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Senate

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

PRAYER

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

Let us pray.

Eternal spirit, the author and finisher of our faith, as the days blend together and the August recess beckons, we pause to simply praise You. We praise You for Your glory and strength, for You are majestic and powerful. We praise You for keeping us from falling when we have walked in slippery places. We praise You for the gifts of borrowed heartbeats or a fresh sunrise. We praise You for our Senators who labor with faithfulness for freedom.

Lord, teach us today how to master ourselves that we may honor You. Give us wisdom to number our days and maximize the opportunities presented by the passing minutes. Strengthen our resolve to nurture our families and to leave an exemplary legacy for those who follow us. Empower each of us to meet life's vicissitudes with the calm assurance that You rule in the affairs of humanity.

We pray this in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

RESERVATION OF LEADER TIME

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

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 2361, which the clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

(The conference report is printed in the House proceedings of the RECORD of July 28, 2005.)

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, we have several unanimous consent requests with respect to our schedule today. Following the time for the two leaders, we will consider the Interior appropriations conference report under a 20-minute time limit. Following that debate, we will return to the energy conference report for final closing remarks. At the conclusion of that debate, we will have a series of rollcall votes on these measures. I would anticipate those votes occurring sometime around 10:45 or so this morning.

After those votes are completed, we will return to the gun manufacturers liability bill. We have an agreement for a limited number of amendments, with time agreements on each of those. Therefore, we will have votes throughout the afternoon until passage of that legislation.

Finally, we will also consider the highway conference report when it becomes available from the House. It is not yet here. All Senators should be aware that we will have a substantial number of rollcall votes today, as many as 13 over the course of the day. Therefore, we ask that Senators remain close to the Chamber throughout the day to facilitate the votes and our remaining business.

VITIATION OF UNANIMOUS-CONSENT AGREEMENT—H.R. 2985

Mr. FRIST. Mr. President, I ask unanimous consent that the order with respect to the Legislative branch appropriations conference report be vitiated.

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

The PRESIDENT pro tempore. The majority leader is recognized.

STEM CELL RESEARCH

Mr. FRIST. Mr. President, since 2001 when stem cell research first captured our Nation's attention, I have said many times the issue will have to be reviewed on an ongoing basis—and not just because the science holds tremendous promise, or because it is developing with breathtaking speed. Indeed, stem cell research presents the first major moral and ethical challenge to biomedical research in the 21st century.

In this age of unprecedented discovery, challenges that arise from the nexus of advancing science and ethical considerations will come with increasing frequency. How can they not? Every day we unlock more of the mysteries of human life and more ways to promote and enhance our health. This compels profound questions—moral questions that we understandably struggle with both as individuals and as a body politic.

How we answer these questions today—and whether, in the end, we get them right—impacts the promise not only of current research, but of future research, as well. It will define us as a

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

civilized and ethical society forever in the eyes of history. We are, after all, laying the foundation of an age in human history that will touch our individual lives far more intimately than the Information Age and even the Industrial Age before it.

Answering fundamental questions about human life is seldom easy. For example, to realize the promise of my own field of heart transplantation and at the same time address moral concerns introduced by new science, we had to ask the question: How do we define ''death?'' With time, careful thought, and a lot of courage from people who believed in the promise of transplant medicine, but also understood the absolute necessity for a proper ethical framework, we answered that question, allowed the science to advance, and have since saved tens of thousands of lives.

So when I remove the human heart from someone who is brain dead, and I place it in the chest of someone whose heart is failing to give them new life, I do so within an ethical construct that honors dignity of life and respect for the individual.

Like transplantation, if we can answer the moral and ethical questions about stem cell research, I believe we will have the opportunity to save many lives and make countless other lives more fulfilling. That is why we must get our stem cell policy right—scientifically and ethically. And that is why I stand on the floor of the U.S. Senate today.

Four years ago, I came to this floor and laid out a comprehensive proposal to promote stem cell research within a thorough framework of ethics. I proposed 10 specific interdependent principles. They dealt with all types of stem cell research, including adult and embryonic stem cells.

As we know, adult stem cell research is not controversial on ethical grounds—while embryonic stem cell research is. Right now, to derive embryonic stem cells, an embryo—which many, including myself, consider nascent human life—must be destroyed. But I also strongly believe—as do countless other scientists, clinicians, and doctors—that embryonic stem cells uniquely hold specific promise for some therapies and potential cures that adult stem cells cannot provide.

I will come back to that later. Right now, though, let me say this: I believe today—as I believed and stated in 2001, prior to the establishment of current policy—that the Federal Government should fund embryonic stem cell research. And as I said 4 years ago, we should Federally fund research only on embryonic stem cells derived from blastocysts leftover from fertility therapy, which will not be implanted or adopted but instead are otherwise destined by the parents with absolute certainty to be discarded and destroyed.

Let me read to you my fifth principle as I presented it on this floor 4 years ago: No. 5. Provide funding for embryonic stem cell research only from blastocysts that would otherwise be discarded. We need to allow Federal funding for research using only those embryonic stem cells derived from blastocysts that are left over after in vitro fertilization and would otherwise be discarded (CONG. REC. 18 July 2001: S7847).

I made it clear at the time, and do so again today, that such funding should only be provided within a system of comprehensive ethical oversight. Federally funded embryonic research should be allowed only with transparent and fully informed consent of the parents. And that consent should be granted under a careful and thorough Federal regulatory system, which considers both science and ethics. Such a comprehensive ethical system, I believe, is absolutely essential. Only with strict safeguards, public accountability, and complete transparency will we ensure that this new, evolving research unfolds within accepted ethical bounds.

My comprehensive set of 10 principles, as outlined in 2001 (CONG. REC. 18 July 2001: S7846–S7851) are as follows: (1) ban embryo creation for research; (2) continue funding ban on derivation; (3) ban human cloning; (4) increase adult stem cell research funding; (5) providing funding for embryonic stem cell research only from blastocysts that would otherwise be discarded; (6) require a rigorous informed consent process; (7) limit number of stem cell lines; (8) establish a strong public research oversight system; (9) require ongoing, independent scientific and ethical review; (10) strengthen and harmonize fetal tissue research restrictions.

That is what I said 4 years ago, and that is what I believe today. After all, principles are meant to stand the test of time—even when applied to a field changing as rapidly as stem cell research.

I am a physician. My profession is healing. I have devoted my life to attending to the needs of the sick and suffering and to promoting health and well being. For the past several years I have temporarily set aside the profession of medicine to participate in public policy with a continued commitment to heal.

In all forms of stem cell research, I see today, just as I saw in 2001, great promise to heal. Whether it is diabetes, Parkinson's disease, heart disease, Lou Gehrig's disease, or spinal cord injuries, stem cells offer hope for treatment that other lines of research cannot offer.

Embryonic stem cells have specific properties that make them uniquely powerful and deserving of special attention in the realm of medical science. These special properties explain why scientists and physicians feel so strongly about support of embryonic as well as adult stem cell research.

Unlike other stem cells, embryonic stem cells are ''pluripotent.'' That means they have the capacity to become any type of tissue in the human body. Moreover, they are capable of renewing themselves and replicating themselves over and over again—indefinitely.

Adult stem cells meet certain medical needs. But embryonic stem cells—because of these unique characteristics—meet other medical needs that simply cannot be met today by adult stem cells. They especially offer hope for treating a range of diseases that require tissue to regenerate or restore function.

On August 9, 2001, shortly after I outlined my principles (CONG. REC. 18 July 2001: S7846–S7851), President Bush announced his policy on embryonic stem cell research. His policy was fully consistent with my ten principles, so I strongly supported it. It federally funded embryonic stem cell research for the first time. It did so within an ethical framework. And it showed respect for human life.

But this policy restricted embryonic stem cell funding only to those cell lines that had been derived from embryos before the date of his announcement. In my policy I, too, proposed restricting number of cell lines, but I did not propose a specific cutoff date. Over time, with a limited number of cell lines, would we be able to realize the full promise of embryonic stem cell research?

When the President announced his policy, it was widely believed that 78 embryonic stem cell lines would be available for Federal funding. That has proven not to be the case. Today only 22 lines are eligible. Moreover, those lines unexpectedly after several generations are starting to become less stable and less replicative than initially thought; they are acquiring and losing chromosomes, losing the normal karyotype, and potentially losing growth control. They also were grown on mouse feeder cells, which we have learned since, will likely limit their future potential for clinical therapy in humans (e.g., potential of viral contamination).

While human embryonic stem cell research is still at a very early stage, the limitations put in place in 2001 will, over time, slow our ability to bring potential new treatments for certain diseases. Therefore, I believe the President's policy should be modified. We should expand federal funding—and thus NIH oversight—and current guidelines governing stem cell research, carefully and thoughtfully staying within ethical bounds.

During the past several weeks, I have made considerable effort to bring the debate on stem cell research to the Senate floor, in a way that provided colleagues with an opportunity to express their views on this issue and vote on proposals that reflected those views. While we have not yet reached consensus on how to proceed, the Senate will likely consider the Stem Cell Research Enhancement Act, which passed

the House in May by a vote of 238 to 194, at some point this Congress. This bill would allow Federal funding of embryonic stem cell research for cells derived from human embryos that: (1) are created for the purpose of fertility treatments; (2) are no longer needed by those who received the treatments; (3) would otherwise be discarded and destroyed; (4) are donated for research with the written, informed consent of those who received the fertility treatments, but do not receive financial or other incentives for their donations.

The bill, as written, has significant shortcomings, which I believe must be addressed.

First, it lacks a strong ethical and scientific oversight mechanism. One example we should look to is the Recombinant DNA Advisory Committee—RAC—that oversees DNA research. The RAC was established 25 years ago in response to public concerns about the safety of manipulation of genetic material through recombinant DNA techniques. Compliance with the guidelines—developed and reviewed by this oversight board of scientists, ethicists, and public representatives—is mandatory for investigators receiving NIH funds for research involving recombinant DNA.

Because most embryonic stem cell research today is being performed by the private sector—without NIH Federal funding—there is today a lack of ethical and scientific oversight that routinely accompanies NIH-Federal funded research.

Second, the bill doesn't prohibit financial or other incentives between scientists and fertility clinics. Could such incentives, in the end, influence the decisions of parents seeking fertility treatments? This bill could seriously undermine the sanctity of the informed consent process.

Third, the bill doesn't specify whether the patients or clinic staff or anyone else has the final say about whether an embryo will be implanted or will be discarded. Obviously, any decision about the destiny of an embryo must clearly and ultimately rest with the parents.

These shortcomings merit a thoughtful and thorough rewrite of the bill. But as insufficient as the bill is, it is fundamentally consistent with the principles I laid out more than four years ago. Thus, with appropriate reservations, I will support the Stem Cell Research Enhancement Act.

I am pro-life. I believe human life begins at conception. It is at this moment that th organism is complete—yes, immature—but complete. An embryo is nascent human life. It is genetically distinct. And it is biologically human. it is living. This position is consistent with my faith. But, to me, it isn't just a matter of faith. It is a fact of science.

Our development is a continuous process—gradual and chronological. We were all once embryos. The embryo is human life at its earliest stage of development. And accordingly, the human embryo has moral significance and moral worth. It deserves to be treated with the utmost dignity and respect.

