE OBLIGATIONS.**—Notwithstanding any other provision of law, the Secretary of the

Treasury shall invest the amounts deposited under subsection (b) and the interest earned on those amounts only in interest-bearing obligations of the United States issued directly to the Fund.

(3) **INTEREST.**—The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) **PAYMENT OF INTEREST TO TRIBE.**—

(1) **WITHDRAWAL OF INTEREST.**—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall transfer the aggregate amount of interest deposited into the Fund for the fiscal year to the Secretary for use in accordance with paragraph (3).

(2) **AVAILABILITY.**—Each amount transferred under paragraph (1) shall be available without fiscal year limitation.

(3) **PAYMENTS TO TRIBE.**—

(A) **IN GENERAL.**—The Secretary shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Tribe, as such payments are requested by the Tribe pursuant to tribal resolution.

(B) **LIMITATION.**—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Tribe has adopted a plan under subsection (f).

(C) **USE OF PAYMENTS BY TRIBE.**—The Tribe shall use the payments made under subparagraph (B) only for carrying out projects and programs under the plan prepared under subsection (f).

(e) **LIMITATION ON TRANSFERS AND WITHDRAWALS.**—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury shall not transfer or withdraw any amount deposited under subsection (b).

(f) **DEVELOPMENT PLAN.**—

(1) **IN GENERAL.**—Not later than 18 months after the date of enactment of this Act, the governing body of the Tribe shall prepare a plan for the use of the payments to the Tribe under subsection (d).

(2) **CONTENTS.**—The plan shall provide for the manner in which the Tribe shall expend payments to the Tribe under subsection (d) to promote—

(A) economic development;

(B) infrastructure development;

(C) the educational, health, recreational, and social welfare objectives of the Tribe and members of the Tribe; or

(D) any combination of the activities described in subparagraphs (A) through (C).

(3) **PLAN REVIEW AND REVISION.**—

(A) **IN GENERAL.**—The Tribal Council shall make available for review and comment by the members of the Tribe a copy of the plan before the plan becomes final, in accordance with procedures established by the Tribal Council.

(B) **UPDATING OF PLAN.**—

(1) **IN GENERAL.**—The Tribal Council may, on an annual basis, revise the plan to update the plan.

(ii) **REVIEW AND COMMENT.**—In revising the plan, the Tribal Council shall provide the members of the Tribe opportunity to review and comment on any proposed revision to the plan.

(C) **CONSULTATION.**—In preparing the plan and any revisions to update the plan, the Tribal Council shall consult with the Secretary and the Secretary of Health and Human Services.

(4) **AUDIT.**—

(A) **IN GENERAL.**—The activities of the Tribe in carrying out the plan shall be audited as part of the annual single-agency audit that the Tribe is required to prepare pursuant to the Office of Management and Budget circular numbered A-133.

(B) **DETERMINATION BY AUDITORS.**—The auditors that conduct the audit under subparagraph (A) shall—

(i) determine whether funds received by the Tribe under this section for the period covered by the audit were expended to carry out the

plan in a manner consistent with this section; and

(ii) include in the written findings of the audit the determination made under clause (i).

(C) **INCLUSION OF FINDINGS WITH PUBLICATION OF PROCEEDINGS OF TRIBAL COUNCIL.**—A copy of the written findings of the audit described in subparagraph (A) shall be inserted in the published minutes of the Tribal Council proceedings for the session at which the audit is presented to the Tribal Council.

(g) **PROHIBITION OF PER CAPITA PAYMENTS.**—No portion of any payment made under this title may be distributed to any member of the Tribe on a per capita basis.

SEC. 202. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

No payment made to the Tribe under this title shall result in the reduction or denial of any service or program with respect to which, under Federal law—

(1) the Tribe is otherwise entitled because of the status of the Tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of the Tribe is entitled because of the status of the individual as a member of the Tribe.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to pay the administrative expenses of the Fund.

SEC. 204. WATER RIGHTS.

Nothing in this Act—

(1)(A) affects any rights, benefits, privileges or claims (including water rights or claims to water rights) of the Tribe, whether located within or without the external boundaries of the Reservation, based on treaty, Executive order, agreement, Act of Congress, aboriginal title, the Winters doctrine (*Winters v. United States*, 207 U.S. 564 (1908)), or otherwise; or

(B) validates or invalidates any assertion of the existence, nonexistence or extinguishment of any water rights, or claims to water rights, held by the Tribe or any other Indian tribe or individual Indian under Federal or State law; or

(2) affects any other water rights in existence on the date of enactment of this Act held by any person or entity.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1996), as amended, was read the third time and passed.

SPOKANE TRIBE OF INDIANS OF THE SPOKANE RESERVATION GRAND COULEE DAM EQUITABLE COMPENSATION SETTLEMENT ACT

The Senate proceeded to consider the bill (S. 1438) to provide for equitable compensation of the Spokane Tribe of Indians of the Spokane Reservation in settlement of claims of the Tribe concerning the contribution of the Tribe to the production of hydropower by the Grand Coulee Dam, and for other purposes, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1438

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 “Spokane Tribe of Indians of the Spokane Reservation

Grand Coulee Dam Equitable Compensation Settlement Act".

[SEC. 2. FINDINGS.]

[(Congress finds the following:

[(1) From 1927 to 1931, at the direction of Congress, the Corps of Engineers investigated the Columbia River and its tributaries to determine sites at which power could be produced at low cost.

[(2) The Corps of Engineers—

[(A) identified a number of sites, including the site at which the Grand Coulee Dam is located; and

[(B) recommended that power development at those sites be performed by local governmental authorities or private utilities under the Federal Power Act (16 U.S.C. 791a et seq.).

[(3) Under section 10(e) of that Act (16 U.S.C. 803(e)), a licensee is required to compensate an Indian tribe for the use of land under the jurisdiction of the Indian tribe.

[(4) In August 1933, the Columbia Basin Commission, an agency of the State of Washington, received a preliminary permit from the Federal Power Commission for water power development at the Grand Coulee site.

[(5) In the mid-1930's, the Federal Government, which is not subject to the Federal Power Act (16 U.S.C. 791a et seq.)—

[(A) federalized the Grand Coulee Dam project; and

[(B) began construction of the Grand Coulee Dam.

[(6) At the time at which the Grand Coulee Dam project was federalized, the Federal Government recognized that the Spokane Tribe and the Confederated Tribes of the Colville Reservation had compensable interests in the Grand Coulee Dam project, including compensation for—

[(A) the development of hydropower;

[(B) the extinguishment of a salmon fishery on which the Spokane Tribe was almost completely financially dependent; and

[(C) the inundation of land with loss of potential power sites previously identified by the Spokane Tribe.

[(7) In the Act of June 29, 1940, Congress—

[(A) in the first section (16 U.S.C. 835d) granted to the United States—

[(i) all rights of Indian tribes in land of the Spokane Tribe and Colville Indian Reservations that were required for the Grand Coulee Dam project; and

[(ii) various rights-of-way over other land under the jurisdiction of Indian tribes that were required in connection with the project; and

[(B) in section 2 (16 U.S.C. 835e) provided that compensation for the land and rights-of-way was to be determined by the Secretary of the Interior in such amounts as the Secretary determined to be just and equitable.

[(8) In furtherance of that Act, the Secretary of the Interior paid—

[(A) to the Spokane Tribe, \$4,700; and

[(B) to the Confederated Tribes of the Colville Reservation, \$63,000.

[(9) In 1994, following 43 years of litigation before the Indian Claims Commission, the United States Court of Federal Claims, and the United States Court of Appeals for the Federal Circuit, Congress ratified an agreement between the Confederated Tribes of the Colville Reservation and the United States that provided for damages and annual payments of \$15,250,000 in perpetuity, adjusted annually, based on revenues from the sale of electric power from the Grand Coulee Dam project and transmission of that power by the Bonneville Power Administration.

[(10) In legal opinions issued by the Office of the Solicitor of the Department of the Interior, a Task Force Study conducted from 1976 to 1980 ordered by the Committee on Appropriations of the Senate, and hearings be-

fore Congress at the time at which the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103-436; 108 Stat. 4577) was enacted, it has repeatedly been recognized that—

[(A) the Spokane Tribe suffered damages similar to those suffered by, and had a case legally comparable to that of, the Confederated Tribes of the Colville Reservation; but

[(B) the 5-year statute of limitations under the Act of August 13, 1946 (25 U.S.C. 70 et seq.) precluded the Spokane Tribe from bringing a civil action for damages under that Act.

[(11) The inability of the Spokane Tribe to bring a civil action before the Indian Claims Commission can be attributed to a combination of factors, including—

[(A) the failure of the Bureau of Indian Affairs to carry out its advisory responsibilities in accordance with that Act; and

[(B) an attempt by the Commissioner of Indian Affairs to impose improper requirements on claims attorneys retained by Indian tribes, which caused delays in retention of counsel and full investigation of the potential claims of the Spokane Tribe.

[(12) As a consequence of construction of the Grand Coulee Dam project, the Spokane Tribe—

[(A) has suffered the loss of—

[(i) the salmon fishery on which the Spokane Tribe was dependent;

[(ii) identified hydropower sites that the Spokane Tribe could have developed; and

[(iii) hydropower revenues that the Spokane Tribe would have received under the Federal Power Act (16 U.S.C. 791a et seq.) had the project not been federalized; and

[(B) continues to lose hydropower revenues that the Federal Government recognized were owed to the Spokane Tribe at the time at which the project was constructed.

[(13) More than 39 percent of the land owned by Indian tribes or members of Indian tribes that was used for the Grand Coulee Dam project was land of the Spokane Tribe.

[SEC. 3. STATEMENT OF PURPOSE.]

[(The purpose of this Act is to provide fair and equitable compensation to the Spokane Tribe, using the same proportional basis as was used in providing compensation to the Confederated Tribes of the Colville Reservation, for the losses suffered as a result of the construction and operation of the Grand Coulee Dam project.)

[SEC. 4. DEFINITIONS.]

[(In this Act:

[(1) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

[(2) CONFEDERATED TRIBES ACT.—The term "Confederated Tribes Act" means the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103-436; 108 Stat. 4577).

[(3) FUND ACCOUNT.—The term "Fund Account" means the Spokane Tribe of Indians Settlement Fund Account established under section 5(a).

[(4) SPOKANE TRIBE.—The term "Spokane Tribe" means the Spokane Tribe of Indians of the Spokane Reservation, Washington.

[SEC. 5. SETTLEMENT FUND ACCOUNT.]

[(a) ESTABLISHMENT OF ACCOUNT.—There is established in the Treasury an interest-bearing account to be known as the "Spokane Tribe of Indians Settlement Fund Account".

[(b) DEPOSIT OF AMOUNTS.—

[(1) INITIAL DEPOSIT.—On the date on which funds are made available to carry out this Act, the Secretary shall deposit in the Fund Account, as payment and satisfaction of the claim of the Spokane Tribe for use of land of the Spokane Tribe for generation of hydropower for the period beginning on June 29, 1940, and ending on November 2, 1994, an amount that is equal to 39.4 percent of the

amount paid to the Confederated Tribes of the Colville Reservation under section 5(a) of the Confederated Tribes Act, adjusted to reflect the change, during the period beginning on the date on which the payment described in subparagraph (A) was made to the Confederated Tribes of the Colville Reservation and ending on the date of enactment of this Act, in the Consumer Price Index for all urban consumers published by the Department of Labor.

[(2) SUBSEQUENT DEPOSITS.—On September 30 of the first fiscal year that begins after the date of enactment of this Act, and on September 30 of each of the 5 fiscal years thereafter, the Secretary shall deposit in the Fund Account an amount that is equal to 7.88 percent of the amount authorized to be paid to the Confederated Tribes of the Colville Reservation under section 5(b) of the Confederated Tribes Act through the end of the fiscal year during which this Act is enacted, adjusted to reflect the change, during the period beginning on the date on which the payment to the Confederated Tribes of the Colville Reservation was first made and ending on the date of enactment of this Act, in the Consumer Price Index for all urban consumers published by the Department of Labor.

[(c) ANNUAL PAYMENTS.—On September 1 of the first fiscal year after the date of enactment of this Act, and annually thereafter, the Secretary shall pay to the Spokane Tribe an amount that is equal to 39.4 percent of the annual payment authorized to be paid to the Confederated Tribes of the Colville Reservation under section 5(b) for the Confederated Tribes Act for the fiscal year.

[SEC. 6. USE AND TREATMENT OF SETTLEMENT FUNDS.]

[(a) TRANSFER OF FUNDS TO SPOKANE TRIBE.—

[(1) INITIAL TRANSFER.—Not later than 60 days after the date on which the Secretary receives from the Spokane Business Council written notice of the adoption by the Spokane Business Council of a resolution requesting that the Secretary execute the transfer of settlement funds described in section 5(a), the Secretary shall transfer all or a portion of the settlement funds, as appropriate, to the Spokane Business Council.

[(2) SUBSEQUENT TRANSFERS.—If not all funds described in section 5(a) are transferred to the Spokane Business Council under an initial transfer request described in paragraph (1), the Spokane Business Council may make subsequent requests for, and the Secretary of the Treasury may execute subsequent transfers of, those funds.

[(b) USE OF INITIAL PAYMENT FUNDS.—Of the settlement funds described in subsections (a) and (b) of section 5—

[(1) 25 percent shall be—

[(A) reserved by the Spokane Business Council; and

[(B) used for discretionary purposes of general benefit to all members of the Spokane Tribe; and

[(2) 75 percent shall be used by the Spokane Business Council to carry out—

[(A) a resource development program;

[(B) a credit program;

[(C) a scholarship program; or

[(D) a reserve, investment, and economic development program.

[(c) USE OF ANNUAL PAYMENT FUNDS.—Annual payments made to the Spokane Tribe under section 5(c) may be used or invested by the Spokane Tribe in the same manner and for the same purposes as other tribal governmental funds.

[(d) APPROVAL BY SECRETARY.—Notwithstanding any other provision of law—

[(1) the approval of the Secretary of the Treasury or the Secretary of the Interior for any payment, distribution, or use of the

principal, interest, or income generated by any settlement funds transferred or paid to the Spokane Tribe under this Act shall not be required; and

(2) the Secretary of the Treasury and the Secretary of the Interior shall have no trust responsibility for the investment, supervision, administration, or expenditure of those funds after the date on which the funds are transferred to or paid to the Spokane Tribe.