I also believe that embryonic stem cell research should be encouraged and supported. But, just as I said in 2001, it should advance in a manner that affords all human life dignity and respect—the same dignity and respect we bring to the table as we work with children and adults to advance the frontiers of medicine and health.

Congress must have the ability to fully exercise its oversight authority on an ongoing basis. And policymakers, I believe, have a responsibility to reexamine stem cell research policy in the future and, if necessary, make adjustments.

This is essential, in no small part, because of promising research not even imagined four years ago. Exciting techniques are now emerging that may make it unnecessary to destroy embryos—even those that will be discarded anyway—to obtain cells with the same unique ''pluripotential'' properties as embryonic stem cells.

For example, an adult stem cell could be ''reprogrammed'' back to an earlier embryonic stage. This, in particular, may prove to be the best way, both scientifically and ethically, to overcome rejection and other barriers to effective stem cell therapies. To me—and I would hope to every member of this body—that's research worth supporting. Shouldn't we want to discover therapies and cures—given a choice—through the most ethical and moral means?

So let me make it crystal clear: I strongly support newer, alternative means of deriving, creating, and isolating pluripotent stem cells—whether they are true embryonic stem cells or stem cells that have all of the unique properties of embryonic stem cells.

With more Federal support and emphasis, these newer methods, though still preliminary today, may offer huge scientific and clinical pay-offs. And just as important, they may bridge moral and ethical differences among people who now hold very different views on stem cell research because they totally avoid destruction of any human embryos.

These alternative methods of potentially deriving pluripotent cells include: (1) extraction from embryos that are no longer living; (2) non-lethal and nonharmful extraction from embryos; (3) extraction from artificially created organisms that are not embryos, but embryo-like; (4) reprogramming adult cells to a pluripotent state through fusion with embryonic cell lines.

Now, to date, adult stem cell research is the only type of stem cell research that has resulted in proven treatments for human patients. For example, the multi-organ and multi-tissue transplant center that I founded and directed at Vanderbilt University Medical Center performed scores of life-saving bone marrow transplants every year to treat fatal cancers with adult stem cells.

And stem cells taken from cord blood have shown great promise in treating leukemia, myeloproliferative disorders and congenital immune system disorders. Recently, cord blood cells have shown some ability to become neural cells, which could lead to treatments for Parkinson's disease and heart disease.

Thus, we should also strongly support increased funding for adult stem cell research. I am a cosponsor of a bill that will make it much easier for patients to receive cord blood cell treatments.

Adult stem cells are powerful. They have effectively treated many diseases and are theoretically promising for others. But embryonic stem cells—because they can become almost any human tissue (''pluripotent'') and renew and replicate themselves infInitely—are uniquely necessary for potentially treating other diseases.

No doubt, the ethical questions over embryonic stem cell research are profound.They are challenging. They merit serious debate. And not just on the Senate floor, but across America—at our dining room tables, in our community centers, on our town squares.

We simply cannot flinch from the need to talk with each other, again and again, as biomedical progress unfolds and breakthroughs are made in the coming years and generations. The promise of the Biomedical Age is too profound for us to fail.

That is why I believe it is only fair, on an issue of such magnitude, that senators be given the respect and courtesy of having their ideas in this arena considered separately and cleanly, instead of in a whirl of amendments and complicateliamentary maneuvers. I have been working to bring this about for the last few months. I will continue to do so.

And when we are able to bring this to the floor, we will certainly have a serious and thoughtful debate in the Senate. There are many conflicting points of view. And I recognize these differing views more than ever in my service as majority leader: I have had so many individual and private conversations with my colleagues that reflect the diversity and complexity of thought on this issue.

So how do we reconcile these differing views? As individuals, each of us holds views shaped by factors of intellect, of emotion, of spirit. If your daughter has diabetes, if your father has Parkinson's, if your sister has a spinal cord injury, your views will be swayed more powerfully than you can imagine by the hope that cure will be found in those magnificent cells, recently discovered, that today originate only in an embryo.

As a physician, one should give hope—but never false hope. Policymakers, similarly, should not overpromise and give false hope to those

suffering from disease. And we must be careful to always stay within clear and comprehensive ethical and moral guidelines—the soul of our civilization and the conscience of our nation demand it.

Cure today may be just a theory, a hope, a dream. But the promise is powerful enough that I believe this research deserves our increased energy and focus. Embryonic stem cell research must be supported. It is time for a modified policy—the right policy for this moment in time.

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

Mr. REID. Mr. President, before the distinguished majority leader leaves the floor, I want to, through the Chair, express to him my appreciation for the courageous statement he made. It was a moral decision made by the majority leader of the Senate. His decision will bring hope to millions of Americans who face these terrible diseases, and it has even more meaning as a result of the medical background the Senator from Tennessee has.

I know there is still a long way to go legislatively, but a large step has been taken by the majority leader today to give hope to the people of Nevada who suffer from these diseases, the people from Georgia, Pennsylvania, Tennessee, and all over America. I admire the majority leader for doing this.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I congratulate my distinguished colleague, Senator FRIST. I believe the speech which he has made on the Senate floor is the most important speech made this year and perhaps the most important speech made for many years because this issue of embryonic stem cell research is the difference between life and death.

When Senator FRIST says what he has stated this morning, it has an enormous impact as to science because of his unique position and respected position as a scientist, as a doctor, as a medical researcher, but enormous impact on Government. I use the word ''government'' instead of ''politics'' because this has an impact on Government when the majority leader is taking the position which he has taken. I believe it is especially weighty because of the thoughtfulness, the deliberation, and the time he has utilized bringing all of his abilities to bear—his considerable abilities to bear. The thoughtfulness and deliberation emphasizes the importance of what he has said.

On a personal note, I have had an opportunity to talk with Senator FRIST about it many times over the course of the past 4 years. I know how he has wrestled with this issue and how conscientious he is in his judgment.

One final comment, and that is, Dr. FRIST, Senator FRIST, Majority Leader FRIST's comments will reverberate far and wide, around the world. This is a speech which will be heard around the world, including at the White House. I have had the opportunity to talk with the President on this issue on a number of occasions. He was in Pennsylvania 44 times last year, and I had a good opportunity to talk with him in the car and on the plane. The President made a very important decision on August 9 of 2001 on liberating some 63 stem cell lines. There is some discussion as to how many there were. Sixty-three was the initial line. I know the President will listen to what Senator FRIST has to say. I am not saying he is going to agree with it. But what Senator FRIST has had to say is weighty and I think may bring us all together on this issue. So I congratulate my distinguished leader.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I, too, wish to recognize the comments made by the majority leader this morning and to thank him for his call for a ban on human cloning, which was one of the principles that he outlined when he spoke this morning. I am interested in bringing this important topic to the Senate floor for debate.

I would note a couple of points about the different issues we face when we consider the many new aspects of evolving science. Yesterday morning's Washington Post found pluripotent adult stem cells being able to make eggs. Also, the June edition of the Science journal talks about the antibodies and the alleged problems with embryonic stem cell lines that are currently being developed. This article states that the concern with the lines being built on mouse feeder cells is overblown, and that those concerns are overstated. In addition, I think more of these lines may end up being available.

I note for my colleagues and the Majority Leader, whom I regard very highly—he is a brilliant individual and works very hard—that he articulated 10 principles regarding ethics in research and medical treatment, and I appreciate them. I was there 4 years ago when the Majority Leader articulated the 10 principles—this is before he was Majority Leader—and he has stuck by them today.

However, there is a basic principle involved that is here, and that is whether or not a young, living human embryo is a life or a piece of property. And how is it going to be treated? I think we have to deal with the precursor principles before we can go ahead with unrestricted research on this issue. Even as carefully as such research may be drawn, one has to make this determination: Is it life?

Is it person or property? It is one or another. If it is person, respect it as a person. If it is property, it can be done with as its master chooses. That is the principle we have to dig into first. I hope we can get into that in the upcoming debate we will conduct on the entire range of these issues, hopefully on the entire range of human cloning and adult stem cell research—adult stem cell research, where we have 65 human treatments currently taking place.

I appreciate the comments of my colleagues. I do differ on the need to expand embryonic stem cell research.

I ask unanimous consent to print in the RECORD the three items that I referenced.

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

BENEFITS OF STEM CELLS TO HUMAN PATIENTS—ADULT STEM CELLS V. EMBRYONIC STEM CELLS (PUBLISHED TREATMENTS IN HUMAN PATIENTS)

ADULT STEM CELLS: 65—ESCR:0

Cancers

1. Brain Cancer
2. Retinoblastoma
3. Ovarian Cancer
4. Skin Cancer: Merkel Cell Carcinoma
5. Testicular Cancer
6. Tumors abdominal organs Lymphoma
7. Non-Hodgkin's lymphoma
8. Hodgkin's Lymphoma
9. Acute Lymphoblastic Leukemia
10. Acute Myelogenous Leukemia
11. Chronic Myelogenous Leukemia
12. Juvenile Myelomonocytic Leukemia
13. Cancer of the lymph nodes: Angioimmunoblastic Lymphadenopathy
14. Multiple Myeloma
15. Myelodysplasia
16. Breast Cancer
17. Neuroblastoma
18. Renal Cell Carcinoma
19. Various Solid Tumors
20. Soft Tissue Sarcoma
21. Waldenstrom's macroglobulinemia
22. Hemophagocytic lymphohistiocytosis
23. POEMS syndrome

Auto-Immune Diseases

24. Multiple Sclerosis
25. Crohn's Disease
26. Scleromyxedema
27. Scleroderma
28. Rheumatoid Arthritis
29. Juvenile Arthritis
30. Systemic Lupus
31. Polychondritis
32. Sjogren's Syndrome
33. Behcet's Disease.
34. Myasthenia
35. Autoimmune Cytopenia
36. Systemic vasculitis
37. Alopecia universalis

Cardiovascular

38. Heart damage

Ocular

39. Corneal regeneration

Immunodeficiencies

40. X-Linked hyper immunoglobuline-M Syndrome
41. Severe Combined Immunodeficiency Syndrome
42. X-linked Iymphoproliferative syndrome

Neural Degenerative Diseases/Injuries

43. Parkinson's disease
44. Spinal cord injury
45. Stroke damage

Anemias/Blood Conditions

46. Sickle cell anemia
47. Sideroblastic anemia
48. Aplastic Anemia
49. Amegakaryocytic Thrombocytopenia
50. Chronic Epstein-Barr Infection
51. Fanconi's Anemia
52. Diamond Blackfan Anemia
53. Thalassemia Major
54. Red cell aplasia
55. Primary Amyloidosis

Wounds/Injuries

56. Limb gangrene

57. Surface wound healing
58. Jawbone replacement
59. Skull bone repair

Other Metabolic Disorders

60. Osteogenesis imperfecta
61. Sandhoff disease
62. Hurler's syndrome
63. Krabbe Leukodystrophy
64. Osteopetrosis
65. Cerebral X-linked adrenoleukodystrophy

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[From Science Magazine, June 10, 2005]

READY OR NOT? HUMAN ES CELLS HEAD TOWARD THE CLINIC

Shortly before Congressman James Langevin cast his vote last month to relax federal rules on funding of stem cell research, the Rhode Island Democrat told his colleagues, ''I believe one day I will walk again.'' Langevin, who has been paralyzed since a gun accident at age 16, pleaded with his colleagues to vote with him. ''Stem cell research gives us hope and a reason to believe. . . . We have a historic opportunity to make a difference for millions of Americans.''