(e) **TREATMENT OF FUNDS FOR CERTAIN PURPOSES.**—The payments and distributions of any portion of the principal, interest, and income generated by the settlement funds described in section 5 shall be treated in the same manner as payments or distributions under section 6 of the Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act (Public Law 99-346; 100 Stat. 677).

(f) **TRIBAL AUDIT.**—After the date on which the settlement funds described in section 5 are transferred or paid to the Spokane Tribe, the funds—

(1) shall be considered to be Spokane Tribe governmental funds; and

(2) shall be subject to an annual tribal governmental audit.

SEC. 7. SATISFACTION OF CLAIMS.

[Payment by the Secretary under section 5 constitutes full satisfaction of the claim of Spokane Tribe to a fair share of the annual hydropower revenues generated by the Grand Coulee Dam project from June 29, 1940, through the fiscal year preceding the fiscal year in which this Act is enacted.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as are necessary to carry out this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the “Spokane Tribe of Indians of the Spokane Reservation Grand Coulee Dam Equitable Compensation Settlement Act”.

SEC. 2. FINDINGS.

Congress finds that—

(1) from 1927 to 1931, at the direction of Congress, the Corps of Engineers investigated the Columbia River and its tributaries to determine sites at which power could be produced at low cost;

(2) under section 10(e) of the Federal Power Act (16 U.S.C. 803(e)), when licenses are issued involving tribal land within an Indian reservation, a reasonable annual charge shall be fixed for the use of the land, subject to the approval of the Indian tribe having jurisdiction over the land;

(3) in August 1933, the Columbia Basin Commission, an agency of the State of Washington, received a preliminary permit from the Federal Power Commission for water power development at the Grand Coulee site;

(4) had the Columbia Basin Commission or a private entity developed the site, the Spokane Tribe would have been entitled to a reasonable annual charge for the use of its land;

(5) in the mid-1930s, the Federal Government, which is not subject to licensing under the Federal Power Act (16 U.S.C. 792 et seq.)—

(A) federalized the Grand Coulee Dam project; and

(B) began construction of the Grand Coulee Dam;

(6) when the Grand Coulee Dam project was federalized, the Federal Government recognized that—

(A) development of the project affected the interests of the Spokane Tribe and the Confederated Tribes of the Colville Reservation; and

(B) it would be appropriate for the Spokane and Colville Tribes to receive a share of revenue from the disposition of power produced at Grand Coulee Dam;

(7) in the Act of June 29, 1940 (16 U.S.C. 835d et seq.), Congress—

(A) granted to the United States—

(i) in aid of the construction, operation, and maintenance of the Columbia Basin Project, all the right, title, and interest of the Spokane Tribe and Colville Tribes in and to the tribal and allotted land within the Spokane and Colville Reservations, as designated by the Secretary of the Interior from time to time; and

(ii) other interests in such land as required and as designated by the Secretary for certain construction activities undertaken in connection with the project; and

(B) provided that compensation for the land and other interests was to be determined by the Secretary in such amounts as the Secretary determined to be just and equitable;

(8) pursuant to that Act, the Secretary paid—

(A) to the Spokane Tribe, \$4,700; and

(B) to the Confederated Tribes of the Colville Reservation, \$63,000;

(9) in 1994, following litigation under the Act of August 13, 1946 (commonly known as the “Indian Claims Commission Act” (60 Stat. 1049, chapter 959; former 25 U.S.C. 70 et seq.)), Congress ratified the Colville Settlement Agreement, which required—

(A) for past use of the Colville Tribes’ land, a payment of \$53,000,000; and

(B) for continued use of the Colville Tribes’ land, annual payments of \$15,250,000, adjusted annually based on revenues from the sale of electric power from the Grand Coulee Dam project and transmission of that power by the Bonneville Power Administration;

(10) the Spokane Tribe, having suffered harm similar to that suffered by the Colville Tribes, did not file a claim within the Indian Claims Commission Act’s 5-year statute of limitations;

(11) neither the Colville Tribes nor the Spokane Tribe filed claims for compensation for use of their land with the Commission before August 13, 1951, but both Tribes filed unrelated land claims prior to August 13, 1951;

(12) in 1976, over objections by the United States, the Colville Tribes were successful in amending their 1951 Claims Commission land claims to add their Grand Coulee claim;

(13) the Spokane Tribe had no such claim to amend, having settled its Claims Commission land claims with the United States in 1967;

(14) the Spokane Tribe has suffered significant harm from the construction and operation of Grand Coulee Dam;

(15) Spokane tribal acreage taken by the United States for the construction of Grand Coulee Dam equaled approximately 39 percent of Colville tribal acreage taken for construction of the dam;

(16) the payments and land transfers made pursuant to this Act constitute fair and equitable compensation for the past and continued use of Spokane tribal land for the production of hydropower at Grand Coulee Dam; and

(17) by vote of the Spokane tribal membership, the Spokane Tribe has resolved that the payments and land transfers made pursuant to this Act constitute fair and equitable compensation for the past and continued use of Spokane Tribal land for the production of hydropower at Grand Coulee Dam.

SEC. 3. PURPOSE.

The purpose of this Act is to provide fair and equitable compensation to the Spokane Tribe for the use of its land for the generation of hydropower by the Grand Coulee Dam.

SEC. 4. DEFINITIONS.

In this Act:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Bonneville Power Administration or the head of any successor agency, corporation, or entity that markets power produced at Grand Coulee Dam.

(2) **COLVILLE SETTLEMENT AGREEMENT.**—The term “Colville Settlement Agreement” means the Settlement Agreement entered into between the United States and the Colville Tribes, signed by the United States on April 21, 1994, and by the

Colville Tribes on April 16, 1994, to settle the claims of the Colville Tribes in Docket 181-D of the Indian Claims Commission, which docket was transferred to the United States Court of Federal Claims.

(3) **COLVILLE TRIBES.**—The term “Colville Tribes” means the Confederated Tribes of the Colville Reservation.

(4) **COMPUTED ANNUAL PAYMENT.**—The term “Computed Annual Payment” means the payment calculated under paragraph 2.b. of the Colville Settlement Agreement, without regard to any increase or decrease in the payment under section 2.d. of the agreement.

(5) **CONFEDERATED TRIBES ACT.**—The term “Confederated Tribes Act” means the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (108 Stat. 4577).

(6) **FUND.**—The term “Fund” means the Spokane Tribe of Indians Settlement Fund established by section 5.

(7) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(8) **SPOKANE BUSINESS COUNCIL.**—The term “Spokane Business Council” means the governing body of the Spokane Tribe under the constitution of the Spokane Tribe.

(9) **SPOKANE TRIBE.**—The term “Spokane Tribe” means the Spokane Tribe of Indians of the Spokane Reservation, Washington.

SEC. 5. SETTLEMENT FUND.

(a) **ESTABLISHMENT OF FUND.**—There is established in the Treasury of the United States an interest-bearing trust fund to be known as the “Spokane Tribe of Indians Settlement Fund”, consisting of—

(1) amounts deposited in the Fund under subsection (b); and

(2) any interest earned on investment of amounts in the Fund.

(b) **DEPOSITS.**—From amounts made available under section 11—

(1) for fiscal year 2006, the Secretary shall deposit in the Fund \$17,800,000; and

(2) for each of the 4 fiscal years thereafter, the Secretary shall deposit in the Fund \$12,800,000.

(c) **MAINTENANCE AND INVESTMENT OF FUND.**—The Fund shall be maintained and invested by the Secretary in accordance with the Act of June 24, 1938 (25 U.S.C. 162a).

(d) **PAYMENT OF FUNDS TO SPOKANE BUSINESS COUNCIL.**—

(1) **REQUEST.**—At any time after funds are deposited in the Fund, the Spokane Business Council may submit to the Secretary written notice of the adoption by the Spokane Business Council of a resolution requesting that the Secretary pay all or a portion of the amounts in the Fund to the Spokane Business Council.

(2) **PAYMENT.**—Not later than 60 days after receipt of a notice under paragraph (1), the Secretary shall pay the amount requested to the Spokane Business Council.

(e) **USE OF FUNDS.**—

(1) **CULTURAL RESOURCE REPOSITORY AND INTERPRETIVE CENTER.**—

(A) **IN GENERAL.**—Of the initial deposit under subsection (b)(1), \$5,000,000 shall be used by the Spokane Business Council for the planning, design, construction, equipping, and continuing operation and maintenance of a Cultural Resource Repository and Interpretive Center to—

(i) house, preserve, and protect the burial remains, funerary objects, and other cultural resources affected by the operation of the Grand Coulee Dam; and

(ii) provide an interpretive and educational facility regarding the culture and history of the Spokane Tribe.

(B) **EFFECT.**—The funding under subparagraph (A) does not alter or affect any authority, obligation, or responsibility of the United States under—

(i) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(ii) the Archaeological Resources Protection Act (16 U.S.C. 470aa et seq.);

(iii) the National Historic Preservation Act (16 U.S.C. 470 et seq.); or
(iv) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) OTHER USES.—Of all other amounts deposited in the Fund (including interest generated on those amounts)—

- (A) 25 percent shall be—
 - (i) reserved by the Spokane Business Council; and
 - (ii) used for discretionary purposes of general benefit to all members of the Spokane Tribe; and
- (B) 75 percent shall be used by the Spokane Business Council to carry out—
 - (i) resource development programs;
 - (ii) credit programs;
 - (iii) scholarship programs; or
 - (iv) reserve, investment, and economic development programs.

SEC. 6. PAYMENTS BY THE ADMINISTRATOR.

(a) INITIAL PAYMENT.—On March 1, 2007, the Administrator shall pay the Spokane Tribe—

(1) the amount that is equal to 29 percent of the Computed Annual Payment, for fiscal year 2005, adjusted to reflect the change in the Consumer Price Index for all urban consumers published by the Department of Labor, from the date on which the payment for fiscal year 2005 was made to the Colville Tribes to the date on which payment is made to the Spokane Tribe under this subparagraph; and

(2) the amount that is equal to 29 percent of the Computed Annual Payment for fiscal year 2006.

(b) SUBSEQUENT PAYMENTS.—On or before March 1, 2008, and March 1 of each year thereafter, the Administrator shall pay the Spokane Tribe the amount that is equal to 29 percent of the Computed Annual Payment for the previous fiscal year.

SEC. 7. TREATMENT AFTER FUNDS ARE PAID.

(a) USE OF PAYMENTS.—Payments made to the Spokane Business Council or Spokane Tribe under section 5 or 6 may be used or invested by the Business Council in the same manner and for the same purposes as other Spokane Tribe governmental funds.

(b) NO TRUST RESPONSIBILITY OF THE SECRETARY.—Neither the Secretary nor the Administrator shall have any trust responsibility for the investment, supervision, administration, or expenditure of any funds after the date on which the funds are paid to the Spokane Business Council or Spokane Tribe under section 5 or 6.

(c) TREATMENT OF FUNDS FOR CERTAIN PURPOSES.—The payments of all funds to the Spokane Business Council and Spokane Tribe under sections 5 and 6, and the interest and income generated by the funds, shall be treated in the same manner as payments under section 6 of the Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act (100 Stat. 677).

(d) TRIBAL AUDIT.—After the date on which funds are paid to the Spokane Business Council or Spokane Tribe under section 5 or 6, the funds shall—

- (1) constitute Spokane Tribe governmental funds; and
- (2) be subject to an annual tribal government audit.

SEC. 8. REPAYMENT CREDIT.

(a) IN GENERAL.—The Administrator shall deduct from the interest payable to the Secretary of the Treasury from net proceeds (as defined in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k))—

- (1) in fiscal year 2007, \$2,600,000; and
- (2) in each subsequent fiscal year in which the Administrator makes a payment under section 6, \$1,300,000.

(b) CREDITING.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each deduction made under this section shall be—

(A) a credit to the interest payments otherwise payable by the Administrator to the Secretary of

the Treasury during the fiscal year in which the deduction is made; and

(B) allocated pro rata to all interest payments on debt associated with the generation function of the Federal Columbia River Power System that are due during the fiscal year.

(2) DEDUCTION GREATER THAN AMOUNT OF INTEREST.—If, in any fiscal year, the deduction is greater than the amount of interest due on debt associated with the generation function for the fiscal year, the amount of the deduction that exceeds the interest due on debt associated with the generation function shall be allocated pro rata to all other interest payments due during the fiscal year.

(3) CREDIT.—To the extent that a deduction exceeds the total amount of interest described in paragraphs (1) and (2), the deduction shall be applied as a credit against any other payments that the Administrator makes to the Secretary of the Treasury.

SEC. 9. TRANSFER OF ADMINISTRATIVE JURISDICTION AND RESTORATION OF OWNERSHIP OF LAND.

(a) TRANSFER OF JURISDICTION.—The Secretary shall transfer administrative jurisdiction from the Bureau of Reclamation to the Bureau of Indian Affairs over—

(1) all land acquired by the United States under the Act of June 29, 1940 (16 U.S.C. 835d), that is located within the exterior boundaries of the Spokane Indian Reservation established pursuant to the Executive Order of January 18, 1881; and

(2) all land on the south bank of the Spokane River that—

(A) extends westerly from Little Falls Dam to the confluence of the Spokane River and Columbia River; and

(B) is located at or below contour elevation 1290 feet above sea level.

(b) RESTORATION OF OWNERSHIP IN TRUST.—All land transferred under this section—

(1) shall be held in trust for the benefit and use of the Spokane Tribe; and

(2) shall become part of the Spokane Indian Reservation.

(c) RESERVATION OF RIGHTS.—

(1) IN GENERAL.—The United States reserves a perpetual right, power, privilege, and easement over the land transferred under this section to carry out the Columbia Basin Project under the Columbia Basin Project Act (16 U.S.C. 835 et seq.).

(2) RIGHTS INCLUDED.—The rights reserved under paragraph (1) further include the right to operate, maintain, repair, and replace boat ramps, docks, and other recreational facilities owned or permitted by the United States and existing on the date of enactment of this Act.

(3) MEMORANDUM OF UNDERSTANDING.—The cognizant agencies of the Department of the Interior shall enter into a memorandum of understanding with the Spokane Tribe to provide for coordination in applying this subsection.

SEC. 10. SATISFACTION OF CLAIMS.

Payment by the Secretary under section 5 and the Administrator under section 6 and restoration of ownership of land in trust under section 9 constitute full satisfaction of the claim of the Spokane Tribe to a fair share of the annual hydropower revenues generated by the Grand Coulee Dam project for the past and continued use of land of the Spokane Tribe for the production of hydropower at Grand Coulee Dam.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Amend the title so as to read: "A bill to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes."

The amendment (No. 4068) was agreed to, as follows:

(Purpose: To make clear that land transferred under the bill shall remain part of the Lake Roosevelt National Recreation Area)

In section 9(c), redesignate paragraph (3) as paragraph (4).

In section 9(c), after paragraph (2), insert the following:

(3) RETENTION OF NATIONAL PARK SYSTEM STATUS.—

(A) IN GENERAL.—Land transferred under this section that, before the date of enactment of this Act, was included in the Lake Roosevelt National Recreation Area shall remain part of the Recreation Area.

(B) ADMINISTRATION.—Nothing in this section affects the authority or responsibility of the National Park Service to administer the Lake Roosevelt National Recreation Area under the Act of August 25, 1916 (39 Stat. 535, chapter 408; 16 U.S.C. 1 et seq.).

On page 23, Section 6, after line 11 insert the following:

(c) PAYMENT RECOVERY.—Pursuant to the payment schedule in subsection (b), the Administrator shall make commensurate cost reductions in expenditures on an annual basis to recover each payment to the Tribe. The Administrator shall include this specific cost reduction plan in the annual budget submitted to Congress.

On page 28, after line 3, insert the following:

SEC. 12. PRECEDENT.

Nothing in this Act establishes any precedent or is binding on the Southwestern Power Administration, Western Area Power Administration, or Southeastern Power Administration.

The Committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 1438), as amended, was read the third time and passed, as follows:

S. 1438

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 "Spokane Tribe of Indians of the Spokane Reservation Grand Coulee Dam Equitable Compensation Settlement Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) from 1927 to 1931, at the direction of Congress, the Corps of Engineers investigated the Columbia River and its tributaries to determine sites at which power could be produced at low cost;

(2) under section 10(e) of the Federal Power Act (16 U.S.C. 803(e)), when licenses are issued involving tribal land within an Indian reservation, a reasonable annual charge shall be fixed for the use of the land, subject to the approval of the Indian tribe having jurisdiction over the land;

(3) in August 1933, the Columbia Basin Commission, an agency of the State of Washington, received a preliminary permit from the Federal Power Commission for water power development at the Grand Coulee site;

(4) had the Columbia Basin Commission or a private entity developed the site, the Spokane Tribe would have been entitled to a reasonable annual charge for the use of its land;

(5) in the mid-1930s, the Federal Government, which is not subject to licensing under the Federal Power Act (16 U.S.C. 792 et seq.)—

(A) federalized the Grand Coulee Dam project; and

(B) began construction of the Grand Coulee Dam;

(6) when the Grand Coulee Dam project was federalized, the Federal Government recognized that—

(A) development of the project affected the interests of the Spokane Tribe and the Confederated Tribes of the Colville Reservation; and

(B) it would be appropriate for the Spokane and Colville Tribes to receive a share of revenue from the disposition of power produced at Grand Coulee Dam;

(7) in the Act of June 29, 1940 (16 U.S.C. 835d et seq.), Congress—

(A) granted to the United States—

(i) in aid of the construction, operation, and maintenance of the Columbia Basin Project, all the right, title, and interest of the Spokane Tribe and Colville Tribes in and to the tribal and allotted land within the Spokane and Colville Reservations, as designated by the Secretary of the Interior from time to time; and

(ii) other interests in such land as required and as designated by the Secretary for certain construction activities undertaken in connection with the project; and

(B) provided that compensation for the land and other interests was to be determined by the Secretary in such amounts as the Secretary determined to be just and equitable;

(8) pursuant to that Act, the Secretary paid—

(A) to the Spokane Tribe, \$4,700; and

(B) to the Confederated Tribes of the Colville Reservation, \$63,000;

(9) in 1994, following litigation under the Act of August 13, 1946 (commonly known as the "Indian Claims Commission Act" (60 Stat. 1049, chapter 959; former 25 U.S.C. 70 et seq.)), Congress ratified the Colville Settlement Agreement, which required—

(A) for past use of the Colville Tribes' land, a payment of \$53,000,000; and

(B) for continued use of the Colville Tribes' land, annual payments of \$15,250,000, adjusted annually based on revenues from the sale of electric power from the Grand Coulee Dam project and transmission of that power by the Bonneville Power Administration;

(10) the Spokane Tribe, having suffered harm similar to that suffered by the Colville Tribes, did not file a claim within the Indian Claims Commission Act's 5-year statute of limitations;

(11) neither the Colville Tribes nor the Spokane Tribe filed claims for compensation for use of their land with the Commission before August 13, 1951, but both Tribes filed unrelated land claims prior to August 13, 1951;

(12) in 1976, over objections by the United States, the Colville Tribes were successful in amending their 1951 Claims Commission land claims to add their Grand Coulee claim;

(13) the Spokane Tribe had no such claim to amend, having settled its Claims Commission land claims with the United States in 1967;

(14) the Spokane Tribe has suffered significant harm from the construction and operation of Grand Coulee Dam;

(15) Spokane tribal acreage taken by the United States for the construction of Grand Coulee Dam equaled approximately 39 percent of Colville tribal acreage taken for construction of the dam;

(16) the payments and land transfers made pursuant to this Act constitute fair and equitable compensation for the past and continued use of Spokane tribal land for the production of hydropower at Grand Coulee Dam; and

(17) by vote of the Spokane tribal membership, the Spokane Tribe has resolved that the payments and land transfers made pursuant to this Act constitute fair and equitable compensation for the past and continued use

of Spokane Tribal land for the production of hydropower at Grand Coulee Dam.

SEC. 3. PURPOSE.

The purpose of this Act is to provide fair and equitable compensation to the Spokane Tribe for the use of its land for the generation of hydropower by the Grand Coulee Dam.

SEC. 4. DEFINITIONS.

In this Act:

(1) **ADMINISTRATOR.**—The term "Administrator" means the Administrator of the Bonneville Power Administration or the head of any successor agency, corporation, or entity that markets power produced at Grand Coulee Dam.

(2) **COLVILLE SETTLEMENT AGREEMENT.**—The term "Colville Settlement Agreement" means the Settlement Agreement entered into between the United States and the Colville Tribes, signed by the United States on April 21, 1994, and by the Colville Tribes on April 16, 1994, to settle the claims of the Colville Tribes in Docket 181-D of the Indian Claims Commission, which docket was transferred to the United States Court of Federal Claims.

(3) **COLVILLE TRIBES.**—The term "Colville Tribes" means the Confederated Tribes of the Colville Reservation.

(4) **COMPUTED ANNUAL PAYMENT.**—The term "Computed Annual Payment" means the payment calculated under paragraph 2.b. of the Colville Settlement Agreement, without regard to any increase or decrease in the payment under section 2.d. of the agreement.

(5) **CONFEDERATED TRIBES ACT.**—The term "Confederated Tribes Act" means the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (108 Stat. 4577).

(6) **FUND.**—The term "Fund" means the Spokane Tribe of Indians Settlement Fund established by section 5.

(7) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior.

(8) **SPOKANE BUSINESS COUNCIL.**—The term "Spokane Business Council" means the governing body of the Spokane Tribe under the constitution of the Spokane Tribe.

(9) **SPOKANE TRIBE.**—The term "Spokane Tribe" means the Spokane Tribe of Indians of the Spokane Reservation, Washington.

SEC. 5. SETTLEMENT FUND.

(a) **ESTABLISHMENT OF FUND.**—There is established in the Treasury of the United States an interest-bearing trust fund to be known as the "Spokane Tribe of Indians Settlement Fund", consisting of—

(1) amounts deposited in the Fund under subsection (b); and

(2) any interest earned on investment of amounts in the Fund.

(b) **DEPOSITS.**—From amounts made available under section 11—

(1) for fiscal year 2006, the Secretary shall deposit in the Fund \$17,800,000; and

(2) for each of the 4 fiscal years thereafter, the Secretary shall deposit in the Fund \$12,800,000.

(c) **MAINTENANCE AND INVESTMENT OF FUND.**—The Fund shall be maintained and invested by the Secretary in accordance with the Act of June 24, 1938 (25 U.S.C. 162a).

(d) **PAYMENT OF FUNDS TO SPOKANE BUSINESS COUNCIL.**—

(1) **REQUEST.**—At any time after funds are deposited in the Fund, the Spokane Business Council may submit to the Secretary written notice of the adoption by the Spokane Business Council of a resolution requesting that the Secretary pay all or a portion of the amounts in the Fund to the Spokane Business Council.

(2) **PAYMENT.**—Not later than 60 days after receipt of a notice under paragraph (1), the Secretary shall pay the amount requested to the Spokane Business Council.

(e) **USE OF FUNDS.**—

(1) **CULTURAL RESOURCE REPOSITORY AND INTERPRETIVE CENTER.**—

(A) **IN GENERAL.**—Of the initial deposit under subsection (b)(1), \$5,000,000 shall be used by the Spokane Business Council for the planning, design, construction, equipping, and continuing operation and maintenance of a Cultural Resource Repository and Interpretive Center to—

(i) house, preserve, and protect the burial remains, funerary objects, and other cultural resources affected by the operation of the Grand Coulee Dam; and

(ii) provide an interpretive and educational facility regarding the culture and history of the Spokane Tribe.

(B) **EFFECT.**—The funding under subparagraph (A) does not alter or affect any authority, obligation, or responsibility of the United States under—

(i) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(ii) the Archaeological Resources Protection Act (16 U.S.C. 470aa et seq.);

(iii) the National Historic Preservation Act (16 U.S.C. 470 et seq.); or

(iv) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) **OTHER USES.**—Of all other amounts deposited in the Fund (including interest generated on those amounts)—

(A) 25 percent shall be—

(i) reserved by the Spokane Business Council; and

(ii) used for discretionary purposes of general benefit to all members of the Spokane Tribe; and

(B) 75 percent shall be used by the Spokane Business Council to carry out—

(i) resource development programs;

(ii) credit programs;

(iii) scholarship programs; or

(iv) reserve, investment, and economic development programs.

SEC. 6. PAYMENTS BY THE ADMINISTRATOR.

(a) **INITIAL PAYMENT.**—On March 1, 2007, the Administrator shall pay the Spokane Tribe—

(1) the amount that is equal to 29 percent of the Computed Annual Payment, for fiscal year 2005, adjusted to reflect the change in the Consumer Price Index for all urban consumers published by the Department of Labor, from the date on which the payment for fiscal year 2005 was made to the Colville Tribes to the date on which payment is made to the Spokane Tribe under this subparagraph; and

(2) the amount that is equal to 29 percent of the Computed Annual Payment for fiscal year 2006.

(b) **SUBSEQUENT PAYMENTS.**—On or before March 1, 2008, and March 1 of each year thereafter, the Administrator shall pay the Spokane Tribe the amount that is equal to 29 percent of the Computed Annual Payment for the previous fiscal year.

(c) **PAYMENT RECOVERY.**—Pursuant to the payment schedule in subsection (b), the Administrator shall make commensurate cost reductions in expenditures on an annual basis to recover each payment to the Tribe. The Administrator shall include this specific cost reduction plan in the annual budget submitted to Congress.

SEC. 7. TREATMENT AFTER FUNDS ARE PAID.

(a) **USE OF PAYMENTS.**—Payments made to the Spokane Business Council or Spokane Tribe under section 5 or 6 may be used or invested by the Business Council in the same manner and for the same purposes as other Spokane Tribe governmental funds.

(b) **NO TRUST RESPONSIBILITY OF THE SECRETARY.**—Neither the Secretary nor the Administrator shall have any trust responsibility for the investment, supervision, administration, or expenditure of any funds

after the date on which the funds are paid to the Spokane Business Council or Spokane Tribe under section 5 or 6.

(c) **TREATMENT OF FUNDS FOR CERTAIN PURPOSES.**—The payments of all funds to the Spokane Business Council and Spokane Tribe under sections 5 and 6, and the interest and income generated by the funds, shall be treated in the same manner as payments under section 6 of the Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act (100 Stat. 677).

(d) **TRIBAL AUDIT.**—After the date on which funds are paid to the Spokane Business Council or Spokane Tribe under section 5 or 6, the funds shall—

(1) constitute Spokane Tribe governmental funds; and

(2) be subject to an annual tribal government audit.

SEC. 8. REPAYMENT CREDIT.

(a) **IN GENERAL.**—The Administrator shall deduct from the interest payable to the Secretary of the Treasury from net proceeds (as defined in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k))—

(1) in fiscal year 2007, \$2,600,000; and

(2) in each subsequent fiscal year in which the Administrator makes a payment under section 6, \$1,300,000.

(b) **CREDITING.**—

(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), each deduction made under this section shall be—

(A) a credit to the interest payments otherwise payable by the Administrator to the Secretary of the Treasury during the fiscal year in which the deduction is made; and

(B) allocated pro rata to all interest payments on debt associated with the generation function of the Federal Columbia River Power System that are due during the fiscal year.

(2) **DEDUCTION GREATER THAN AMOUNT OF INTEREST.**—If, in any fiscal year, the deduction is greater than the amount of interest due on debt associated with the generation function for the fiscal year, the amount of the deduction that exceeds the interest due on debt associated with the generation function shall be allocated pro rata to all other interest payments due during the fiscal year.

(3) **CREDIT.**—To the extent that a deduction exceeds the total amount of interest described in paragraphs (1) and (2), the deduction shall be applied as a credit against any other payments that the Administrator makes to the Secretary of the Treasury.

SEC. 9. TRANSFER OF ADMINISTRATIVE JURISDICTION AND RESTORATION OF OWNERSHIP OF LAND.