With impassioned pleas like this, high-stakes battles in Congress, and billions of private and state dollars pouring into research on human embryonic stem (hES) cells, it often seems their therapeutic applications must be just around the corner. But a careful parsing of the claims from even the strongest advocates reveals the caveat ''someday.''

How soon that someday might arrive is far from clear. Scientists are nearly unanimous that the study of hES cells will illuminate human development and disease. But whether the cells will actually be used to cure patients like Langevin is less certain. Cell therapies are more complicated than drugs, and hES cells, which have the potential to become any cell type in the body, carry special risks.

''The most sobering thing about [hES] cells is their power,'' says neuroscientist Clive Svendsen of the University of Wisconsin, Madison, who works with both fetal and embryonic stem cells. The extreme flexibility and capacity for growth characteristic of ES cells makes them ideal for producing large quantities of therapeutic cells to treat, say, diabetes or spinal cord injuries. But these same traits also increase the risk that renegade cells could, as they have in animal studies, cause unwanted side effects, ending up in the wrong place or even sparking cancerous growth. ''You have to learn to control that power in the dish'' before thinking about putting the cells into patients, says Svendsen.

For that reason, most groups say they are at least five or, more likely, 10 years away from clinical trials. But one company is challenging that timeline. Geron in Menlo Park, California, says its animal studies suggest that stem cell therapy can be safe and might be effective for a select group of patients. The company hopes to start clinical trials of hES cells to treat spinal cord injuries as early as summer 2006. Already, the company is in discussions with the Food and Drug Administration (FDA), which is attempting to set safety standards for the field. Potential treatments with human ES cells face the same difficulties as all cell therapies, notes Malcolm Moos of FDA's division of cellular and gene therapies: There are few standardized techniques to measure the purity or potency of a cell population that would be delivered to a patient.

Most stem cell researchers view Geron's plans with hefty skepticism and caution that a premature rush to patients could seriously damage the already-controversial field. And it is far from clear whether FDA will allow the trial to proceed. But Geron, which funded the researchers who isolated the first hES cells in 1998, has several reasons to push ahead; the company holds a number of patents and exclusive licenses that give it more freedom—and more incentive—to develop possible products from hES cells. And whatever the outcome, scientists agree, Geron's ambitious plans will offer a test case of the hurdles scientists will have to overcome to prove that hES therapies are both safe and effective.

Even the skeptics say Geron chose a plausible target for the first trial, as spinal cord injuries may be significantly easier to tackle than diseases such as diabetes or Parkinson's. The trials would be based on work led by Hans Keirstead, a neuroscientist at the University of California, Irvine, who proved a persuasive spokesperson for the field during the campaign for California's Proposition 71, which provides $3 billion in funding for hES cell research.

During last fall's campaign, Keirstead described his then-unpublished work, showing videos of rats with spinal cord injuries that had regained some mobility after injections of cells derived from hES cells. ''I am extremely enthusiastic,'' Keirstead says. ''I am past the point of hope. In my mind the question is when. What we are seeing in these animal models is tremendous.''

Keirstead and his colleagues, with funding and technical support from Geron, have developed a protocol that encourages hES cells to differentiate into cells called oligodendrocyte precursors. These cells can form oligodendrocytes, the cells that, among other functions, produce the protective myelin sheath that allows neurons to send signals along their axons. This sheath is often lost during spinal cord injuries.

In a paper last month in the Journal of Neuroscience, Keirstead's team reported that these precursors, when injected into the spinal cord, could help improve recovery of rats that had suffered spinal cord injury. The cells aren't replacing injured neurons, Keirstead says, but are encouraging the natural healing process, presumably by restoring some of the myelination. Earlier studies in mice (Science, 30 July 1999, p. 754) showed that injecting mouse cells destined to form oligodendrocytes into injured or diseased animals could restore some myelination; Keirstead's team is the first to show that human ES cells can have similar effects.

For newly injured rats, the results are promising. In animals that received oligodendrocyte precursors 7 days after their injury, the cells survived and apparently helped repair the spinal cord's myelin. Within 2 weeks, treated rats scored significantly better on standardized movement tests than control animals, which had received human fibro-blasts or a cell-free injection.

But when the researchers injected cells 10 months after the injury, they saw no effect—sobering news for people like Langevin suffering from old injuries. The cells survived but were apparently unable to repair the long-term damage. For that reason, Keirstead says, Geron's proposed clinical trial would target newly injured patients.

The phase I trial, if it goes forward, will probably include only a handful of patients and, most importantly, Keirstead emphasizes, will not cure anyone. Its primary goal is to show that the treatment can be safe. ''The public and scientists must realize that these are the first attempts,'' Keirstead says. ''No one is expecting them to cure. We are expecting them to treat, but we have no idea what the level of response is going to be.''

Proving safety is a tall enough order. In numerous animal studies, ES cells from mice and humans have proved difficult to control, differentiating into the wrong kind of cell, for instance, or migrating away from the injection site.

In its spinal cord trial, Geron plans to inject ES-derived cells that can form just a single cell type, an approach that may circumvent some of these problems. For a full recovery, patients are likely to need new neurons as well as other support cells called astrocytes, but using precursors that differentiate into all three types of nerve cells can be problematic. In several rodent studies, partially differentiated mouse ES cells injected into the spinal cord have formed neurons, astrocytes, and oligodendrocytes and have helped animals recover from spinal cord injuries. But more recently, neural stem cells derived from adult animals which also differentiate into the three cell types—have caused problems. As Christoph Hofstetter of the Karolinska Institute in Stockholm, Sweden, and his colleagues reported in Nature Neuroscience in March, neural stem cell treatments led to some recovery in rats' paralyzed hind legs, but the animals also developed a chronic pain sensitivity in their forelegs, which had been unaffected by the injury. In other experiments, preventing the formation of astrocytes seemed to eliminate the side effect, highlighting the importance of proper differentiation, Svendsen says.

Perhaps the biggest worry is that hES therapies will spur tumor formation. One of the defining characteristics of ES cells is that they form disorganized tumors, called teratomas, when injected in undifferentiated form under the skin of immune-compromised mice. ''The ES cell is basically a tumor-forming cell,'' says neuroscientist Anders Bjorklund of Lund University in Sweden. ''This aspect has to be dealt with seriously before the cells are applied in the clinic.'' Even a benign tumor in the central nervous system would be serious, says Svendsen: ''Any sort of growth in the spinal cord is not good news.''

But Keirstead believes he has solved those problems. The key, he says, is a differentiation procedure that he claims produces cell populations in which 97% of cells express genes typical of oligodendrocyte precursors. ''Teratomas are a real possibility if you put in naive stem cells,'' he acknowledges. ''But that is the science of yesteryear. No one is even considering putting in any naïve ES cells.'' Keirstead and his colleagues say in their paper that they found no evidence that their specialized cells formed astrocytes or neurons after injection. The team is also checking whether any of the injected cells leave the spinal cord. So far, Keirstead says, they seem to stay close to the site of injection.

Keirstead's paper is promising, Svendsen says, but he's not convinced the work is ready for patients. ''It didn't go into the detail you'd like to see before a clinical trial,'' he says. The catch is that it's hard to be sure that a population of several million cells is free of any undifferentiated stragglers. To evaluate the risk of tumors, Keirstead and his colleagues are testing the differentiated cells in nude mice: animals bred to lack an immune system. If the animals live for a year without signs of teratomas, then Keirstead says he will feel confident that the cells are safe to try in humans.

Several teams are making headway addressing another problem: possible animal contamination. To date, almost all human ES cell lines have been exposed to animal products. Cultured cells are often kept alive with fetal calf serum, for instance, and most hES cell lines have been grown on layers of mouse cells called feeder cells, which provide the key proteins that prevent ES cells from differentiating.

These techniques have sparked worries that hES cell therapies could introduce exotic animal viruses into patients. In response, several teams, including Geron, have recently developed ways to grow new cell lines either on human feeder layers or without feeder cells at all.

But the older cell lines have the advantage of being better characterized, says Geron CEO Thomas Okarma. That's why the company plans to use one of the original lines derived by James Thomson of the University of Wisconsin, Madison, in its first clinical trial. To reduce the risk of contamination, the company has been growing these cells for more than a year without any feeder cells. That may suffice for FDA, which has said that past exposure to animal cells does not disqualify ES cell lines from clinical use as long as certain safety standards are met.

Okarma says Geron can demonstrate that its cells are uncontaminated. His claim is bolstered by a paper by another group published last week in Stem Cells. Joseph Itskovitz-Eldor of Technion-Israel Institute of Technology in Haifa and his colleagues tested five hES cell lines and several cultures of mouse feeder cells for signs of murine retroviruses, which lurk in the genome of all mouse cells. Although the team identified receptors for the so-called mouse leukemia viruses, they found no evidence that the virus had infected any of the human cells, even after growing on mouse feeders for years. Animal products still may pose a risk, says Itskovitz-Eldor. But the new work shows that ''the cells can be tested, and we believe it will be possible to use them clinically.''

More recently, researchers identified another potential downside to using mouse feeder cells. In February, Fred Gage and his colleagues at the Salk Institute for Biological Studies in La Jolla, California, reported that hES cells grown with mouse feeders expressed a foreign sugar molecule on their cell surface. Because humans carry antibodies to the molecule, the researchers suggested that it might tag the cells for destruction by the human immune system. If so, then any therapy created with existing cell lines was unlikely to succeed. But Keirstead, Okarma, and others now say that those concerns, widely reported, may have been overstated. Gage and his noted that the sugar gradually disappears once cells are removed from the feeder layers. Keirstead says that once cells are removed from mouse feeder layers for several months, the sugar disappears. Okarma adds that cells in Geron's feeder-free cultures have no sign of the foreign molecule.

Finally, some scientists worry that ES cells might acquire harmful new mutations in culture, a common phenomenon with almost all cultured cells. Although ES cells ''are probably 100 times more stable than adult stem cells in culture, they're not perfect,'' cautions Mahendra Rao of the National Institute on Aging in Baltimore, Maryland. Such mutations would be particularly hard to detect ahead of time.

FDA, meanwhile, is trying to set safety standards for this burgeoning field. The agency announced in 2000 that cell therapies involving stem cells from embryos or adults would be regulated as drugs, not as surgical techniques. That means that researchers will have to meet certain standards of purity and potency. For most drugs, those standards are straightforward to set and easy to measure. Cellular products are much more complicated, * * *

STILL WAITING THEIR TURN

Even enthusiasts agree that Geron's goal—to begin testing a human embryonic stem (hES) cell therapy in patients with spinal cord injury within a year—is a long shot. Prospects are more distant for using stem cells to treat other diseases, such as diabetes, Parkinson's disease, amyotrophic lateral scleroris (ALS), and multiple sclerosis (MS). None is likely to reach the clinic for at least 5 to 10 years, most scientists in the field agree. And that's assuming abundant funding and faster-than-expected scientific progress.