(a) **TRANSFER OF JURISDICTION.**—The Secretary shall transfer administrative jurisdiction from the Bureau of Reclamation to the Bureau of Indian Affairs over—

(1) all land acquired by the United States under the Act of June 29, 1940 (16 U.S.C. 835d), that is located within the exterior boundaries of the Spokane Indian Reservation established pursuant to the Executive Order of January 18, 1881; and

(2) all land on the south bank of the Spokane River that—

(A) extends westerly from Little Falls Dam to the confluence of the Spokane River and Columbia River; and

(B) is located at or below contour elevation 1290 feet above sea level.

(b) **RESTORATION OF OWNERSHIP IN TRUST.**—All land transferred under this section—

(1) shall be held in trust for the benefit and use of the Spokane Tribe; and

(2) shall become part of the Spokane Indian Reservation.

(c) **RESERVATION OF RIGHTS.**—

(1) **IN GENERAL.**—The United States reserves a perpetual right, power, privilege,

and easement over the land transferred under this section to carry out the Columbia Basin Project under the Columbia Basin Project Act (16 U.S.C. 835 et seq.).

(2) **RIGHTS INCLUDED.**—The rights reserved under paragraph (1) further include the right to operate, maintain, repair, and replace boat ramps, docks, and other recreational facilities owned or permitted by the United States and existing on the date of enactment of this Act.

(3) **RETENTION OF NATIONAL PARK SYSTEM STATUS.**—

(A) **IN GENERAL.**—Land transferred under this section that, before the date of enactment of this Act, was included in the Lake Roosevelt National Recreation Area shall remain part of the Recreation Area.

(B) **ADMINISTRATION.**—Nothing in this section affect the authority or responsibility of the National Park Service to administer the Lake Roosevelt National Recreation Area under the Act of August 25, 1916 (39 Stat. 535, chapter 408; 16 U.S.C. 1 et seq.).

(4) **MEMORANDUM OF UNDERSTANDING.**—The cognizant agencies of the Department of the Interior shall enter into a memorandum of understanding with the Spokane Tribe to provide for coordination in applying this subsection.

SEC. 10. SATISFACTION OF CLAIMS.

Payment by the Secretary under section 5 and the Administrator under section 6 and restoration of ownership of land in trust under section 9 constitute full satisfaction of the claim of the Spokane Tribe to a fair share of the annual hydropower revenues generated by the Grand Coulee Dam project for the past and continued use of land of the Spokane Tribe for the production of hydropower at Grand Coulee Dam.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SEC. 12. PRECEDENT.

Nothing in this Act establishes any precedent or is binding on the Southwestern Power Administration, Western Area Power Administration, or Southeastern Power Administration.

The title was amended so as to read: "A bill to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes."

INDIVIDUAL INDIAN MONEY ACCOUNT TRUST FUND LAWSUIT

Mr. CRAIG. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of S. Res. 248 and the Senate proceed to its immediate consideration.

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

The legislative clerk read as follows:

A resolution (S. Res. 248) expressing the sense of the Senate concerning the individual Indian money account trust fund lawsuit.

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

Mr. CRAIG. Mr. President, I ask unanimous consent that the Campbell amendment at the desk be agreed to, the resolution be agreed to, the preamble, as amended, be agreed to, the

motion to reconsider be laid upon the table, and any statements related to the measure be printed in the RECORD.

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

The amendment (No. 4070) was agreed to, as follows:

(Purpose: To provide a complete substitute for the preamble)

Whereas, since the 19th century, the United States has held Indian funds and resources in trust for the benefit of Indians, and in its capacity as trustee, is obligated to protect those funds and resources;

Whereas the Senate reaffirms that in continuing to hold and manage Indian funds and resources for the benefit of the Indians, the United States must act in accordance with all applicable standards and duties of care;

Whereas, in 1996, a class action was brought against the United States seeking an accounting of balances of individual Indian money accounts and rehabilitation of the trust system;

Whereas after 8 years of litigation and the expenditure of tens of millions of dollars in Federal funds, the Senate believes that there is a demonstrated need to assist and encourage the parties in reaching a full, fair, and final resolution to the class action litigation; and

Whereas the resolution of the class action litigation may be achieved through alternative dispute resolution processes, including mediation: Now, therefore, be it

The amendment (No. 4070) was agreed to.

The resolution was agreed to.

The preamble, as amended, was agreed to.

The resolution, with its preamble, reads as follows:

The resolution will be printed in a future edition of the RECORD.

REAUTHORIZING THE HARMFUL ALGAL BLOOM AND HYPOXIA RESEARCH AND CONTROL ACT OF 1998

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3014, which was introduced earlier today by Senators SNOWE and BREAU.

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

The legislative clerk read as follows:

A bill (S. 3014) to reauthorize the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998.

There being no objection, the Senate proceeded to consider the bill.

Mr. CRAIG. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statement regarding this matter be printed in the RECORD.

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

The bill (S. 3014) was read the third time and passed, as follows:

S. 3014

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

TITLE I—HARMFUL ALGAL BLOOM AND HYPOXIA AMENDMENTS ACT OF 2004

SEC. 101. SHORT TITLE.

This title may be cited as the "Harmful Algal Bloom and Hypoxia Amendments Act of 2004".

SEC. 102. RETENTION OF TASK FORCE.

Section 603 of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 (16 U.S.C. 1451 nt) is amended by striking subsection (e). In developing the assessments, reports, and plans under the amendments made by this title, the Task Force shall consult with the coastal States, Indian tribes, local governments, appropriate industries (including fisheries, agriculture, and fertilizer), academic institutions, and non-governmental organizations with expertise in coastal zone science and management.

SEC. 103. PREDICTION AND RESPONSE REPORT.

Section 603 of such Act, as amended by section 102, is further amended by adding at the end the following:

"(d) REPORT TO CONGRESS ON HARMFUL ALGAL BLOOM IMPACTS.—

"(1) DEVELOPMENT.—Not later than 12 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004, the President, in consultation with the chief executive officers of the States, shall develop and submit to the Congress a report that describes and evaluates the effectiveness of measures described in paragraph (2) that may be utilized to protect environmental and public health from impacts of harmful algal blooms. In developing the report, the President shall consult with the Task Force, the coastal States, Indian tribes, local governments, appropriate industries (including fisheries, agriculture, and fertilizer), academic institutions, and non-governmental organizations with expertise in coastal zone science and management, and also consider the scientific assessments developed under this Act.

"(2) REQUIREMENTS.—The report shall—

"(A) review techniques for prediction of the onset, course, and impacts of harmful algal blooms including evaluation of their accuracy and utility in protecting environmental and public health and provisions for their development;

"(B) identify innovative research and development methods for the prevention, control, and mitigation of harmful algal blooms and provisions for their development; and

"(C) include incentive-based partnership approaches regarding subparagraphs (A) and (B) where practicable.

"(3) PUBLICATION AND OPPORTUNITY FOR COMMENT.—At least 90 days before submitting the report to the Congress, the President shall cause a summary of the proposed plan to be published in the Federal Register for a public comment period of not less than 60 days.

"(4) FEDERAL ASSISTANCE.—The Secretary of Commerce, in coordination with the Task Force and to the extent of funds available, shall provide for Federal cooperation with and assistance to the coastal States, Indian tribes, and local governments regarding the measures described in paragraph (2), as requested."

SEC. 104. LOCAL AND REGIONAL SCIENTIFIC ASSESSMENTS.

Section 603 of such Act, as amended by section 103, is further amended by adding at the end the following:

"(e) LOCAL AND REGIONAL SCIENTIFIC ASSESSMENTS.—

"(1) IN GENERAL.—The Secretary of Commerce, in coordination with the Task Force and appropriate State, Indian tribe, and local governments, to the extent of funds available, shall provide for local and regional scientific assessments of hypoxia and harm-

ful algal blooms, as requested by States, Indian tribes, and local governments, or for affected areas as identified by the Secretary. If the Secretary receives multiple requests, the Secretary shall ensure, to the extent practicable, that assessments under this subsection cover geographically and ecologically diverse locations with significant ecological and economic impacts from hypoxia or harmful algal blooms. The Secretary shall establish a procedure for reviewing requests for local and regional assessments. The Secretary shall ensure, through consultation with Sea Grant Programs, that the findings of the assessments are communicated to the appropriate State, Indian tribe, and local governments, and to the general public.

"(2) PURPOSE.—Local and regional assessments shall examine—

"(A) the causes and ecological consequences, and the economic cost, of hypoxia or harmful algal blooms in that area;

"(B) potential methods to prevent, control, and mitigate hypoxia or harmful algal blooms in that area and the potential ecological and economic costs and benefits of such methods; and

"(C) other topics the Task Force considers appropriate.

"(f) SCIENTIFIC ASSESSMENT OF FRESHWATER HARMFUL ALGAL BLOOMS.—(1) Not later than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 the Task Force shall complete and submit to Congress a scientific assessment of current knowledge about harmful algal blooms in freshwater, such as the Great Lakes and upper reaches of estuaries, including a research plan for coordinating Federal efforts to better understand freshwater harmful algal blooms.

"(2) The freshwater harmful algal bloom scientific assessment shall—

"(A) examine the causes and ecological consequences, and the economic costs, of harmful algal blooms with significant effects on freshwater, including estimations of the frequency and occurrence of significant events;

"(B) establish priorities and guidelines for a competitive, peer-reviewed, merit-based interagency research program, as part of the Ecology and Oceanography of Harmful Algal Blooms (ECOHAB) project, to better understand the causes, characteristics, and impacts of harmful algal blooms in freshwater locations; and

"(C) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on harmful algal blooms in freshwater locations.

"(g) SCIENTIFIC ASSESSMENTS OF HYPOXIA.—(1) Not less than once every 5 years the Task Force shall complete and submit to the Congress a scientific assessment of hypoxia in United States coastal waters including the Great Lakes. The first such assessment shall be completed not less than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004.

"(2) The assessments under this subsection shall—

"(A) examine the causes and ecological consequences, and the economic costs, of hypoxia;

"(B) describe the potential ecological and economic costs and benefits of possible policy and management actions for preventing, controlling, and mitigating hypoxia;

"(C) evaluate progress made by, and the needs of, Federal research programs on the causes, characteristics, and impacts of hypoxia, including recommendations of how to eliminate significant gaps in hypoxia modeling and monitoring data; and

"(D) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on hypoxia.

"(h) SCIENTIFIC ASSESSMENTS OF HARMFUL ALGAL BLOOMS.—(1) Not less than once every 5 years the Task Force shall complete and submit to Congress a scientific assessment of harmful algal blooms in United States coastal waters. The first such assessment shall be completed not later than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 and shall consider only marine harmful algal blooms. All subsequent assessments shall examine both marine and freshwater harmful algal blooms, including those in the Great Lakes and upper reaches of estuaries.

"(2) The assessments under this subsection shall—

"(A) examine the causes and ecological consequences, and economic costs, of harmful algal blooms;

"(B) describe the potential ecological and economic costs and benefits of possible actions for preventing, controlling, and mitigating harmful algal blooms;

"(C) evaluate progress made by, and the needs of, Federal research programs on the causes, characteristics, and impacts of harmful algal blooms; and

"(D) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on harmful algal blooms.

"(i) NATIONAL SCIENTIFIC RESEARCH, DEVELOPMENT, DEMONSTRATION, AND TECHNOLOGY TRANSFER PLAN ON REDUCING IMPACTS FROM HARMFUL ALGAL BLOOMS.—(1) Not later than 12 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004, the Task Force shall develop and submit to Congress a plan providing for a comprehensive and coordinated national research program to develop and demonstrate prevention, control, and mitigation methods to reduce the impacts of harmful algal blooms on coastal ecosystems (including the Great Lakes), public health, and the economy.

"(2) The plan shall—

"(A) establish priorities and guidelines for a competitive, peer reviewed, merit based interagency research, development, demonstration, and technology transfer program on methods for the prevention, control, and mitigation of harmful algal blooms;

"(B) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to the actions described in paragraph (1); and

"(C) include to the maximum extent practicable diverse institutions, including Historically Black Colleges and Universities and those serving large proportions of Hispanics, Native Americans, Asian Pacific Americans, and other underrepresented populations.

"(3) The Secretary of Commerce, in conjunction with other appropriate Federal agencies, shall establish a research, development, demonstration, and technology transfer program that meets the priorities and guidelines established under paragraph (2)(A). The Secretary shall ensure, through consultation with Sea Grant Programs, that the results and findings of the program are communicated to State, Indian tribe, and local governments, and to the general public."

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

Section 605 of such Act is amended—

(1) by striking "and" after "2000," in the first sentence and in the paragraphs (1), (2), (3), and (5);

(2) by inserting "\$23,500,000 for fiscal year 2005, \$24,500,000 for fiscal year 2006, \$25,000,000

for fiscal year 2007, and \$25,500,000 for fiscal year 2008," after "2001," in the first sentence;

(3) by inserting ", and \$2,500,000 for each of fiscal years 2005 through 2008" after "2001" in paragraph (1);

(4) by inserting ", and \$6,500,000, of which \$1,000,000 shall be used for the research program described in section 603(f)(2)(B), for each of fiscal years 2005 through 2008" after "2001" in paragraph (2);

(5) by striking "2001" in paragraph (3) and inserting "2001, and \$3,000,000 for each of fiscal years 2005 through 2008";

(6) by striking "blooms;" in paragraph (3) and inserting "blooms and to carry out section 603(d);";

(7) by striking "and 2001" in paragraph (4) and inserting "2001, and \$6,000,000 for each of fiscal years 2005 through 2008";

(8) by striking "and" after the semicolon in paragraph (4);

(9) by striking "2001" in paragraph (5) and inserting "2001, \$4,000,000 for fiscal year 2005, \$5,000,000 for fiscal year 2006, \$5,500,000 for fiscal year 2007, and \$6,000,000 for fiscal year 2008";

(10) by striking "Administration." in paragraph (5) and inserting "Administration; and"; and

(11) by adding at the end the following:
 "(6) \$1,500,000 for each of fiscal years 2005 through 2008 to carry out section 603(e).";

TITLE II—MISCELLANEOUS

SEC. 201. AVAILABILITY OF NOAA REAL PROPERTY ON VIRGINIA KEY, FLORIDA.

(a) IN GENERAL.—The Secretary of Commerce may make available to the University of Miami real property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration on Virginia Key, Florida, for development by the University of a Marine Life Science Center.

(b) MANNER OF AVAILABILITY.—The Secretary may make property available under this section by easement, lease, license, or long-term agreement with the University.

(c) AUTHORIZED USES BY UNIVERSITY.—

(1) IN GENERAL.—Property made available under this section may be used by the University (subject to paragraph (2)) to develop and operate facilities for multidisciplinary environmental and fisheries research, assessment, management, and educational activities.

(2) AGREEMENT.—Property made available under this section may not be used by the University (including any affiliate of the University) except in accordance with an agreement with the Secretary that—

(A) specifies—

(i) the conditions for non-Federal use of the property; and

(ii) the retained Federal interests in the property, including interests in access to and egress from the property by Federal personnel and preservation of existing rights-of-way;

(B) establishes conditions for joint occupancy of buildings and other facilities on the property by the University and Federal agencies; and

(C) includes provisions that ensure—

(i) that there is no diminishment of existing National Oceanic and Atmospheric Administration programs and services at Virginia Key; and

(ii) the availability of the property for planning, development, and construction of future Federal buildings and facilities.

(3) TERMINATION OF AVAILABILITY.—The availability of property under this section shall terminate immediately upon use of the property by the University—

(A) for any purpose other than as described in paragraph (1); or

(B) in violation of the agreement under paragraph (2).

(d) USE OF FACILITIES BY SECRETARY.—The Secretary may—

(1) subject to the availability of funding, enter into an agreement to occupy facilities constructed by the University on property made available under this section; and

(2) participate with the University in collaborative research at, or administered through, such facilities.

(e) NO CONVEYANCE OF TITLE.—This section shall not be construed to convey or authorize conveyance of any interest of the United States in title to property made available under this section.

SEC. 202. CONVEYANCE OF NOAA VESSEL WHITING.

(a) IN GENERAL.—The Secretary of Commerce shall convey to the Government of Mexico, without consideration, all right, title, and interest of the United States in and to the National Oceanic and Atmospheric Administration vessel WHITING—

(1) for use as a hydrographic survey platform in support of activities of the United States-Mexico Charting Advisors Committee; and

(2) to enhance coordination and cooperation between the United States and Mexico regarding hydrographic surveying and nautical charting activities in the border waters of both countries in the Gulf of Mexico and in the Pacific Ocean.

(b) OPERATION AND MAINTENANCE.—The Government of the United States shall not be responsible or liable for any remediation, maintenance, or operation of a vessel conveyed under this section after the date of the delivery of the vessel to the Government of Mexico.

(c) DEADLINE.—The Secretary shall seek to complete the conveyance by as soon as practicable after the date of the enactment of this Act.

(d) DELIVERY OF VESSEL.—The Secretary shall deliver the vessel WHITING pursuant to this section at the vessel's homeport location of Norfolk, Virginia, at no additional cost to the United States.

TRAINING FOR REALTIME WRITERS ACT OF 2003

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 790, S. 480.

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

The legislative clerk read as follows:

A bill (S. 480) to provide competitive grants for training court reporters and closed captioners to meet requirements of realtime writers under the Telecommunications Act of 1996, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. CRAIG. Mr. President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statement relating to the bill be printed in the RECORD.

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

The bill (S. 480) was read the third time and passed, as follows:

S. 480

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 "Training for Realtime Writers Act of 2003".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) As directed by Congress in section 723 of the Communications Act of 1934 (47 U.S.C. 613), as added by section 305 of the Telecommunications Act of 1996 (Public Law 104-104; 110 Stat. 126), the Federal Communications Commission adopted rules requiring closed captioning of most television programming, which gradually require new video programming to be fully captioned beginning in 2006.

(2) More than 28,000,000 Americans, or 8 percent of the population, are considered deaf or hard of hearing, and many require captioning services to participate in mainstream activities.

(3) More than 24,000 children are born in the United States each year with some form of hearing loss.

(4) According to the Department of Health and Human Services and a study done by the National Council on Aging—

(A) 25 percent of Americans over 65 years old are hearing impaired;

(B) 33 percent of Americans over 70 years old are hearing impaired; and

(C) 41 percent of Americans over 75 years old are hearing impaired.

(5) The National Council on Aging study also found that depression in older adults may be directly related to hearing loss and disconnection with the spoken word.

(6) Empirical research demonstrates that captions improve the performance of individuals learning to read English and, according to numerous Federal agency statistics, could benefit—

(A) 3,700,000 remedial readers;

(B) 12,000,000 young children learning to read;

(C) 27,000,000 illiterate adults; and

(D) 30,000,000 people for whom English is a second language.

(7) Over the past 5 years, student enrollment in programs that train court reporters to become realtime writers has decreased significantly, causing such programs to close on many campuses.

SEC. 3. AUTHORIZATION OF GRANT PROGRAM TO PROMOTE TRAINING AND JOB PLACEMENT OF REALTIME WRITERS.

(a) IN GENERAL.—The National Telecommunications and Information Administration shall make competitive grants to eligible entities under subsection (b) to promote training and placement of individuals, including individuals who have completed a court reporting training program, as realtime writers in order to meet the requirements for closed captioning of video programming set forth in section 723 of the Communications Act of 1934 (47 U.S.C. 613) and the rules prescribed thereunder.

(b) ELIGIBLE ENTITIES.—For purposes of this Act, an eligible entity is a court reporting program that—

(1) can document and demonstrate to the Secretary of Commerce that it meets minimum standards of educational and financial accountability, with a curriculum capable of training realtime writers qualified to provide captioning services;

(2) is accredited by an accrediting agency recognized by the Department of Education; and

(3) is participating in student aid programs under title IV of the Higher Education Act of 1965.

(c) PRIORITY IN GRANTS.—In determining whether to make grants under this section, the Secretary of Commerce shall give a priority to eligible entities that, as determined by the Secretary of Commerce—

(1) possess the most substantial capability to increase their capacity to train realtime writers;

(2) demonstrate the most promising collaboration with local educational institutions, businesses, labor organizations, or other community groups having the potential to train or provide job placement assistance to realtime writers; or

(3) propose the most promising and innovative approaches for initiating or expanding training and job placement assistance efforts with respect to realtime writers.

(d) **DURATION OF GRANT.**—A grant under this section shall be for a period of two years.

(e) **MAXIMUM AMOUNT OF GRANT.**—The amount of a grant provided under subsection (a) to an entity eligible may not exceed \$1,500,000 for the two-year period of the grant under subsection (d).

SEC. 4. APPLICATION.

(a) **IN GENERAL.**—To receive a grant under section 3, an eligible entity shall submit an application to the National Telecommunications and Information Administration at such time and in such manner as the Administration may require. The application shall contain the information set forth under subsection (b).

(b) **INFORMATION.**—Information in the application of an eligible entity under subsection (a) for a grant under section 3 shall include the following:

(1) A description of the training and assistance to be funded using the grant amount, including how such training and assistance will increase the number of realtime writers.

(2) A description of performance measures to be utilized to evaluate the progress of individuals receiving such training and assistance in matters relating to enrollment, completion of training, and job placement and retention.

(3) A description of the manner in which the eligible entity will ensure that recipients of scholarships, if any, funded by the grant will be employed and retained as realtime writers.

(4) A description of the manner in which the eligible entity intends to continue providing the training and assistance to be funded by the grant after the end of the grant period, including any partnerships or arrangements established for that purpose.

(5) A description of how the eligible entity will work with local workforce investment boards to ensure that training and assistance to be funded with the grant will further local workforce goals, including the creation of educational opportunities for individuals who are from economically disadvantaged backgrounds or are displaced workers.

(6) Additional information, if any, of the eligibility of the eligible entity for priority in the making of grants under section 3(c).

(7) Such other information as the Administration may require.

SEC. 5. USE OF FUNDS.

(a) **IN GENERAL.**—An eligible entity receiving a grant under section 3 shall use the grant amount for purposes relating to the recruitment, training and assistance, and job placement of individuals, including individuals who have completed a court reporting training program, as realtime writers, including—

(1) recruitment;

(2) subject to subsection (b), the provision of scholarships;

(3) distance learning;

(4) development of curriculum to more effectively train realtime writing skills, and education in the knowledge necessary for the delivery of high-quality closed captioning services;

(5) assistance in job placement for upcoming and recent graduates with all types of captioning employers;

(6) encouragement of individuals with disabilities to pursue a career in realtime writing; and

(7) the employment and payment of personnel for such purposes.

(b) **SCHOLARSHIPS.**—

(1) **AMOUNT.**—The amount of a scholarship under subsection (a)(2) shall be based on the amount of need of the recipient of the scholarship for financial assistance, as determined in accordance with part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk).

(2) **AGREEMENT.**—Each recipient of a scholarship under subsection (a)(2) shall enter into an agreement with the National Telecommunications and Information Administration to provide realtime writing services for a period of time (as determined by the Administration) that is appropriate (as so determined) for the amount of the scholarship received.

(3) **COURSEWORK AND EMPLOYMENT.**—The Administration shall establish requirements for coursework and employment for recipients of scholarships under subsection (a)(2), including requirements for repayment of scholarship amounts in the event of failure to meet such requirements for coursework and employment. Requirements for repayment of scholarship amounts shall take into account the effect of economic conditions on the capacity of scholarship recipients to find work as realtime writers.

(c) **ADMINISTRATIVE COSTS.**—The recipient of a grant under section 3 may not use more than 5 percent of the grant amount to pay administrative costs associated with activities funded by the grant.

(d) **SUPPLEMENT NOT SUPPLANT.**—Grants amounts under this Act shall supplement and not supplant other Federal or non-Federal funds of the grant recipient for purposes of promoting the training and placement of individuals as realtime writers.

SEC. 6. REPORTS.

(a) **ANNUAL REPORTS.**—Each eligible entity receiving a grant under section 3 shall submit to the National Telecommunications and Information Administration, at the end of each year of the grant period, a report on the activities of such entity with respect to the use of grant amounts during such year.

(b) **REPORT INFORMATION.**—

(1) **IN GENERAL.**—Each report of an entity for a year under subsection (a) shall include a description of the use of grant amounts by the entity during such year, including an assessment by the entity of the effectiveness of activities carried out using such funds in increasing the number of realtime writers. The assessment shall utilize the performance measures submitted by the entity in the application for the grant under section 4(b).

(2) **FINAL REPORT.**—The final report of an entity on a grant under subsection (a) shall include a description of the best practices identified by the entity as a result of the grant for increasing the number of individuals who are trained, employed, and retained in employment as realtime writers.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act, amounts as follows:

(1) \$20,000,000 for each of fiscal years 2004, 2005, and 2006.

(2) Such sums as may be necessary for fiscal year 2007.

Mr. CRAIG. Mr. President, that concludes the unanimous consent requests at this time. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, briefly, I wish to thank the Senator from Idaho. The bill that was just passed is

a bill that provides grants for training court reporters for closed caption reporting. In 1996, the Congress passed a bill that said by 2006 all television shows have to be closed captioned. By 2010, all Spanish-speaking shows have to be closed captioned. That is going to take about 3,000 people trained to do this. We have less than 500 trained right now. We are not going to meet that date, but we have to move ahead and try our best to get these people trained in our community colleges all over the country. That is what this bill does.

I especially want to thank Senator MCCAIN, the chairman of the Commerce Committee, for his expeditious handling of this bill and letting it go through. I am assured the House is going to pass it unanimously, so we can get on with the business of training our reporters so that they can do realtime closed captioning.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

ORDER OF BUSINESS

Mr. FRIST. Mr. President, so our colleagues will know what our plans will be tonight and tomorrow—and I talked with the Democratic leader briefly earlier—the House will finish the omnibus tonight, midnight or 1 o'clock. Because I know many Senators have lots of other things to do, since we cannot say with definition when the House will complete the bill, I think it is best that we say there are no more rollcall votes tonight and that we will address the omnibus tomorrow.

In addition, we have IDEA, the Individuals with Disabilities Education Act, which we need to vote on tomorrow as well. We will talk back and forth as to what time we will be coming in tomorrow morning.

We have had a very busy day. It has been a very constructive day, a great day in terms of tributes on both sides of the aisle. So we have had a good day.

We will, unfortunately, not be able to complete our business until tomorrow. There will be a lot of phone calls in terms of what time we will be voting. We cannot really say at this juncture—depending on how people view the omnibus coming over—whether or not a rollcall vote will be required on IDEA. My expectation is we will have one or two votes over the course of tomorrow. As soon as we get some sort of certainty in the schedules—it is a little bit out of our hands, depending on what action is taken in the House—we will be sure, through our respective conferences, to let everybody know tonight.

Before we leave tonight, we will set a time to come in tomorrow morning. I assume it is going to be around 9:30 or 10 o'clock. We will address that accordingly.

That is it in terms of information. I thank the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I will be happy to yield to the Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senator from Iowa be recognized upon the completion of the remarks of the Senator from Florida.

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

TRIBUTES TO RETIRING SENATORS

Mr. NELSON of Florida. Mr. President, while the Senate is holding in abeyance for the final Omnibus appropriations bill that the House is getting ready to file sometime tonight, I want to take the opportunity to pay tribute to our retiring Senators: TOM DASCHLE, FRITZ HOLLINGS, DON NICKLES, JOHN BREAU, BEN NIGHTHORSE CAMPBELL, JOHN EDWARDS, PETER FITZGERALD, ZELL MILLER, and BOB GRAHAM.

I wish to make a speech about each one of these Senators who has become a dear friend, in some cases, over the years, such as FRITZ and Peatsy Hollings, who took special interest in me as I came to the Senate and made sure I got on his Commerce Committee, which has been just an extraordinary experience with him as chairman, as well as with the present chairman, JOHN MCCAIN.

DON NICKLES, whom I have known over the 24 years he has been in the Senate, for I was in the House at the time, has been a regular in our Wednesday morning Senate prayer breakfast. He is a good friend.

JOHN BREAU, the very mention of his name brings a twinkle to your eye as you recall the wonderful good times and the great sense of humor that JOHN BREAU has. He is the most popular politician in the State of Louisiana. He is going to be sorely missed as the dealmaker of the Senate.

BEN NIGHTHORSE CAMPBELL has this wonderful new museum for Native Americans which would not have happened—just a stone's throw from this Capitol—had it not been for his leadership. There is, as you go through this museum, a special display on the artwork of BEN. I commend it to our colleagues.