Some of the strongest advocates for hES cell research are those hoping to find a cure for type 1 diabetes. The driving force behind California's Proposition 71, Robert Klein, says, for example, that his primary motivation is to find a cure for his diabetic son. Diabetes kills the pancreas's B cells, which regulate the amount of insulin in the blood. Patients have to take frequent insulin injections and face many complications, including kidney failure and blindness. Replacing the missing cells could cure the disease. Initial trials using B-cell transplant from cadavers have shown promise, but side effects and the transplants' limited life span has dampened enthusiasm (Science, 1 October 2004, p. 34). And even if the therapy worked perfectly, each transplant requires cells from multiple cadavers. So researchers are looking for renewable sources of cells that could treat the millions of patients who might benefit.

In theory, hES cells fit the bill nicely. In practice, however, although several groups have managed to coax mouse ES cells to differentiate into cells that make insulin, no one has yet managed to derive bona fide B cells from either mouse or human ES cells. One reason may be that unlike nerve cells or heart muscle cells, pancreatic cells are some of the last to develop during pregnancy. In mice, the cells appear on day 15 or 16, just a day or two before birth, and in humans, they appear in the 5th or 6th month. ''If the road is longer, the possibility of getting lost is much higher,'' explains Bernat Soria of Miguel Hernández University of Alicante, Spain, who has tried to produce B-like cells from both mouse and human ES cells. Fortunately , says Soria, the cells may not have to be perfect; several types of insulin-producing cells have helped alleviate diabetes symptoms in mice.

But there is no leeway when it comes to safety. Diabetes is a chronic but not inevitably deadly disease, so any cell therapy must be safer and more effective than insulin shots. ''We don't have a cure, but we have a treatment,'' Soria says. ''Despite the strong pressure we have from patients and families, the need for cell therapy is not as strong.

Scientists have already attempted to use cell therapies to treat Parkinson's disease, which attacks neurons in the brain that produce the neurotransmitter dopamine, leaving patients increasingly unable to move. In a handful or clinical trials in the last decade, physicians implanted dopamine-producing cells from fetal tissue—with decidely mixed results. Whereas some patients showed significant improvement, others show little or none. And some developed serious side effects including uncontrollable jerky movements. Scientists aren't yet sure what went wrong, although some suspect that patients may have received either too many or too few fetal cells, which are difficult to characterize in the lab.

Dopamine-producing neurons derived from ES cells could provide an unlimited and well-characterized source of cells. And a trial in monkeys from a team at Kyoto University found that dopamine-producing neurons grown from monkey ES cells could improve animals' symptoms. But before ES-derived cells are tested in Parkinson's patients, scientists need to understand more about how the transplanted cells are behaving in the brain, says neuroscientist Anders Bjorklund of Lund University in Sweden. ''The knowledge is just not good enough yet to justify any clinical trials'' with hES cells, he says.

Patients and doctors facing the nightmare of ALS may be willing to accept higher risks associated with early hES cell treatments. There is no effective treatment for this invariably fatal disease that kills motor neurons, and patients usually die within 5 years of a diagnosis. But ''ALS is an order of magnitude harder than other diseases'' to treat with cell therapy, says motor disease specialist Douglas Kerr of Johns Hopkins University in Baltimore, Maryland. Doctors still aren't sure what causes the disease, and even if scientists could coax stem cells to replace the lost motor neurons—''a pretty tall order,'' Kerr says—any new neurons could be subject to the same deadly assault. More promising, he says, would be a cell or a mixture of cells that might somehow help slow the damage, but no one is sure what that might look like.

Treating MS has similar challenges, says Hans Keirstead of the University of California, Irvine, who is working with Geron on its possible spinal cord injury trial. ''We're much farther away from treating MS with stem cells,'' he says. Like spinal cord injuries, the disease attacks the myelin sheath around nerve cells, and injected oligodendrocyte precursors have shown positive effects in animal models. But the human situation is more complicated, Keirstead says. Nerves damaged by MS are already surrounded by oligodendrocyte precursors, but something stops the cells from working. Indeed, Keirstead, who is relentlessly optimistic about the prospects of helping spinal cord injury patients, sounds much more sober about the prospects for other patients. ''When I look at the work with Parkinson's, MS, and stroke, I think spinal cord injuries are very amenable to these strategies. The rest of the central nervous system is not.''

[From the Washington Post, July 28, 2005]

SCIENTISTS CLAIM TO FIND CELLS THAT RESTORE EGG PRODUCTION

(By Rob Stein)

A team of Harvard scientists is claiming the discovery of a reservoir of cells that appear capable of replenishing the ovaries of sterilized mice, possibly providing new ways to help infertile women have babies.

While cautioning that more research is needed to confirm that similar cells exist in women and that they can safely restore fertility, the researchers said the findings could revolutionize the understanding of female reproduction and the power to manipulate it.

''This may launch a new era in how to think about female infertility and menopause,'' said Jonathan L. Tilly, a reproductive biologist at Harvard Medical School and Massachusetts General Hospital in Boston who led the research. It is being published in tomorrow's issue of the journal Cell.

Other researchers agreed that the findings could have profound implications, but several expressed caution and skepticism, saying many key questions remain about whether the researchers have proved their claims.

''This is really exciting and a revolutionary idea. The implications are potentially huge,'' said Lawrence Nelson of the National Institute of Child Health and Human Development. ''But before this could have any type of application to humans, a whole lot of work has to be done. We have to be careful not to get ahead of ourselves.''

But Tilly said he was confident of his findings, which could, for example, enable women to bank egg-producing cells when they are young in case they have health

problems that leave them infertile or they get too old.

''In theory, these cells could provide an insurance policy. We could harvest them and store them away for 20 years. Then you put them back in, and they are going to do exactly what they are supposed to—find the ovaries and generate new eggs'' to restore fertility, Tilly said.

The discovery could also lead to ways to prevent, delay or reverse menopause, perhaps by stimulating dormant cells in the bone marrow or ''tweaking'' the ovaries to accept them, Tilly said. It may also be possible to transplant them from one woman to another, he said.

In addition, because the cells appear to be a particularly versatile type of adult stem cell, they could provide an alternative to those obtained from embryos, avoiding the political and ethical debates raging around the use of those cells.

''The implications are mind-boggling, really,'' Tilly said.

The research is a follow-up to results the team reported in March 2004, when it claimed it had shown that mice can produce eggs throughout their lives. For decades, scientific dogma has been that female mammals such as mice and humans are born with a finite number of eggs. To alleviate doubts about their original claim, the researchers conducted another round of experiments, which they said confirm the findings and explain how it might work.

First, the scientists sterilized female mice with a cancer chemotherapy drug that destroyed eggs in the ovaries but spared any egg-producing cells elsewhere. They tested the animals' ovaries 12 to 24 hours later and found signs their egg supply was rapidly regenerating. Two months later, the animals' ovaries looked normal, and they remained that way for life.

After tests indicated the source of the cells may lie in the animals' bone marrow, the researchers infused marrow from healthy mice into those that were either genetically engineered to be infertile or had been made infertile with chemotherapy. Two months later, the recipients' ovaries looked normal, whereas those that had not received the transplants remained barren, the researchers reported. Blood transfusions produced similar results, they said.

The researchers then infused blood into infertile mice from animals that had been genetically engineered so that their reproductive stem cells glowed fluorescent green. Within two days, green egg cells appeared in the recipients' ovaries, which the researchers said indicated the cells had traveled through the blood to the ovaries.

Finally, the researchers screened human bone marrow and blood from healthy women and found that both tested positive for biological markers indicating the presence of immature reproductive cells.

''Mice and humans appear to be the same—they appear to have a set of genes in bone marrow consistent with . . . cells that can make themselves a new egg,'' Tilly said.

The findings could help explain previously mysterious cases of women sterilized by cancer treatment who spontaneously became pregnant after receiving bone marrow transplants, Tilly said. This may happen only rarely because some, but not all, techniques used to process bone marrow before transplantation may destroy the cells in some cases, he speculated.

The research triggered a mixture of excitement, caution and deep skepticism.

''It's quite amazing,'' said Hans Schoeler of the Max Planck Institute in Germany. ''The idea that cells from bone marrow may be a reservoir for egg cells would be quite astonishing.''

But Schoeler and other researchers cautioned that many crucial questions remained. Several researchers had doubts about some of the techniques the researchers used. Others were puzzled by the speed with which the ovaries appeared to be repopulated with eggs. Many pointed out that the researchers had failed to show the eggs were viable, the mice were ovulating or that they could give birth to healthy offspring.

''I'm very skeptical,'' said David F. Albertini of the University of Kansas Medical Center in Kansas City, Kan. ''There are a lot of holes in the research.''

Tilly attributed the skepticism to the radical nature of the findings and said he already had work underway to address the concerns, including breeding studies aimed at producing healthy offspring.

''We hope we will have the answers very soon,'' Tilly said.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. I ask unanimous consent to speak as if in morning business for 4 minutes.

Mr. President, this morning, the majority leader made some comments regarding stem cell research. I appreciate his comments. It was a statement of conscience. I think for each of us in the Senate this issue comes down to a statement of conscience. I believe we need to take additional steps in support of stem cell research and control it in an ethical way because it has the promise of saving lives. I therefore support the House-passed legislation that Senator SPECTER and Senator HATCH have introduced. I support the legislation that our Health, Education, Labor, and Pensions Committee has reported to the Senate for Federal support for cord blood research. I am looking forward to seeing more from Senator COLEMAN regarding his work to develop an alternative way of supporting Federal research for stem cells which already exist, but not in the future. In other words, I am looking for ways to support this important research because it has the promise of saving lives.

I am pro-life, Mr. President. I am opposed to human cloning. I will vote to criminalize human cloning. But I support this legislation that is offered by Senator HATCH and Senator SPECTER. President Bush has already said that Federal funds may be used in some cases for research on some stem cell lines derived from fertilized eggs. With the help of fertility clinics, some prospective parents use fertilized eggs to help them have children. Those excess eggs that these parents do not use are often thrown away. I support using some of those fertilized eggs that would otherwise be thrown away under carefully controlled conditions with the consent of the donors for potentially lifesaving research that may help cure juvenile diabetes, Parkinson's disease, spinal injuries, and other debilitating diseases.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the majority leader for his statement. I think it is extremely important that he has joined a bipartisan effort in the Senate to make progress on a critically important issue.

Senator FRIST and I have our differences politically, but I respect and admire him very much, particularly in his humanitarian efforts as a doctor. All of us in the Senate know while we may be back home in our States, he is off in some of the poorest places in the world using his medical skill to save lives. It says a lot about him. It says a lot about his heart, as does his statement this morning.

The fact he would come out and suggest that we need to move forward in stem cell research is going to give new hope to people who absolutely count on medical research for their future and for the life and well-being of members of their families.

I have had roundtable discussions in my State. I have invited people who are suffering from diabetes, Parkinson's, Lou Gehrig's disease, and from spinal cord injuries. They have all come forward to tell me how critically important stem cell research could be to making their lives whole and better.

Senator FRIST's decision today will move us toward a goal, a very important goal of establishing good lines for pursuing this research. The Castle-Degette bill, which comes from the House of Representatives, provides a conscience clause. It says neither the sperm nor egg donor can be asked to give up anything they put into the in vitro process without their consent. There must be a conscience clause included in this process. I agree with that.

We also must establish that we are opposed to human cloning, which I am, and I don't know of any Senator who disagrees. Human cloning is wrong, and we must draw strict ethical guidelines to make sure we do not cross that line.