PETER FITZGERALD is a very active member of our Commerce Committee, who, in the comments by his colleague from Illinois, Senator DURBIN, today said it very well, could work so well with Members of both sides.

A southern icon, Senator ZELL MILLER, will go down in southern history as one of the great progressive Governors of the new South. He is one who has always extended wonderful courtesies to me.

I wish to say a special word about JOHN EDWARDS, for he came to the Senate in a seat that was already held by an incumbent Senator, and they said it could not be done. They said a Democrat could not win in North Carolina. Of course, JOHN did and took the national stage by storm.

I spent several days with him over the course of the past several months in the campaign. I can tell you it was a wonderful inspiration to see the amount of energy, focus, discipline, and intelligence he brought not only as a Senator but as a candidate for Vice President of this great country.

And then, of course, we all know the story of how on the very day that JOHN had to concede the election, along with our colleague, the Senator from Massachusetts, his wife told him that she had breast cancer. I want Elizabeth and JOHN to know that our prayers are with them and that we are all sharing a great deal of optimism about her complete recovery.

I had the wonderful privilege of observing their three loving children on the campaign trail—their daughter Kate, and then, of course, the two young ones, Jack and Emma Claire, as they would bounce with such boundless enthusiasm on that campaign plane.

There is a special part in my heart for TOM DASCHLE. We came to the Congress together in 1978. Among the freshman class in the House of Representatives that year, we knew TOM as "Landslide" DASCHLE. He won his race for Congress by 14 votes. Of course, he says that was a big percentage of the total vote in South Dakota at that time.

We saw him grow over the years into a great Democratic leader, both minority and majority leader of the Senate, and we saw the pressure that TOM was under.

Who here would not remember exactly where you were and what you were doing on September 11, 2001. We were in a leadership meeting only a few feet from here on the West Front of the Capitol watching the television of the World Trade Center, and had tried to resume our meeting when someone burst through the door and said: The Pentagon's been hit.

We leapt to the window looking west across the Mall in the southwest direction of the Pentagon and saw the black smoke rising.

People went their separate ways. I leapt to a telephone to try to get word to my wife because we had just moved into an apartment overlooking the southwest corner of the Pentagon.

That day I remember so vividly seeing the Constitution at work, because as I came back into the room and saw the people pouring out of the majority leader's office, under the orders of the Capitol Police to get out of the building, evacuate immediately, I saw the security people of the Capitol Police take TOM in a different direction to an undisclosed location where he, along with the rest of the congressional leadership, was to be sequestered as a protection of this constitutional government and its continuity.

TOM grew a lot in those ensuing days. That was in the morning, sometime right after 10 on September 11. I remember that evening, as dark fell, Members of the House and the Senate

of all parties on the east front steps of the U.S. Capitol holding hands and singing "God Bless America" to demonstrate in what little way we could that those who sought to strike us down were going to see the resolve and the unity of the Government of the United States.

I could keep going on about TOM, but we heard his comments today. Of course it is with a heavy heart that we see TOM leave this Chamber. It is under circumstances that I hope we never see replicated.

There has to be civility in this body. There has to be a mutual respect. There has to be a respect for the truth. There has to be respect for the dignity of individuals and their families. Have we lost our compass? Have we lost our anchor? Have we lost our sense of human beings?

This Senator can do something about that, as I have tried in the past, by the way I conduct myself with regard to my relationship to other Senators in wanting to treat others as I would like to be treated. Now that the fractiousness and the divisiveness of this highly partisan, highly ideological, rigid time of debate is behind us, it is my hope this Senate can start to come together for the good of the people, even as we approach another election time. It is for the sake of the Nation that we must do this.

BOB GRAHAM

I conclude my comments about my colleague from Florida, my mentor, my friend of many years. It is hard to believe BOB GRAHAM has been elected to serve almost 40 years—38 years to be exact. From when he was first elected to the State legislature in 1966, he has been in elected office ever since—two terms in the State house, two terms in the State senate, two terms as the Governor of Florida, where he had a magnificent record, where he has put his stamp as one of Florida's great Governors, starting programs to save the Florida Everglades, the River of Grass, the Kissimmee River, and the Everglades restoration that has now started that is an \$8 million project shared half and half between the State and the Federal Government. That is a great legacy for BOB.

Then, of course, his three terms in the Senate, 10 years of which he served on the Senate Intelligence Committee, the last 2 of which he served as chairman of that committee. Of course, with that great knowledge and expertise, in the course of the debates here, BOB has given us great insight and wisdom.

Finally, some of his fellow Senators convinced him that he ought to sit down and write a book and that book is entitled "Intelligence Matters." It is my hope that with other Senators on this floor that we are going to be able to help BOB fulfill one of his dreams, which is that in an intelligence service that has been decimated from time to time as a result of the whims of appropriations, that a professional core of

career intelligence officers can be enhanced by starting an ROTC for intelligence officers.

We are going to try to get the appropriations to start that and to do it at one of our Florida universities named for BOB GRAHAM. Let that little incubator show the way to see whether that is a system we can adopt around the country to give an ample supply of officers who are ready for service in the intelligence service.

So it is again with a heavy heart that I see my colleague, Senator GRAHAM, retire after a distinguished career. He will not be retiring as a public servant, because whether it be from the position of a university—and it is my understanding he will be going to Harvard for a year at the Kennedy School—or whether it be back in our State affiliated with several of our universities in Florida, BOB will be rendering public service to the people of this country for some period of time.

So for all of these names I have mentioned, in the great poem "Ulysses," he says, "I am a part of all that I have met," and I am a part of all these great Senators. I am much richer for it and for having been their friend.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

TOM DASCHLE

Mr. HARKIN. Mr. President, in these final working days of the 108th Congress, as so many speakers before me have said, we are saying farewell to a number of our retiring colleagues. I intend to speak about a couple of them this evening and will have more to say about some of the others tomorrow.

A most painful farewell will be to my good friend Senator TOM DASCHLE. I do not know that I have heard a more heartfelt, soul-searching, and inspirational speech about what a Senator should be, ought to be, and must be than the speech given by our great leader Senator DASCHLE earlier this evening.

As I sat and listened to that speech, especially when he talked about Dick Reiners, my mind went back to 1978 when I was just a second-term Congressman from the State of Iowa and I was asked to go campaign in South Dakota for this young guy running for the House whose name was TOM DASCHLE. His former employer, Senator Jim Abourezk, came to Iowa to campaign for me and asked me to reciprocate. Because I had been active in some farm issues and agricultural issues, he asked me to campaign in South Dakota, and I did.

I struck up a friendship with TOM DASCHLE at that point that endures to this day and will endure forever. So I would go out and campaign for him and then he would come and campaign for me and I would campaign and we would go back and forth from Iowa to South Dakota. Of course, we shared a common border up at Sioux City. Much of Sioux Falls's television comes into Iowa. Much of Sioux City's goes into

South Dakota. So we have shared kind of a common area there of constituents, constituencies over all these years.

So it is a painful farewell to my good friend TOM DASCHLE. These days, there are fewer and fewer bipartisan agreements in this body. But I sense today that there was bipartisan agreement about TOM DASCHLE. We respect his decency, his fairness, his courage and leadership, his extraordinary capacity for hard work. I cannot imagine a more difficult job in the Senate than being leader of the Democratic caucus. We have all heard Will Rogers quip that he belonged to no organized party, he was a Democrat.

Those independent, hard-headed habits flourish within our caucus. For the last decade, TOM DASCHLE's amazing skills and unlimited patience have brought us together as a team. That is an accomplishment of which he can be very proud.

The President of the United States, it is said, has the persuasion of power. But the leader of our Senate Democratic caucus has only the power of persuasion. I cannot imagine anyone more persuasive than Senator TOM DASCHLE. He has always been willing to talk with us, accommodate us whenever possible, to do whatever it takes, however long it takes, to forge a consensus and move us ahead. We are grateful. I am grateful for his leadership, his diligence, for his grace that he has unfailingly brought to this job as our leader. I cannot emphasize enough this fairness and this underlying grace of this wonderful human being. Unfailingly fair to all.

When Democrats were in the majority, Majority Leader DASCHLE was respectful of the rights and the prerogatives of our Republican minority. Conversely, as our minority leader, he has steadfastly defended the rights and the prerogatives of the Democratic minority. In the heat of a partisan campaign, some have labeled this "obstructionism," but that characterization is incorrect. The duty of the opposition party is present compelling alternatives, and to do so fairly, forthrightly, and within the rules of the Senate. The duty of the leader of our opposition is to protect the rights of the minority so that our voice and our votes can be heard; so that we can speak out and offer a different way, a different path. That is our duty as opposition. Senator DASCHLE protected the rights of the minority, so important in our country, not just in the Senate, but important for us as a country.

If there is one thing that is pervasive in our Constitution and our Bill of Rights, it is just that; it is the protection of the minority so the minority can be heard. That is so the minority's voice and votes will be counted. That is exactly what Senator DASCHLE has done. There is not one hint of obstructionism. What he has done is to protect and enhance the rights of the minority,

and he did it with skill and persistence, with fairness and with grace.

Over all these years of service with TOM DASCHLE in the House and in the Senate, I have always respected how he fought and advocated for his constituents in South Dakota. No one has fought harder in the House and in the Senate for the revitalization of rural America than TOM DASCHLE. No one has fought harder to bring health care and good schools and economic opportunity to Indian country. No one has fought harder to increase the income of family farmers and give them a fair shake in the marketplace.

Another jewel in the crown of TOM DASCHLE's legacy is the emerging ethanol industry in the United States. Since TOM arrived in Congress in 1978, he has been a relentless champion of ethanol. He mentioned that in his farewell speech today. I know he was a relentless champion because I was there, too, during those early years. People said those of us who were advocating the expanded use of ethanol didn't have a chance against big oil. But Senator DASCHLE persevered. He used the 1990 Clean Air Act to put in place policies that gave birth to the ethanol industry in our country. He continued to promote tax incentives and a renewable fuel standard to advance ethanol and to move our country towards energy independence.

No doubt about it, Senator DASCHLE's leadership on ethanol brought us to where we are today in the production of this renewable and clean fuel in America. His leadership on ethanol will be greatly missed in the future.

It has been a privilege to serve in this body with TOM DASCHLE. I will miss him as a colleague. I will miss his leadership, that fairness, that gentleness of nature, but that steely determination to make sure that our views and our votes were counted; that steely determination to make sure that people who live in small towns in rural America are not forgotten, that their interests are protected here. I will miss him as a friend. Oh, I am not going to lose contact with TOM and Linda. My wife and I will continue to count them as good friends. But I will miss him as a friend here in the Senate.

As TOM DASCHLE said today, he has always been an optimist. I have never known TOM DASCHLE to ever utter a pessimistic word. For him the sunrise was always better than the sunset. So the Sun rises on a new chapter in TOM DASCHLE's life. That Sun is going to be bright. It is going to be bright because of who TOM DASCHLE is, what he is. So there are going to be some new days and important chapters ahead written in the life of TOM DASCHLE. Both Ruth and I wish TOM and Linda and his family the very best in the years ahead.

We will continue to look forward to his input into the political life of America and into the common wheel that binds us as a country.

JOHN EDWARDS

Mr. HARKIN. Mr. President, I would also like to express my respect to and

admiration for the retiring senior Senator from North Carolina, Senator JOHN EDWARDS, who also spoke earlier. We will miss his unique, skillful, and persuasive voice in the debates here on the Senate floor. Time and again we have seen his knack for taking complex arguments and making them accessible and persuasive to ordinary people. Time and again his skills have carried the day.

I fully understand the advice uttered by one of my Republican colleagues one time, when he said, "Never yield the floor to JOHN EDWARDS."

Over the last year and a half, people in my State of Iowa have gotten to know JOHN and his wonderful wife Elizabeth very well. As I have often said, JOHN EDWARDS was the only person to run for national office as a Vice Presidential candidate who visited each one of Iowa's 99 counties. He has been all over our State, in our schools, in our coffee shops, and in our living rooms. In fact, we have often said in Iowa if it weren't for that southern accent, you would think JOHN was born and raised in Iowa.

I can say that we on the Democratic side, we Democrats in Iowa and all over the country, are proud of his race to secure the nomination of our party, which he did not get, which went to another of our colleagues, Senator JOHN KERRY. But we were proud of how JOHN EDWARDS sought that nomination. And we are doubly proud of his conduct as our nominee for Vice President of the United States.

He always comes across as just folks, which is what you would expect from a person raised in very modest circumstances, the first in his family to go to college. That humble background was an enormous strength for JOHN EDWARDS. It is a strength we saw on that campaign trail that allowed him to understand people and to communicate powerfully with ordinary people. People responded in kind. All over this country, people just plainly liked JOHN EDWARDS. They trusted him because he spoke to them in a language they understood.

But if Iowans and other Americans see just plain folks in JOHN EDWARDS on the campaign trail, Senators here have been privileged to see a different side of him, hard at work in this Senate. He has only been here one term. He surely made his mark. He made his mark first by challenging an incumbent Senator, and took on the Jesse Helms machine in North Carolina, and he beat it. That is no small feat in North Carolina.

He made his mark here as lead co-sponsor of the Patients' Bill of Rights, along with Senators KENNEDY and MCCAIN. He managed the bill on the floor. He was the lead negotiator in hammering out a bipartisan consensus on the bill.

He made his mark by sponsoring and passionately advocating for a bill to speed up the approval of generic drugs.

As I said in my State of Iowa, JOHN EDWARDS made his mark and won peo-

ple's hearts with his big smile, his friendly manner, and his boundless optimism.

He won our respect with a campaign that was always positive. Even under provocation, even when stakes were the highest in the final weeks of the campaign leading up to the caucuses, JOHN never wavered from his positive message of hope and opportunity for ordinary Americans.

We are proud of our colleague Senator EDWARDS, and we know we will not hear the last of him as he leaves this body.

We say farewell to Senator JOHN EDWARDS. I know and I hope and I trust we will hear more from him in the future. We wish him the very best. Of course, we all hope—and our prayers are with him and with Elizabeth—for a full recovery for his wonderful wife Elizabeth. We will miss them both here. But our friendship endures, and I know that Senator EDWARDS, Elizabeth, and his family will be heavily involved in the course of our political life and our Democratic Party in the future.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

TOM DASCHLE

Mr. AKAKA. Mr. President, I rise to join my colleagues in saying thank you to a great senator, a great American, a wonderful leader, and a dear friend, Senator TOM DASCHLE of South Dakota. In Hawaiian we say, mahalo nui loa. "Mahalo" means thank you; "nui" means large; and "loa" means wide. It is used to convey profound and deep gratitude. I want to say mahalo nui loa to TOM DASCHLE for his great service to our country and to the Senate as an institution.

During his 26 years in the House and Senate, TOM DASCHLE has epitomized the ideal that we can disagree without being disagreeable. His prairie optimism and can-do attitude served his constituents well and served our Democratic caucus well.

I have always marveled at the fact that despite his responsibilities as majority leader and Democratic Leader, TOM DASCHLE always kept the needs and interests of South Dakotans as his top priority. He never lost sight of the people back home. Perhaps that is best reflected by his annual "unscheduled driving" tour, when he drives across his home state, visiting every county, with no staff and no schedule, just TOM, stopping to visit his constituents and hear what is on their minds.

As Senator DASCHLE has said, these visits remind him of where he came from, and why he came to Washington—to put the priorities of America first. For that, and for so much more, I say mahalo nui loa, TOM DASCHLE. Godspeed. God bless TOM and his wife Linda.

This comes from me and my wife Millie. Aloha.

Mr. LAUTENBERG. Mr. President, our colleague from Alabama was gen-

erous enough to step aside and permit me to make a few remarks. I deeply appreciate it.

I talked before about TOM DASCHLE. I also will discuss the rest of our colleagues who are leaving the Senate.

When the 109th Congress convenes in January, nine of our current colleagues will not be here. I take a few moments to pay tribute to them. Collectively, our colleagues have served in the Senate for 144 years. We will miss them.

FRITZ HOLLINGS

First of all, FRITZ HOLLINGS, the most senior Member leaving the Senate at this time, had a distinguished career in public service. It started in 1942, the same year I joined the Army. After he graduated from the Citadel and he received a commission from the U.S. Army, he served as an officer in the North African and European campaigns in World War II. He had a lot of time in combat. He got the Bronze Star and seven campaign ribbons.

In 1948 he was elected to the South Carolina House of Representatives. Ten years later, and still only 36, FRITZ HOLLINGS was elected Governor of South Carolina. As Governor, he showed his fearlessness and independence as a progressive southern Democrat, especially when he integrated Clemson University.

In 1966, FRITZ was elected to the Senate. I don't have time to list all of the things he has done in 30 years in the Senate or 56 years in public office, but early in his Senate career FRITZ focused on poverty and hunger that gripped the rural South and urban areas of the country. In 1968, he embarked on his now famous hunger tours. In 1970, he wrote about what he saw in a highly acclaimed book entitled "The Case Against Hunger: A Demand for a National Policy." What a wonderful program that was.

He followed up by coauthoring a bill that created the special supplemental food program for Women, Infants and Children. We call it WIC.

In 1972, continuing this very active campaign of writing legislation, he wrote the National Coastal Zone Management Act, the Nation's first land use law designed to protect coastal wetlands. He played a pivotal role in establishing the National Oceanic and Atmospheric Administration, the Marine Mammal Protection Act, the Ocean Dumping Act, and the Fishery Conservation Management Act.

Perhaps he is best known for his tireless fight for fair trade and being a true fiscal conservative. Who can forget Gramm-Rudman-Hollings. I served with him many years on the Committee on the Budget and I can attest to his determination to put our Nation on the pay-as-you-go path rather than burdening future generations with escalating Federal deficits and debt.

On a parochial note, I thank the Senator from South Carolina on behalf of the people of New Jersey. After September 11, he made our ports safer by helping to get security funding for our

ports. FRITZ HOLLINGS gallantly laid out an inspiring vision for the future of passenger rail service in our country. Through it all, FRITZ HOLLINGS has always been a southern gentleman and a Senator's Senator.

FRITZ's remarks in committee and his speeches in the Senate have always been worth listening to even if some of us had difficulty deciphering them. He has been a true original and the Senate will be poorer for his departure.

I know he wants to spend more time with his beloved Peatsy, his four children, and his seven grandchildren.

FRITZ, we will miss you. I never stop being surprised when FRITZ HOLLINGS recalls things he did 20 or 40 years ago and recall them with fairly precise detail. He always has colorful language—except in places like the Senate—that attract attention and yet he completes his serious mission with humor, candor, and courage.

I ask unanimous consent a press release entitled “38 Years in the Senate, 38 of His Greatest Hits” be printed in the RECORD.

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

[Tuesday, Nov. 16, 2004]

38 YEARS IN THE SENATE, 38 OF HIS GREATEST HITS

WASHINGTON, DC.—In 38 years in the U.S. Senate, Fritz Hollings has compiled one of the most remarkable legislative records of any Senator in the last century. From his first days in office to his last, he has written legislation that has changed America. Following are 38 ways the nation will remember him:

1. Started the Women Infants Children (WIC) program, one of the most successful government health care measures ever undertaken. It has reduced infant mortality, low birth rates, and premature births. Today, WIC provides nutritional counseling and access to health services for low-income women and children in 10,000 nationwide clinics. Impetus for the program came from Senator Hollings' 1970 book “The Case Against Hunger.”

2. Championed the Community Health Center Program to bring medical care to low-income Americans. In 1969, South Carolina opened one of the first community health centers in the nation, and today the centers nationally provide primary and preventive health services for 10 million patients in under-served communities.

3. Initiated the nationwide breast and cervical cancer screening program. Begun in 1990 as a project in South Carolina and five other states, the program quickly expanded to a highly successful national effort. Through the years, Senator Hollings also has led efforts to significantly boost funds for cancer research and to double the National Institutes of Health's budget.

4. The father of the Corporate Average Fuel Economy (CAFE) Standards, Senator Hollings wrote the law in 1975 forcing automakers to build more fuel efficient cars. Thirty years later, CAFE standards save more than 3 million barrels of oil per day.

5. Authored the Aviation Security Act, immediately after September 11th. It created the Transportation Security Administration and set up the screening system now underway for airport passengers. Always a strong believer in the need for security, Senator Hollings knew the aviation system, and

America's economy, would not recover without government's help. He authored the legislation at age 80.

6. Authored the Maritime Security Act, also immediately following September 11th. Concerned for many years that ports and borders were the weak link in America's security system, he pushed the legislation through—the first ever aimed at increasing security at America's ports.

7. The father of the National Oceanic and Atmospheric Administration (NOAA), he established the agency in just his fourth year in office. He did it at a time when the ocean was not the popular topic it is today. In 2000, he created the U.S. Commission on Ocean Policy, to help Congress determine the future of the nation's oceans.

8. Authored the National Coastal Zone Management Act of 1972, which established federal policy for protecting coastal areas. It also authorized grants to states to establish and operate coastal zone management programs.

9. A friend of marine mammals, he wrote the legislation in 1972 to protect whales, dolphins, sea otters, and other mammals. It became the model for other countries.

10. Authored the Ocean Dumping Act of 1976, which extended federal authority over previously unregulated dumping of pollutants in the ocean. It banned dumping by U.S. vessels, or vessels sailing from a U.S. port.

11. Wrote the Oil Spill Bill in 1990, following the disaster of the Exxon Valdez. Senator Hollings led the Senate investigation of the oil spill, and pushed the legislation requiring more effective clean-up, and forced oil companies to use double-hull ships, which are less likely to have a spill.

12. At the forefront of promoting American technology, he created the Advanced Technology Program in the Commerce Department, which invests in high-risk research projects that promise big payoffs and widespread benefits to the nation.

13. Co-authored Gramm-Rudman-Hollings, the landmark legislation that broke budget gridlock in the mid-'80s. By making automatic spending cuts, it reversed 20 years of increased federal spending and cut tens of billions from the budget deficit.

14. Was the first Senator to decry the practice of looting Social Security, and made truth in budget reporting a priority. In 1990, his legislation required that the President and Congress, when reporting a budget, do not count Social Security surpluses to mask the true size of the deficit.

15. Has been the voice for fiscal sanity on the Senate floor for three decades, but too often the lone voice. Twenty-two years ago, he was the first to offer a budget freeze, and has offered them many times since. He has slammed tax-cutting Republicans for voodoo economics. He promised he would jump off the Capitol Dome if ever there was a balanced budget, but because too few listened to the only original member of the Senate Budget Committee, the country has a \$600 billion deficit, and Senator Hollings retires without jumping.

16. The Senate's loudest voice on trade issues, he opposed NAFTA, GATT, and trade deals with China and Africa—all of which have sent massive jobs overseas. Time has proven him right. He opposed giving the President fast-track negotiating authority, constantly reminding his colleagues of Article 1, Section 8 of the Constitution: “Congress shall have power to regulate commerce with Foreign Nations.”

17. Textile's best friend in the Senate, he has pressured every President since Lyndon Johnson to protect the industry so important to South Carolina.

18. Created the Manufacturing Extension Partnership Centers, in 1988 to help small

manufacturers survive and grow. Now with 350 locations around the country, they annually help almost 20,000 companies. In honor of the Senator, federal legislation was passed to rename them the Hollings Centers.

19. A friend of the consumer, he created a competitive telecommunications industry through the Telecommunications Act of 1996, the first major rewrite of the Communications Act of 1934. He fought to ensure it provided new services to consumers at affordable rates.

20. Strengthened on-line privacy and gave Internet users control over their own personal data with legislation he authored in 2000 and 2002.

21. Gave millions of Americans freedom from telemarketers, by co-authoring the do-not-call list law in 2002, and the law that banned computer voiced telephone calls and restricted junk faxes in 1991. Calling it “telephone terrorism” Senator Hollings has given tens of millions of Americans quiet evenings at home.

22. Reined in the cable TV monopolies, as the driving force in the early 1990s for the Cable and Consumer Protections Act. Persistent service and rate abuses by TV cable companies around the country prompted Senator Hollings to lead the charge in giving the Federal Communications Commission authority to regulate basic cable TV rates and set minimum service standards.

23. Authored the 1990 Children's TV Act, requiring stations to carry educational programming for children and limiting the amount of commercials aired during children's programming.

24. Wrote laws to drug-test transportation employees and military enlistees. By requiring mandatory random drug and alcohol testing for safety-sensitive transportation employees, he has made America's roads safer. The law has allowed the military to confront drug abuse in uniform and has significantly increased overall readiness.

25. Was one of the first to re-build America's defense in the '80s, authoring amendments in the 1980 budget that provided the first significant increase in defense spending in the post-Vietnam era.

26. Saved the Department of Education through budget amendments, after Ronald Reagan took office with the express purpose of abolishing the Department. In the mid-1990s he stopped House Republicans from radically cutting student loan programs.

27. Authored energy conservation standards for federal buildings, during the 1970 energy crisis, resulting in millions of dollars of savings for taxpayers.

28. Led the efforts to fund innovative law enforcement programs, such as Community Oriented Policing Services (COPS) that put more than 100,000 police officers on the streets in 13,000 communities across the country.

29. To prevent crime that has hit American schools, he steered through the Senate his Safe Schools Initiative, putting police officers on patrol in schools nationwide.

30. Authored legislation to nail criminals involved in church burnings, by strengthening federal authority to prosecute them.

31. For the first time in American history, he got the full Congress to give its highest honor, the Congressional Gold Medal, to a farmer, gas attendant, maid, and preacher for the hardships they faced in desegregating South Carolina's schools. The medals were presented in 2004, the 50th anniversary of Brown v. Board of Education.

32. Champion for American Embassies across the world, he fought hard to ensure government preserves their historic significance.

33. The longest serving junior Senator in American history, he served 36 years as a

junior Senator before becoming South Carolina's Senior Senator at age 81 in 2003.

34. As governor of South Carolina from 1959-1963, he was the first modern southern governor to bring about economic and social progress. He started South Carolina's technical education system that now trains 235,000 students annually; balanced the state's budget for the first time in 65 years; obtained the state's first AAA bond rating; traveled 200,000 miles around the world to bring industry to South Carolina; and peacefully integrated Clemson University while other southern governors resisted the civil rights movement.

35. Was the Senator with no poll in his pocket. He gave unforgettable floor speeches, where he spoke his mind and told the truth. No one dared debate him, because they'd lose.

36. He brought different points of view to complex situations and identified solutions long before others recognized there were even problems.

37. Though many of his favorite bills never passed, he never stopped pushing for what he believed. He is still calling for tax hikes to pay for the War on Terrorism; legislation to protect children from violence on television; and a constitutional amendment permitting limits on campaign expenditures, preventing wealthy candidates and their friends from buying elections.

38. He leaves at the top of his game, writing meaningful legislation for America and working for his constituents until his last day in office.

Mr. LAUTENBERG. It is amazing to see how many things FRITZ HOLLINGS has touched in his life. Once again, he will be sorely missed.

JOHN BREAUX

Another dear friend from the south, JOHN BREAUX, senior Senator from Louisiana, probably the Senate's consummate deal maker. I don't think anyone in this Chamber has ever worked harder to bring the two parties together on taxes, on health care, and especially our two biggest entitlement programs, Social Security and Medicare.

He is the logical choice to chair the National Bipartisan Commission on the Future of Medicare and the cochair of the National Commission on Retirement Policy. He has always been an effective champion for Louisiana's oil and gas, agriculture, and tourism industries, which is why his constituents have sent him to Washington with 60, 70, or even 80 percent of the vote. He was only 28 when he first won a seat in the House in 1972. With 14 years in the House and 18 years in the Senate, he spent more than half of his entire life as a Member of Congress doing the public's mission.

We will miss his Cajun humor, his legislative savvy, and his tireless dedication of bringing Republicans and Democrats together for the good of all America.

BOB GRAHAM

Another esteemed colleague from the South, Senator BOB GRAHAM, the senior Senator from Florida, is clearly one of the State's most popular elected officials. He won two terms as State representative, two terms as a State senator, two terms as a Governor, three terms as a U.S. Senator, with a 9-9

record. For a short time he put his hat in the ring in the recent Presidential race. He had a 9-9 record of elections dating back 38 years.