Also, we never want to see the commercialization of this process. This is about scientific research. It is not about who is going to make a profit, and the Castle-Degette bill is very explicit in that regard.

My colleague from Kansas raises an important point. It is one he and I can debate and it can be debated for centuries about when life begins. I am not sure we will ever come to the same conclusion, but it is important we talk about it.

The thing that troubles me about this debate is that those who oppose stem cell research apparently are not prepared to criminalize in vitro fertilization. They are prepared to allow the process to move forward knowing full well in the ordinary course of events in the laboratory, there will be stem cells that cannot be used to impregnate the woman who is seeking to have a baby.

Mr. BROWNBACK. Will my colleague yield for a comment on that point?

Mr. DURBIN. When I finish my remarks, I will be happy to do so.

The point I am making is this: I have a friend, a woman I have known since

she was a young girl. She is married. She and her husband were unable to bring a child into this world. They went to the doctor and said: Could in vitro be the answer? The doctor said: We can try.

They spent $40,000 trying unsuccessfully. Heartbroken, they went home and waited and saved up enough money and borrowed enough money to try again, and they were successful. They have a beautiful baby whom they love to pieces.

They went to those extraordinary lengths because of their love for one another and their desire to bring life into this world together. I cannot believe there is anything immoral about that motive or that effort by this couple and hundreds or thousands of other couples across America.

The Senator from Kansas knows and I know that in the course of in vitro fertilization for these good reasons, there will be stem cells that are not going to be used to impregnate the woman who is seeking to have the baby. Some of them are frozen for future use, many are currently discarded. If the argument from the Senator from Kansas is that they are life and, therefore, cannot be used for research, then I can't understand why the Senator is not calling for the criminalization of in vitro fertilization which necessarily leads to excess stem cells.

Mr. BROWNBACK. Mr. President, I will be happy to respond.

Mr. DURBIN. Without my yielding the floor.

Mr. BROWNBACK. If I could, Mr. President, and I thank my colleague from Illinois for engaging in the debate because I think that it is a debate that we have needed for a long time.

It appears we have agreement that life does begin at conception. Senator KERRY campaigned on that running for President.

I presume my colleague from Illinois agrees similarly. Others have argued, yes, an embryo is alive but it is not yet a life.

To say that a young human embryo is alive, but it's not yet a life, seems to be a bit of a legal fiction—if we are going that route. A young human embryo is biologically and genetically distinct. It is a separate entity. It is alive. It should be treated as either a person or a piece of property.

My colleague may know that in some countries in Europe on this IVF procedure, they are very careful about the number of eggs that can be harvested and fertilized before they are implanted. I think that would be a good process for us to pursue and to look at so that it is not a huge multiple set of lines but a much narrower group that are created—so that they are treated with the dignity and respect that life should merit and that life should have.

I think my colleague from Tennessee was saying this since he obviously referred to the entity in question as a nascent life. So let us look at that and let us start going at those areas. Would you try to lead to criminalization, and I recognize that may be a good point in the debate but that is not anywhere near where we are today. Let us begin with the young humans with respect and dignity that life merits.

Mr. DURBIN. If I could reclaim my time and respond, and then I would respond to a question from the Senator from North Dakota. The point I am making to the Senator from Kansas is—and I think probably Senator FRIST, even as a medical doctor, would say that we struggle to figure out at what moment this is life. When we are dealing with the sperm and semen and the ovum, are they live cells? Certainly, they are live cells. There is life in those cells. If they were not, they would have no value in this process.

So to say there is life in the cells does not necessarily say we are dealing with a person. At what point does this become a person? This has been debated for as long as humans have been on Earth.

The point I am trying to make is I believe we should protect life, but we better be careful that in protecting life we are not avoiding our responsibility to protect the living. What Senator FRIST is suggesting—I do not want to put words in his mouth. What I believe is that stem cell research helps us to protect the living.

I yield to the Senator from North Dakota for a question.

Mr. DORGAN. I looked forward very much to having a debate on stem cell research in the month of July. It now appears that that will not be the case. Nonetheless, I compliment the Senator from Tennessee, the majority leader, on his statement this morning.

I did want to make this point and ask a question of the Senator from Illinois. Is it not the case that those unused frozen embryos at in vitro fertilization clinics can become one of a couple of things? First and foremost, at the moment when they are unused and discarded, they become hospital waste. Second, and importantly, they can, if used in stem cell research, be used in the important medical research to preserve and to save lives.

I say to my colleague from Kansas, I have lost a daughter to heart disease—many of us have lost loved ones. I will never, ever, on the floor of this Chamber, be a part of those who wish to shut down promising medical research, especially when the ability to provide that research comes from embryos that otherwise would become hospital waste.

My colleague from Illinois asked the pertinent question, and perhaps when we have this debate some day we will have a greater description of that, but if in fact that is a human life which is now thrown in the waste basket as hospital waste, unused embryos that are discarded, if in fact that is a human life—it is not, by the way—should the destruction of that as hospital waste not be treated criminally? That would be the logical extension of some of those who are on the Senate floor wishing to shut down this promising area of research.

My hope is that we can thoughtfully, with ethical guidelines, proceed with research that is pro-life, that will save lives, that will give a lot of Americans greater hope for the future who suffer from dreaded diseases. I look forward to this debate. I wish very much it had been in the month of July, but nonetheless we will have this debate. When we do, I hope we will have a full and open discussion about it and advance the cause of saving lives in this country and around the world.

Mr. DURBIN. If I could, I will say very briefly in response, I am disappointed that we did not resolve this issue favorably in the month of July in the Senate, but I am heartened by the statement made by the majority leader today. It is my belief that we have set the stage to return in September and take up this important lifesaving issue, with a critical bipartisan debate on the Senate floor, for the good of medical research and to bring hope to a lot of people who watch every move we make on this issue.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, first, I appreciate the comments of my colleagues and the distinguished Senator from Kansas, really all of my colleagues who have spoken. This is a very important issue that we will come back and address, and I appreciate their comments.

PROVIDING FOR CORRECTION TO ENROLLMENT OF H.R. 3

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H. Con. Res. 226, which corrects the enrollment of H.R. 3; provided further that Senator BAUCUS be recognized to speak for up to 8 minutes, and following his remarks, the concurrent resolution be agreed to and the motion to reconsider be laid upon the table without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 226) providing for a correction to the enrollment of H.R. 3.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I rise to address an issue of critical importance to my constituents in Montana. Early this morning, in the dead of night, the House of Representatives took an extraordinary action to delete a commonsense provision in the transportation conference report that would have reopened the runway at Malmstrom Air Force Base in Great Falls, MT. I am sorry the House acted as if it knows what is best for Great Falls, MT.

I cannot possibly put into words my outrage for the extraordinary action that the House took early this morning. My amendment would have opened the runway that is in the heart of Malmstrom Air Force base, which is active, healthy, and vibrant. Malmstrom is located outside of Great Falls, MT, and is a highly secure missile facility, employing the largest number of security forces in the entire U.S. Air Force.

Currently, the roadways and the infrastructure of Great Falls are strained due to the frequent crosstown movement of heavy cargo and equipment during deployments of the 219th and the 819th Red Horse Squadrons of the U.S. Air Force and National Guard. They must travel from Malmstrom to the other side of town on a congested roadway in the middle of town to fly out of a municipal airport. The Montana Air National Guard conducts all of their missions out of the same municipal airport.

This amendment would have enabled those units to deploy from a runway within their secured perimeter. Despite the mischaracterization of the House, this provision would not overturn a BRAC decision, nor would it influence the current BRAC round. It could not. Malmstrom is not on the BRAC list. The amendment was drafted, discussed, and deliberated in the light of day, agreed to by the relevant committees and conferees.

I was also pleased to have worked with the chairman and ranking member of the Armed Services Committee, as well as the conferees of the highway bill, all of whom accepted this amendment. To now have the House of Representatives cut this provision in the dead of night is an outrage.

My amendment would have simply provided a commonsense solution to a local problem. Local elected officials, civic leaders, the U.S. Air Force, and the National Guard have all requested that I find a way to open the runway at Malmstrom. Senator BURNS and I are dedicated to making this commonsense solution happen. But I cannot allow the highway bill to be a victim of the House's actions after the countless hours I have spent making sure it is right for America and right for the State of Montana.

The House actions in the dead of night have put in jeopardy our national highway bill. This bill will pump more than $2.3 billion into my State economy, and I am proud of this bill. It will help sustain and create more than 18,000 jobs and boost safety on Montana's roads. I dare say that very few in this Congress have worked harder to get this highway bill across the finish line than has this Senator. I will not give up the fight to reopen Malmstrom's runway. I have given it my best, but I cannot, in good faith, derail this important bill for the country at this late hour. My colleague from Montana, Senator BURNS, and I will continue to work to find another way to make this happen.

This action by the House shows how important was the Founders' genius in creating the Senate, where States with real needs but small populations, such as Montana, have their champions. I will never apologize for fighting for Montana.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the concurrent resolution is agreed to and the motion to reconsider is laid upon the table.

The concurrent resolution (H. Con. Res. 226) was agreed to.

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

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

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006—CONFERENCE REPORT—Continued

Mr. BURNS. Mr. President, I would inquire of the Chair the order of business now is the Interior conference report; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BURNS. Mr. President, I am pleased to bring before the Senate the conference report of Interior, Environment and Related Agencies for fiscal year 2006 . This bill provides more than $26 billion for the Department of Interior, the Environmental Protection Agency, the U.S. Forest Service, the Indian Health Service, and a number of other agencies that play vital roles in protecting our Nation's natural and cultural heritage.

Conferencing this bill with the House was not an easy matter, to say the least. The bill, as a whole, is close to $600 million below the fiscal year 2005 level. Our conference allocation was $50 million below the Senate's original allocation, and we have had to shoehorn both House and Senate priorities into that reduced amount. To hit our number, we had to eliminate or reduce a number of items in the Senate bill that I would have preferred that we had kept. I suspect the House has similar feelings about some of their priorities, but we made these choices in as fair a manner as possible, both from the House and Senate perspective and the majority and minority perspective.

Lest I sound too negative, let me be clear that there are some good things and important things in this bill. We improved upon the budget request in a number of places, such as tribally controlled schools and Indian schools and hospitals and the community colleges that are located on our several reservations across the country. We have increased funding for our national parks. We preserved funding for local park programs. As my colleagues know, that was zeroed out. We have boosted funding for a number of Forest Service programs that received pretty rough treatment from the White House in their budget request.

This bill also provides an additional $1.5 billion for veterans health care, funding that is sorely needed to ensure that our veterans receive the kind of care they so richly deserve. Given the continued sacrifices being made by our men and women fighting in Afghanistan and Iraq, it is an honor to have the Interior bill serve as the vehicle for this critically important funding.

Finally, I want to thank my ranking member, Senator DORGAN from North Dakota. Not only are we neighbors in our home States, but we are neighbors here also and work in cooperation. Without his leadership, we could not have completed this bill. He has been a tireless champion for the tribally controlled community colleges and Indian health care and a number of other programs in this bill. Throughout the conference report, there is ample evidence of his hard work and his advocacy.

Let me also thank the majority and minority staffs of the subcommittees. I do not think we thank our staffs enough. They work long hours, crunching numbers, getting them to balance, and working to figure out where do we take what and put it where. They have been working for weeks producing this bill and then just several hours to produce this conference report. Conferencing with the other body is no easy matter, and I appreciate the staffs' work to get us to this point.