Like Senator BREAUX, BOB GRAHAM has worked diligently to forge bipartisan solutions to the most pressing problems. He is a fiscal conservative, dedicated to strengthening and improving Social Security and Medicare. Bob Graham is the author of a comprehensive, bipartisan plan to restore the Everglades, a plan that created an unprecedented partnership among Federal, State, and local governments and private industries to reverse the damage done by fragile "River of Grass" decades of dredging, dumping, and destruction. He has fought hard to protect Florida's coastline from oil and gas exploration.

One of the things that made BOB GRAHAM so popular has been his determination to spend time working side by side with people he represents. Over 30 years he has worked 400 workdays. On those workdays—and most have seen him in costume—he has worked as a police officer, railroad engineer, construction worker, fisherman, garbage man. I don't think I would have taken all the jobs he did, but he did them wonderfully and endeared himself to his constituents. He was a factory worker, busboy, teacher. If BOB does not want to retire, I am sure he will be able to find some kind of work. He is experienced in so many fields.

JOHN EDWARDS

The senior Senator from North Carolina, JOHN EDWARDS, has streaked across the political firmament like a shooting star. Six years ago, he was a trial lawyer who won a Senate seat in his first try at elected office and 2 weeks ago he was very nearly elected Vice President.

JOHN EDWARDS, like TOM DASCHLE, was the first person in his family to graduate from college. His father worked in the textile mills. His mother held several jobs, working in a post office, running a furniture refinishing business. After he graduated from the University of North Carolina Law School, he put his formidable legal skill to work for ordinary people as a trial attorney. He was good at it. In 1997, he won the largest personal injury verdict in North Carolina history, \$25 million, for a 9-year old girl injured by a swimming pool drain the manufacturer knew was faulty.

JOHN proved if there is injury or damage, take it to a jury of your peers. Let them make the judgment regarding careless operation of a piece of machinery or automobile. The damage is incalculable in terms of a monetary value. So JOHN EDWARDS did what he ought to do. He protected those who had recourse for terrible damages that they incurred.

JOHN knew what it was like for that little girl's parents I just talked about because he and his wife lost their 16-year-old son. His name was Wade. He died in a car accident.

When he got to the Senate, JOHN continued to fight for working-class Americans, and despite being a freshman Member, he was a principal author of a Patients' Bill of Rights bill which passed the Senate in June of 2001.

He also fought hard for his constituents, securing more than \$250 million in disaster funds following Hurricane Floyd in September 1999.

I don't know what the future holds for JOHN. One looks at that face, and sees such a young man. He is only 51 years old, and to me that is like a child. But somehow or other I do not think we have seen the last of him.

Of course, his first task is to help his wife Elizabeth get through her bout with breast cancer. We send our prayers to both of them, for her quick and complete recovery. He and Elizabeth have the good wishes and prayers of each and every one of us here in the Senate.

Mr. President, I will talk about a couple of my friends on the Republican side.

DON NICKLES

I have had my differences with DON NICKLES. We both have served on the Budget Committee, and it is hard to believe that he, at his tender age, has been here for 24 years. He is still so youthful looking. As a matter of fact, the two Senators from Oklahoma at one point in time did not equal the age of one of the Senators from South Carolina. They are both very young. But he was so young when he came here in 1981. He was barely 32.

On the subject of age, if I might digress, after 30 years of business I never dreamed I was going to be here 24 years, Lord willing. And for my friends on the Republican side, don't count me out at the end of 24 years.

I worked with DON NICKLES for many years on the Budget Committee. He has been a passionate, articulate spokesman for conservative causes, but he has always been a good opponent, a gracious opponent. The Senate is going to miss his energy and his knowledge.

BEN NIGHTHORSE CAMPBELL

Another friend from the other side of the aisle is BEN NIGHTHORSE CAMPBELL, the senior Senator from Colorado. He is one of the true originals in the Senate. He is one of 44 chiefs of the Northern Cheyenne Tribe. He served our country in Korea. He is a renowned jewelry designer, athlete, trainer of champion quarter horses. He participated in the 1964 Olympics as a member of the U.S. Olympic judo team.

He was elected to the Colorado State legislature in 1982, serving for 4 years before coming to Washington. He has lived up the place with his string ties, beautiful jewelry, and his Harley Davidson motorcycles. And he has been our conscience when it comes to meeting our treaty obligations to Native Americans.

PETER FITZGERALD

PETER FITZGERALD, the junior Senator from Illinois, like me, came to the

Senate after a good business career. He has been here only for one term but in those 6 years he established a solid reputation as an independent Member, committed to doing what he thinks is right, even if it puts him at odds with other members of his party.

He and I serve on the Governmental Affairs Committee, and I have been impressed by his willingness to hold hearings on scandals and malfeasance in the mutual fund and insurance industries. Perhaps because of his business background, he understands the importance of effective oversight by the Federal Government.

I regret he is leaving. He has been a gentleman, and it is too bad that we do not have more like PETER FITZGERALD. He is a wonderful person to work with. He has got a ready smile, and he is a gentleman at all times.

I close my remarks by noting that these men have made remarkable contributions to our society, and all Americans should be grateful. I would tell those who are retiring, I retired 4 years ago, and I did not like it. So here I am. Perhaps there is hope for any of them who want to rejoin. If you want to come back, I am here to tell you it can be done. Just make sure that you get to keep your seniority.

Mr. President, I yield the floor and thank my colleagues for their indulgence while I made my remarks.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me say—this is probably the first and only time I have ever said this—I have been listening carefully to my friend from New Jersey, and I agree with everything he said.

I have had a chance to talk a little bit about some of these people who are retiring, and at some length about Senator NICKLES, and I certainly appreciate the Senator's remarks about him.

TRIBUTE TO AIR FORCE SECRETARY JAMES G. ROCHE

Mr. INHOFE. Mr. President, we have been paying a lot of tributes to retiring Members of the Senate, and I think it is appropriate to pay tribute to at least one of our retiring public servants, and I would like to do that right now for the Secretary of the Air Force, Dr. James G. Roche.

I know Secretary Roche has been attacked from time to time. That goes with the job. It is a tough job. He knew that when he came. I think we can put that aside and pay tribute for the things he has done that are not as controversial but have been good for the Air Force and for our country.

You have to keep in mind that Secretary Roche left a lucrative career in private life to take this job as Secretary of the Air Force. He brought a lot of savvy with him from his private business career. I remember so well when he was first confirmed, his first trip was to go with me to Tinker Air Force Base in Oklahoma. After visiting

that base, he returned to Washington with Secretary Gibbs and immediately put in place a plan to revitalize the depots using the existing Air Force budget. This is something that previous administrations have never accomplished. They seemed to be more interested in letting the depots rust away.

Secretary Roche invested money, time, and industrial know-how into the depots, and he did it in a partnership arrangement where he actually stimulated the communities to pass very large bond issues to exercise the private participation. He started a program where depots were benchmarked off similar commercial enterprises and started informal competition that drove maintenance days down ever lower. He brought LEAN manufacturing processes to the depots and other similar commercial practices that revitalized the workforce, decreased the failure rates, raised readiness standards, and decreased overall costs at the depots.

I look at the record he had. In fiscal year 2003 alone, AMC reported that the mission-incapable aircraft part hours decreased by 37.6 percent, the percentage of hours grounded. It bettered the goal by 922,000 hours. The mission-incapable aircraft part incidents decreased by 23.4 percent, which bettered the goal by 4,400 incidents. Logistics response time was reduced 20.4 percent. Stockage effectiveness increased by 5.5 percent. It goes on and on.

His record is there. He has done a magnificent job at applying his business practices in making our scarce dollars in the military go a lot further.

I was very impressed with his focus on depots, but his ability to guide the Air Force through the troubled waters after 9/11 were equally impressive. He restructured the force and focused training to support new missions: homeland defense, renewed focus on Close Air Support, close partnering with the Army in joint operations and Space support to warfighters.

He expanded the role and support for special operations. He accelerated the delivery to the battlefield of Armed Predators and Global Hawks, bombers in support of close air support, tactics enabling engagement or the Time Sensitive Targets, networked Intelligence, Surveillance, and Reconnaissance, and advanced Combined Air Operations Center capabilities.

Secretary Roche and General Jumper have done a remarkable job. I remember, back in the late 1990s, after we downsized and downgraded and had done away with a lot of the modernization programs in our military under the previous administration, General Jumper had the courage to stand before our committee and say and admit we were going to have to do something about modernization, something about the F-22, something about the Joint Strike Fighter, because the Russians were making the SU series that was actually better than our best strike vehicles, which were the F-15s and F-16s.

And this was done. This is the type of courage that came forth during Secretary Roche's administration.

The investigation into the tanker lease continues, and it will continue until all individuals who acted inappropriately are held accountable. That is appropriate. However, we must move forward on recapitalizing our tanker fleet, fighting the war on terrorism, and getting back to the business of supporting the warfighters, specifically, moving forward on confirmations of senior military leaders so our troops in the field have the leadership they deserve.

I think it is time to allow the investigations to find out who is guilty of wrongdoing. Yes, it was wrong to take the tanker deal to the Appropriations Committee and skip the authorizers. But that was fixed. We held hearings. We compromised, and it looks like we have killed the tanker deal. We have investigations underway, some complete, and those who committed crimes are going to pay for their crimes. So let's not overreach this subject and bring innocent men and women under public attack.

Let me say that Secretary Roche has been innovative. He has tirelessly pressed new ideas. I thank Secretary Roche for the very fine contributions he made to the U.S. Air Force and to the United States of America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

TRIBUTES TO RETIRING SENATORS

PETER FITZGERALD

Mr. SESSIONS. Mr. President, I want to share a few remarks about our friend and colleague PETER FITZGERALD. It has been a real honor for me to serve with him. We have had quite different backgrounds.

PETER grew up in suburban Chicago and attended very fine parochial schools. He attended Dartmouth College where he graduated cum laude with highest distinction majoring in Latin and Greek. He got his law degree from the University of Michigan and came from a very prominent family there.

He is a wonderful person, a person I got to know, although our backgrounds are different, I having grown up in south Alabama, the son of a country store owner, going barefoot and swimming in the creeks. We enjoyed talking with one another. He liked Bear Bryant, and we talked about a number of things.

One thing he shared with me on a number of occasions is his belief that there should be in government, in the business of the United States and the State governments, integrity. He talked with me about his recommendation to President Bush about a U.S. attorney appointment in Chicago. He wrestled with it and talked with me over a period of weeks about the fact

he believed that even if he chose any of the very fine candidates who had been discussed in Chicago, he would be choosing somebody from that area that people would think was not the best, was not independent, that they might be influenced by someone.

He had a growing feeling that he should choose someone from outside the area. It is an usual thing to do, but that is what he did. He searched the country over and chose U.S. Attorney Fitzgerald, a nonrelative, I believe, who tried some of the biggest terrorist cases in New York. That is who he recommended and that is who he put there. Why? Because he wanted the best prosecutor with the best background, with the most integrity, and total independence to do the right thing there. That indicated to me just how serious he was about this issue.

When he ran for the Senate, he was in the banking business, an attorney in the banking business. He promised he would not involve himself and would recuse himself from decisions dealing with banking. People said that was not necessary. Others did not do that. He said he thought it was the appropriate thing to do, and he adhered to that the entire time he was here, recusing himself on a number of such issues.

He chose the higher standard, the road less traveled. He did not like fraud, corruption, and abuse. As a

member of the Consumer Affairs Subcommittee of the Commerce Committee, he took a key role in the investigation of Enron and the abuses that occurred there.

He was a constant and strong opponent of no-bid contracts. He saw a lot of those in Illinois. He did not like it, and he spoke out against it in a very strong way. Particularly, there was a matter involving Springfield and a major construction contract. He feared the good old boys, those with influence and inside word, would be the beneficiaries of those contracts rather than the taxpayers. He thought it should be bid on a professional basis, and he battled very hard for that. He did not like and does not like cronyism, and he spoke out against it.

His commercial banking experience led him to study the behavior of the stock markets and brokerage firms in the Federal thrift plan, which he admired greatly, saying it was the most efficient and best plan for investors that he was aware of because the fees and costs were so low.

He, therefore, was a champion of integrity and full disclosure of fees in the brokerage business and spoke out aggressively in favor of that. Why did he say that? Because he thought insiders were taking too big a piece of the pie and if that money, instead of being paid out in fees, sometimes never seen

by the investors, had been reinvested in the stocks or mutual funds, that the investor would have ended up with a lot more money over a lifetime, and he had charts to show it.

He spoke out against that special interest group because he believed it was the right thing to do. He believed in representing the consumers, and those are the people who make America go.

He has a wonderful wife Nina who attended Smith College, the London School of Economics, and Harvard Law School. They have one son, Jake. He has chosen to spend more time with them. We can certainly understand his decision to do that.

I also thank him for his service to the people of the United States. He did so in this single term with integrity, courage, decency, and a great spirit of cooperativeness. I have enjoyed serving with him, as did all of us in this body, and I wish him Godspeed.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I thank the Chair.

(The remarks of Mr. DODD pertaining to the introduction of S. 3020 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

NOTICE

Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.

ORDERS FOR SATURDAY, NOVEMBER 20, 2004

Mr. SESSIONS. Mr. President, on behalf of the majority leader, Dr. BILL FRIST, I ask unanimous consent that when the Senate completes its business today, it adjourn until 11 a.m. on Saturday, November 20. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and there then be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

PROGRAM

Mr. SESSIONS. Mr. President, tomorrow the Senate will reconvene to

consider the Omnibus appropriations conference report. It is expected that the conference report will be filed tonight and that the House will begin consideration of that measure Saturday morning. We will then return to business at 11 a.m. with the hope that the conference report will be available shortly thereafter.

In addition, the Senate will consider the intelligence reform conference report if that is available. Senators should expect votes tomorrow, and we will notify Members as to when the first vote is expected.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I ask unanimous con-

sideration that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:24 p.m., adjourned until Saturday, November 20, 2004, at 11 a.m.

DISCHARGED NOMINATIONS

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were placed on the Executive Calendar:

FOREIGN SERVICE NOMINATIONS BEGINNING WITH RALPH L. BOYCE, JR. AND ENDING WITH ROBERT J. WHIGHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 2004.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH ROBERT M. CLAY AND ENDING WITH MARCIA L. NORMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 2004.