I urge my colleagues to support the conference report so we can devote our attention to other spending bills that await us. We have a great deal of work yet to do on appropriations bills, so I am quite happy to get this one out of the way.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I thank my colleague from Montana.

DRU'S LAW

Before I comment on this piece of legislation, let me mention that last evening we passed a piece of legislation called Dru's Law, that deals with sexual predators. I did not say, and I should have last evening, that Senator DAYTON, Senator COLEMAN, Senator CONRAD, and others were cosponsors. But especially, although I mentioned Senator SPECTER, I did not say that ARLEN SPECTER from Pennsylvania played a very significant role. I want to make sure the Senate and the American people understand that Senator SPECTER played a very significant role, not only being an original cosponsor with me of Dru's Law, but also allowing it to pass the Senate last evening. I thank him for his wonderful leadership.

This Interior appropriations bill was a hard bill to get done because we have

over one half billion dollars less in spending than the previous year. If anybody asks is anybody cutting any spending any place, you don't have to ask beyond this bill. This bill cuts one half billion dollars plus out of what we are spending in the current fiscal year. That means we will spend half a billion dollars less in the next fiscal year. It is not easy to put a bill together under those restraints, but we did it. It is not a perfect bill. Some things in it I feel good about, some I feel not so good about. I will talk about that in a moment. This bill carries the $1.5 billion appropriation for veterans health care. That is very important. We need to keep our promise to America's veterans. This country cannot fight wars and ask young men and women to serve their country if we do not demonstrate we are going to keep our promises. One of those promises is providing veterans health care to those who served.

No one has been more tireless, no one, perhaps, has offered more amendments on the floor of the Senate on this subject—relentlessly, over time—than my colleague from Washington, Senator MURRAY.

I yield 4 minutes to Senator MURRAY.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I thank the Senator, the ranking member, and chairman of the Interior appropriations bill for their accommodation on this.

The Senate has done the right thing now for American veterans. I stand in support of this bill because it does represent a step in the right direction for our veterans. Today when we pass the Interior appropriations bill, it will include my amendment to fix the VA's funding shortfall by providing $1.5 billion for fiscal year 2005. This victory is long overdue and I thank Senator CRAIG, Senator HUTCHISON, Senator AKAKA, Senator FEINSTEIN, Senator BURNS, and Senator DORGAN for their work on this critical issue within this bill.

I want to make sure, however, that the VA uses this money in the way Congress intended. As the author of this amendment, I can tell you these dollars have to go to helping our veterans. They cannot be used for budget shell games to make the VA look solvent and they should not be used for red tape or accounting tricks and they should not be used as a rainy day fund. The money we have put in this bill is there to help veterans get the medical care they need. It should be used to end the hiring freeze, to provide mental health services for our veterans, and expand the VA's outpatient clinic initiative.

I want my colleagues to know I am going to be watching to make sure this money is used in the way we have all voted for it to be used. Now that we have taken care of the shortfall for fiscal year 2005, we have to turn our attention to fiscal year 2006. I want to make sure we do not make the same mistakes that left our veterans so vulnerable this year.

I have to say I am very troubled by what I hear coming out of the administration so far. With all of our new veterans returning from Iraq and Afghanistan every day, this problem is only going to get more severe. Veterans funding has not kept up with medical costs. When adjusted for inflation, the VA is spending 25 percent less per patient than it did in fiscal 2000. That is having a huge impact on our patients and on VA health care personnel. In my home State of Washington, at the VA's American Lake facility, you can only get an appointment now if you are 50 percent or more service-connected disabled. In Puget Sound, as of January there was an $11 million deficit, forcing our VA hospital to leave positions vacant. The VA has dedicated, highly professional employees and they work very hard every day to help our veterans. We have to make sure the VA system helps them do that and not get in their way.

Now as we look toward fiscal year 2006, I want to be clear that veterans need real funding, not budget games. Congress cannot accept gimmicks such as forcing higher fees and copayments on our veterans and calling that new revenue. Any plan that increases the burden on our veterans is a nonstarter in my book.

What is needed now is for us to step up and meet our responsibility to our men and women in uniform and that requires an infusion of cash to stop the bleeding at the VA, and a real investment toward assisting our veterans. Now is the time we have to come together and provide the needed dollars so our veterans have the quality accessible care they need and they deserve.

The security and integrity of our Nation depends on our willingness to keep our promise to our veterans. We have all heard of the military reports that recruiting is not meeting its goal, and each day we limit veterans' access to care, we are sending the wrong message to the troops of tomorrow.

As I have done before, I want to quote President George Washington, who knew that helping veterans helps America's security when he said:

> The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional as to how they perceive the Veterans of earlier wars were treated and appreciated by their country.

I call on my colleagues to support this bill and work with me to keep the full $1.977 billion in emergency supplemental funding for the Veterans' Administration for fiscal year 2006. We have to do everything to assist the VA with this funding now so we do not face future shortfalls. I hope everyone will continue to support that funding in the coming year as well.

I yield the floor.

The PRESIDING OFFICER. The Senator yields.

Who seeks time? The Senator from Montana.

Mr. BURNS. Mr. President, I yield 5 minutes, and more if needed, to the Senator from Texas, who has been a real champion for veterans benefits.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I ask that I be notified in 5 minutes, in case the distinguished chairman of the Interior subcommittee needs any extra time.

First, let me thank the distinguished chairman and ranking member of the Interior subcommittee for assuring that their conference report came out in a timely way, not only for the Interior funding but especially for this veterans' funding which is fiscal year 2005 money, meaning it can be spent right away.

We know there is a deficit at the VA because Secretary Nicholson told us there is a deficit. So I do thank Senator BURNS and Senator DORGAN for coming forward and helping us with this extraordinary measure so the Veterans Administration will be able to have full flexibility to fill the coffers from which they have been borrowing, and also to go forward.

I also thank those who have worked so hard to get the Veterans Administration the money they need. That would certainly be Senator MURRAY, who has just spoken, Senator FEINSTEIN, my ranking member on the Veterans Affairs Appropriations Subcommittee, and Senator CRAIG, who is the chairman of the Veterans' Affairs Committee. We have all worked together in a bipartisan way because, frankly, Secretary Nicholson came forward in a most forthright manner to tell us of the problems we had at the Veterans Administration.

When we first started working on the supplemental appropriation, Secretary Nicholson thought there was not a deficit in the Veterans Administration, that with the model they had always used they had plenty to cover until October 1. But in June when Secretary Nicholson learned that in fact they did not have enough to fully treat the new veterans coming into the system, he stepped right up and said we have a deficit and we need to fix it. He came to Congress to ask for the help to do that. I think it is admirable that Secretary Nicholson didn't try to fudge, he didn't try to sweep it under the rug. He came out.

He took some heat for it. I saw some Members criticizing him, but I have to say I admire him. I think what he did was exactly the right thing to do. He is a veteran. He is a decorated veteran. And he is not ever going to sweep under the rug a deficit in the Veterans Administration. He also is going to spend the money wisely.

So I thank everyone who helped bring this to the forefront. I have to say that OMB Director Josh Bolton also tried to be very helpful, giving us an amendment that would raise the limit we could spend on veterans. The total for both fiscal years will be approximately $3 billion. The total for

getting through this problem we have for the fiscal year we are in is going to cost about $900 million, they estimate, to get to October 1 to finish this fiscal year—almost $1 billion, which we are giving them when we vote on this bill today and send it to the President.

But in the 2006 budget, which we are now going to pass in the Senate, probably in September—this is the committee I chair—we have what will be another $1.5 billion, depending on how much is left of what we are passing today that can go into 2006. We believe it will be about half a billion dollars, so that the total would be the $1.977 that was mentioned earlier for fiscal year 2006. We will monitor this as we go into the new fiscal year to assure that the Veterans Administration for 2006 has the full amount they need.

I also thank the distinguished chairman and ranking member of the full Appropriations Committee. When Senator FEINSTEIN and I went to Chairman COCHRAN and asked him for more money in our original 2006 budget for the veterans part of the appropriations bill, he immediately agreed. He immediately agreed that we would get the money we need.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mrs. HUTCHISON. Thank you, Mr. President. I will take the rest of the time.

Senator COCHRAN and Senator BYRD stepped right up to the plate to assure that the veterans had their first boost of $1.2 billion. Then working with Secretary Nicholson and OMB Director Bolton, we now have a total of almost $3 billion more in additional funding for the veterans in both fiscal years.

We are going to do right by our veterans. We appreciate that we have people with boots on the ground, fighting in Iraq and Afghanistan today. They are fighting for our freedom. We will never let them down. The bill we are passing today, in addition to the Interior part of this appropriation, is going to fully fund Veterans for the fiscal year we are in and take us with a cushion into the next fiscal year so every veterans' clinic that is being built continues to be built, so that every veteran who walks in the door is going to get the care to which he or she is entitled, to assure that nothing falls through the cracks for our veterans. Our President would do nothing less. Our Secretary, Secretary Nicholson, will do nothing less. I assure you the Senate will do nothing less. We are going to do right by our veterans and the bill we are passing today is a start.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, first let me say a special thank you to my colleagues from the State of Washington and the State of Texas. They have said it well. Again, I am enormously proud our bill has carried this $1.5 billion for veterans health care. There is a verse that goes:

When the night is full of knives, and the lightning is seen, and the drums are heard, the patriots are always there, ready to fight and ready to die, if necessary, for freedom.

Our soldiers are our patriots and when they come back from duty, duty our country called them for, we must keep our promise for veterans health care and that is what this $1.5 billion helps to do.

Let me for a moment talk about the underlying bill again. There are some good things and some things I wish were better in this bill. I compliment my colleague, Senator BURNS from Montana and his staff: Bruce Evans, Virginia James, Leif Fonnesbeck, Ryan Thomas, Rebecca Benn; and also on this side, Peter Kiefhaber and Rachel Taylor.

We worked very hard to put a bill together with over $500 million less money than in the past year. That was not easy.

Indian Health Service—I regret to say, we are still underfunded. I am told we are funding about 60 percent of the need in Indian Health Service. We just must do better in the years ahead. We have responsibility for Federal prisoners' health care. We also have trust responsibility for the health of American Indians. We spend twice as much per person on Federal prisoners' health care than we do in per capita spending for American Indians for whom we have trust responsibility for health care.

My colleague described the tribal colleges, and we have together been able to increase that funding for tribal colleges. That is a good feature in this bill. The reason we have done this is that it is a priority to help people step out of poverty and toward opportunity, and that comes from the tribal colleges. There are so many stories of people whose lives have improved by the ability to access tribal colleges.

We have some other areas in the bill that I wish were better.

BIA school construction, we need funding increases, not funding cuts, and yet the President's budget proposed very significant cuts and we were not able to add all of that back. Also building for new hospitals and health clinics is down. My hope is that in the next year, we can find a way to add back some funding in these critical Indian health areas.

Having said all that, this is a big bill, dealing with so many other areas of the Government—EPA, the Forest Service, and so many other areas of Government. We have worked in a bipartisan way.

Let me also say that Senator BYRD wishes consent to speak for 5 minutes prior to vote on Interior at some point later this morning. I talked to the ranking member and also the chairman of the full committee.

Finally, let me say the chairman of the full committee should understand that this is the first time in 17 years that we have gotten to the Senate floor this early with an Interior appropriations bill. The last time Congress passed an Interior appropriations bill this early, those pages who serve in the Chamber were not yet born. So I think that says something about the leadership of Senator COCHRAN and Senator BYRD, who are the two leaders on the Appropriations Committee, and I for one like the notion that we are going to make the trains run on time in the appropriations process. It is the right thing to do and the right way to do it, and I am very blessed that in the month of July, we are in the Chamber passing this conference report. So hats off to Senator COCHRAN and Senator BYRD as well.

Mr. President, with that, I yield the floor and yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I do not know whether we have any more time remaining. The time has been set aside for Senator BYRD. Seeing no one to speak on this bill, I will yield back the remainder of my time also.

The PRESIDING OFFICER. Does the Senator want to make a formal unanimous consent request for the Senator from West Virginia?

Mr. DORGAN. Mr. President, I thought I had done that, but if I have not asked that consent, I so ask.

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

Mr. BURNS. I yield back my time and I suggest the absence of a quorum.

Mr. COCHRAN. Mr. President, will the Senator withhold?

Mr. BURNS. Yes.

UNANIMOUS CONSENT AGREEMENT—H.R. 2985

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order with respect to the Legislative Branch appropriations bill be reinstated with the time limited to 10 minutes equally divided between both sides.

Mr. ALEXANDER. Mr. President, I object.

The PRESIDING OFFICER. Is there objection?

Mr. ALEXANDER. Mr. President, reserving the right to object, may I ask the distinguished Senator if I could have 3 minutes in morning business to make a brief comment on another matter?

Mr. BURNS. I have no objection to that. I shall not object to it. We had about 30 seconds. I pulled the trigger a little too quickly. Senator CRAIG is in the Chamber and would like just about 30 seconds with regard to the Interior appropriations bill.

The PRESIDING OFFICER. The question before the Senate is the unanimous consent request of the Senator from Mississippi. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Montana.

Mr. BURNS. I would ask unanimous consent that the Senator from Idaho be

granted 30 seconds with regard to the Interior appropriations bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CRAIG. I thank the chairman for allowing me this brief moment. I have spoken to the veterans funding in this bill. Chairman HUTCHISON was in the Chamber, and Senator MURRAY has spoken to that. I appreciate all of their cooperation. We have tried to get our arms around this funding issue at Veterans, and I now believe we have. We are going to be very insistent on good numbers in the future. I have asked the Secretary to report to the authorizing committee on a quarterly basis. I think he will do the same to the appropriating committee.

Beyond that, this is a tremendously important bill for my State of Idaho. I often say the Federal Government owns Idaho. We Idahoans sometimes resent that. Because of the large land mass, it is Government land, but BLM and Interior play an important role out there.

We thank you for your consideration, both the Senator from Montana, the chairman, and the ranking member, Senator DORGAN, but especially the expeditious way you have gotten this bill through. Because of this veterans funding that is critical and the way that it has been handled, I know it has been unique to Interior at this time and place, but it was also necessary to complete it. We thank you very much for that cooperation.

LEGISLATIVE BRANCH APPROPRIATIONS FOR FISCAL YEAR 2006—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 2985, which the clerk will report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2985), making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes, having met, have agreed that the House recede from its disagreement to certain amendments of the Senate, and the House agree to the same with an amendment and the Senate agree to the same; that the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same. Signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of July 28, 2005.)

The PRESIDING OFFICER. Who yields time on the pending conference report?

The Senator from Idaho.

Mr. CRAIG. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ALLARD. Mr. President, I understand we now have the legislative conference report before the Senate.

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLARD. Mr. President, I am pleased to present to the Senate the legislative branch fiscal year 2006 appropriations conference report. This is my first year as chairman of this subcommittee and I am delighted we'll be able to send the bill to the President prior to the beginning of the fiscal year. I very much appreciate the support of my ranking member, Senator DURBIN, as well as the full committee chairman, Senator COCHRAN, and ranking member, Senator BYRD.

In general, I believe this is a fair agreement. It provides $3.8 billion for the Congress and its support agencies. Funding in the conference agreement is $198 million above the fiscal year 2005 enacted level and a reduction of $225 million below the request. While there are very few programmatic increases in the bill, funding is sufficient to maintain current operations in all agencies. Significant increases above the fiscal year 2005 budget are recommended in only a few areas, such as funding to complete the Capitol Visitor Center.

Highlights of the bill include funding of $250 million for the Capitol Police, which will enable the Capitol Police to maintain its current staffing level of 1,592 police officers and ensure appropriate levels of security for the Capitol complex. The Capitol Police salaries funding has increased by almost 100 percent since fiscal year 2002, and the number of officers has increased by about one-third. This indicates our support for Capitol Police and all the good work they do to protect this great institution.

The recommendation also includes $428 million for the Architect of the Capitol, including $42 million for Capitol Visitor Center construction and $2.3 million for initial operational costs of the CVC. The Architect believes this amount will be sufficient to complete the CVC construction. Also within the AOC budget is storage modules for the Library of Congress at Ft. Meade, totaling $40.7 million. While this is an expensive project, it is critically needed to take care of burgeoning storage requirements at the library

For the Library of Congress, funding would total $560 million, including funding for the Library's highest priorities such as the new National Audio-Visual Conservation Center and Congressional Research Service enhancements.

Funding for the GPO would total $123 million, including $2 million to retrain staff for the new digital environment; the Government Accountability Office would receive $482 million, and the Open World Leadership Program would be funded at the budget request level of $14 million.

I do have some concerns about this conference agreement which I would like to bring to my colleagues attention. First, I am deeply disappointed that the House insisted on the elimination of the Capitol Police mounted unit. I believe, as my predecessor Ben Nighthorse Campbell did, that there are some significant benefits to the Capitol Police having a mounted unit, and the costs are relatively small—about $150,000 a year. The officers who are part of this unit have received extensive training, the horses and attendant equipment have been purchased. This investment will be down the drain just 1 year after the unit became operational.

We reluctantly went along with the House only because this bill needs to get done. But I believe it is a shortsighted decision that we will all regret.

Another regret I have with this conference agreement is the elimination of Senate language authorizing the Architect of the Capitol to hire an executive director for the Capitol Visitor Center. The CVC project is something I have been following closely, with monthly hearings in our subcommittee. In addition to concerns regarding the management of this mammoth construction project, I am very concerned that the Architect hasn't been given direction and authority to make operational decisions including the hiring of an executive director. GAO has reported it is critical AOC develop a strategic plan for moving from construction to operations. Without an executive director such decisions will surely languish.

Despite these concerns, I believe it is a fair and balanced conference agreement and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my honor to serve as the ranking member on this appropriations subcommittee with the Senator from Colorado as my chairman. I have had the distinction of being on this committee for several years with several different chairs. Senator BOB BENNETT of Utah, who was the dedicated leader of this subcommittee for many years, became quite expert on all of the areas that it covered, and I learned a lot from him. In fact, many of his suggestions are still being followed; for example, the integration of security forces on Capitol Hill between the Library of Congress and the U.S. Capitol Building.

I also salute particularly my colleague from Colorado. He has done a great job. Our friendship has grown through this relationship. His dedication is exemplary. When it came to the Capitol Visitor Center, this was a mammoth project which he inherited from decisions made years ago. He has shown personal attention to it, given of his time over and over to make sure

that we end up with a Capitol Visitor Center that is a source of great pride to everyone on Capitol Hill and is not an embarrassment to the taxpayers of this country.

It calls for a fantastic amount of oversight on his part and the part of the committee staff. Senator WAYNE ALLARD has done that. I joined him partially in his efforts, but he has really led the way. He has been diligent in holding monthly meetings on the Capitol Visitor Center, and I think they have been a great benefit for the public understanding of what is happening underground, as well as holding all of those accountable who were involved in the process. I thank him so much.

Our Senate bill that we brought into conference was a good and fair bill. I thought it addressed all of the demands of maintaining this great Capitol Building and all of the buildings nearby in a very professional way.

There is one aspect of this bill which troubles me, and that is the fact that there is some negative language in the conference committee report relative to our Capitol Police. What frustrates me about this is it was not done in the normal fashion. We did not have time to weigh the wording of this conference report. I think we should have been a little more circumspect in the language used. My reason for saying it is this: The men and women on the Capitol Police Force understand, as all of us who work here understand, we go to work every single day in what has to be described as one of the leading international targets for terrorism. The U.S. Capitol Building is a great symbol of freedom and democracy, and as a result is a great target for those who hate the United States and want to engage in terrorism. What keeps this building and those working here functioning is the men and women of the Capitol Police Force who night and day, around the clock, risk their lives for the visitors and staff who work here. These are fine people. They work extraordinarily long hours at great personal and family sacrifice. They ask little from us, other than the recognition that they are doing a good job. This conference committee report does not give them the recognition they are due.

Let me add another element. The Capitol Hill Police chief is Terry Gainer, a man I have known from Illinois for years. He was superintendent of the Illinois State Police. It is a large and professional organization that he handled extremely well as superintendent. When he was an applicant for this job at the Capitol Police Force, I thought you could not find a finer law enforcement official to professionalize this police force right at the moment when it needed to happen. He came to Capitol Hill, and he achieved that goal. I don't say that just because we are personal friends. I have spoken to many members of the Capitol Hill Police Force who do not know my relationship with him, and I ask them, What do you think of the Capitol Hill Police? And they say it is a truly professional law enforcement organization.

It is true that mistakes are made in a large organization that is growing so fast with so many extraordinary external demands, but everyone who is honest has to concede that Chief Gainer and his professional staff have done an excellent job of putting together an extraordinary police force that protects this building and the people who visit and work here every single day.

I add my words to those that have been spoken and probably will be by others, we owe a great debt of gratitude to the chief. I thank him personally for coming here and taking on such an awesome responsibility not long after September 11 and really bringing peace of mind to those who get up and come to work in this building every single day.

If I can say a word or two about the mounted police, Chairman Ben Nighthorse Campbell, who was a predecessor to Chairman ALLARD from the same State of Colorado, has a passion for the mounted police. He loved horses and believed they were an important symbol in terms of the police force on Capitol Hill. Although we only have five horses—it is hardly a cavalry—the fact is, I think they achieved the goal that Senator Campbell set out for us to reach. They have become friends of visitors to Capitol Hill. I watch as the throngs of tourists gather around our mounted police, petting the horses, feeling as if they are part of an experience, a good and positive experience.

Almost from the start there have been people who have not given this mounted police force a fair chance. I hope we reconsider this someday. I understand the House Members were adamant that the mounted police be removed from the Capitol Hill Police Force. I hope we can reconsider. I honestly believe they could be critically important at important historic moments.

When we evacuated this building on September 11 and sent thousands of people out in front of this building, there was clearly a need for some crowd control and some crowd direction. These mounted police would have been invaluable at that moment. Because of this appropriations bill, they will not have the chance to serve in that capacity in the future unless we make a change.

I will close and yield to the chairman again and particularly thank the staff on both sides of the aisle: Carrie Apostolou, Fred Pagan, Christen Taylor, as well as Terry Sauvain, Drew Willison, Nancy Olkewicz of the minority staff, and Sally Brown-Shaklee and Pat Souders of my personal staff for the extraordinary work they put into this bill.

I yield the floor.

Mr. ALLARD. I thank the Senator from Illinois. I have cherished our relationship in being able to work with the Senator from Illinois on this bill.

I agree we have a lot of dedicated police officers out there and the Members of Congress need to appreciate all they are doing to maintain our safety, not only for us but for the visiting public.

Finally, I thank our full committee chairman, Senator COCHRAN, as well as the staff who were involved: Carrie Apostolou, Lance Landry, Christen Taylor, Fred Pagan, and from Senator DURBIN's staff, Nancy Olkewicz and Drew Willison.

I yield the floor.

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

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

ENERGY POLICY ACT OF 2005—CONFERENCE REPORT

Mr. DOMENICI. Mr. President, parliamentary inquiry: Is the Energy bill now before the Senate?

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 6, which the clerk will report.

The assistant legislative clerk read as follows:

Conference report to accompany H.R. 6, an act to ensure jobs for our future with secure, affordable, and reliable energy.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I ask, is the bill under controlled time?

The PRESIDING OFFICER. Thirty minutes evenly divided.

Mr. DOMENICI. On behalf of the leader, I am going to ask consent regarding the stacking of votes. It has not been done. I ask unanimous consent that we now resume consideration of the energy conference report—which is the regular order—for the final remarks; I further ask consent that following that 30-minute period, the Senate proceed to votes in relation to the Interior conference report, Legislative Branch conference report, and the two votes in relation to the Energy conference report, as provided under the order, with 2 minutes equally divided between the votes.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

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

Mr. DOMENICI. Yes.

Mr. BYRD. Mr. President, I have some remarks to make, about 10 minutes of remarks. I want to commend Senator BURNS and Senator DORGAN for their work on the Interior appropriations bill. When might I make those remarks?

Mr. DOMENICI. I say to the Senator from West Virginia, there is a unanimous consent agreement here that has

the time allotted until we are finished with the Energy bill, and the votes thereon. That will not be a long time. But everybody knows we have 30 minutes right now for the Energy bill, and after that we will commence voting on three bills that are before us. I would think the Senate would want to stay to that order.

The PRESIDING OFFICER. If the Senator will suspend, the Senator from West Virginia was granted a unanimous consent order that he would have 5 minutes before the Interior conference report was voted on, which will take place after the 30 minutes allocated for final debate on H.R. 6.

Mr. BYRD. Very well. Will the Senator yield further?

Mr. DOMENICI. Please. Surely.

Mr. BYRD. May I make a further inquiry? Then, I am correct in understanding the Chair to say that I will have 5 minutes prior to the vote?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. That vote will be on what?

The PRESIDING OFFICER. The Interior conference report.

Mr. BYRD. The Interior conference report.

Mr. President, with the indulgence of the distinguished Senator from New Mexico, I ask unanimous consent that at that time I have 10 minutes rather than 5.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I thank the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I see Senator BINGAMAN in the Chamber. He is going to proceed, first, with the allocation of some of the time on his side of the aisle.

I yield the floor.

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

Mr. BINGAMAN. Mr. President, I yield 5 minutes to the Senator from Florida, Mr. NELSON.

The PRESIDING OFFICER. The Senator from Florida is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. President, I thank the chairman of the committee and the ranking member, Senator DOMENICI and Senator BINGAMAN. They made a statement on the floor of the Senate in a colloquy with this Senator when the Energy bill was on the floor, and those two Senators kept their word. It had to do with drilling off the coast of Florida. I have said to those Senators how much I appreciate what they, in fact, have done, under considerable pressure in the conference committee.

I want them to know personally how appreciative I am that they held fast and prohibited, in the conference committee, for an issue to be injected that was neither in the House bill nor the Senate bill that would cause the drilling off the coast of Florida.

Why is this important to us? This Senator has made this statement many times, but there is a new wrinkle that I wanted to explain to the Senate, not having to do with geology that shows that there is not much oil and gas off of Florida, not having to do with the delicate ecosystem, not having to do with the $50 billion-a-year tourism industry that depends on pristine beaches, but a reason for the preparation of our U.S. military in a time when we are at war.

We have these ranges that are off the coast of Florida. Is it any wonder that, in fact, when Vieques was shut down off the coast of Puerto Rico, they sent most of that training off of the Gulf of Mexico, off the coast of Florida, because of this Joint Gulf Range Complex. It is joint with all branches of Government. It involves land-, sea-, and air-coordinated training. If drilling were allowed in what is known as lease sale 181, that is what would happen. Smack-dab in the middle of that restricted airspace, that training area that is 180,000 square miles in the eastern Gulf of Mexico. Smack-dab in the middle of it would be the drilling for oil and gas. This portion in red was already agreed to back in 2001. This portion in the red hatch is the additional 4 million acres that would be added smack-dab in the middle of our military training complex.

The significance of it is that it has 724 square miles of additional land range. It has 3,200 square miles of airspace over adjacent land area. It has 17 miles of Government shoreline, with connected prohibited and restricted water areas. The combination of air, land, and water is the best location for the United States for extremely long-range precision weapons testing, such as the high-performance combat aircraft live-fire testing and training and large-scale complex joint training exercises and experimentation.

Given the thrust of DOD's recent BRAC recommendations, there will be more testing, training, and operations in the eastern Gulf, not less. So oil drilling in the eastern Gulf, as proposed by the administration, is the greatest encroachment threat to the Nation's largest unrestricted air and sea space for weapons testing and combat training.

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

Mr. NELSON of Florida. I ask unanimous consent for 30 additional seconds.

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

Mr. NELSON of Florida. Oil drilling is not compatible with weapons testing and combat training. Military leaders have been fighting this for years. Yet here we go again. The encroachment this time is even more serious because we are at war. This Senator, on behalf of the people of Florida—and, I hope, on behalf of the U.S. military establishment—will continue to oppose this. I thank the chairman and the ranking member for their holding fast in the conference committee.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I yield 8 minutes to the Senator from Wisconsin, Mr. FEINGOLD, to explain his motion.

Mr. FEINGOLD. Mr. President, I thank the Senator from New Mexico. I have a number of concerns about the conference report we debated last night and that we will vote on today. I intend to raise a point of order that it violates the Budget Act. I do, however, want to recognize the hard work that Chairman DOMENICI and Ranking Member BINGAMAN have put into this process. We all know that they have spent many long days and late nights to reach this point. The bipartisan manner in which they work is a definite improvement over previous Energy bills. I applaud their efforts.

Mr. President, Energy policy is an important issue for America and one which I can tell you my Wisconsin constituents take very seriously. Crafting an energy policy requires us to address important questions about, for example, the role of domestic production of energy resources versus foreign imports, the importance of ensuring adequate energy supplies while protecting the environment, the necessity for domestic efforts to support improvements in our energy efficiency, and the wisest use of our energy resources. Given the need for a sound national energy policy, a vote on an Energy bill is a very serious matter and I do not take a decision to oppose such a bill lightly. In my view, however, the conference report we consider today does not achieve the correct balance on several important issues, which is why I have to oppose it.

I have four fundamental concerns. This bill digs us deeper into a budget black hole. It fails to decrease our dependence on foreign oil. It rolls back important consumer protections. And finally, it undermines some of the fundamental environmental laws that our citizens rely upon.

First, Mr. President, the costs of this conference report are staggering. The Congressional Budget Office estimates that enactment will increase direct spending by $2.2 billion between 2006 and 2010, and by $1.6 billion between 2006 and 2015. Additionally, the CBO and the Joint Committee on Taxation estimate that this bill will reduce revenues by $7.9 billion between 2005 and 2010 and by $12.3 billion from 2005 to 2015. On top of the direct spending, the conference report authorizes more than $66 billion in Federal spending, according to the watchdog groups The National Taxpayers Union, Taxpayers for Common Sense, and Citizens Against Government Waste. Our Nation's budget position obviously has deteriorated significantly over the past few years, in large part because of the massive tax cuts that were enacted, and we now face years of projected budget deficits. The only way we will climb out of this deficit hole is to return to the fiscally

responsible policies that helped put our Nation on a sound fiscal footing in the 1990s, and that simply means that we have to be sure that the bills we pass are paid for. To do otherwise is to simply dig our deficit hole even deeper, thus adding to the massive debt already facing our children and grandchildren.

Mr. President, second, the conference report we consider today will do nothing to reduce U.S. dependence on foreign oil. I cannot return to my home State of Wisconsin this weekend and say that I participated in a rushed effort to accept a 1,700-plus page conference report that will not do a thing to increase our oil independence. The conference did not accept the 10-percent renewable portfolio standard passed by the Senate, nor did it accept an amendment instructing the President to develop a plan to reduce U.S. oil dependence by 1 million barrels per day by 2015. I supported efforts to reduce our dependence on foreign oil when the Senate debated its bill, and I am extremely disappointed that the conference committee could not accept a reduction of 1 million barrels per day through 2015.

Third, the bill rolls back important consumer protections. The conference committee retained repeal of the pro-consumer Public Utility Holding Company Act, important New Deal-era legislation which has protected electricity consumers. My State of Wisconsin is acutely interested and concerned about the repeal of PUHCA and about ongoing abuses involving the unregulated corporate affiliates of regulated utilities. In addition to hearing from Wisconsinites, I have heard from contractors and other small businesses across the Nation that have been harmed by this unfair competition by affiliates of public utilities. I must say that I don't understand how we can give the nuclear industry loan guarantees and over $2 billion in risk insurance, but we can't even give small businesses the assurance that unregulated affiliates of public utilities will not unfairly outcompete them.

I do, however, recognize the efforts of the chairman and the ranking member to protect language providing the Federal Government more oversight of utility mergers, which is important and I support. I am grateful for their willingness to further look into my concerns on unfair competition by public utility affiliates.

Fourth and finally, Mr. President, the energy conference report includes provisions that significantly weaken our commitment to the environment and to the health of U.S. citizens. Section 328 of the Energy conference report weakens the Clean Water Act by exempting certain oil and gas industry activities from compliance with both phase 1 and phase 2 storm water programs and, in the process, rolls back 15 years of protection. This is not an insignificant issue. Storm water runoff is a leading cause of impairment to our streams, rivers, and lakes.

The bill also exempts hydraulic fracturing from the Safe Drinking Water Act, and by doing so, risks contaminating drinking water supplies. Over 95 percent of Wisconsin communities and about 75 percent of Wisconsin residents rely on groundwater for their supply of drinking water. Nationally, approximately half of the U.S. population obtains its drinking water from underground water sources, according to the Government Accountability Office. Wisconsin citizens and all U.S. citizens deserve more than exemptions that could threaten the water they drink.

There are provisions of the bill that I fully support, and I am pleased that the conference committee included, but I can't support this conference report. According to estimates by the Congressional Budget Office, the Energy bill conference report includes direct spending of more than $2.2 billion over the 2006–2010 period, exceeding the amount allocated by the budget resolution. I hope my colleagues will note this and will join me in sustaining a budget point of order.

Mr. President, I make a point of order that the pending conference report violates section 302(f) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator's point of order must come at the conclusion of debate.

Mr. FEINGOLD. I will defer.

The PRESIDING OFFICER. Who seeks time?

The Senator from New Mexico.

Mr. DOMENICI. Has the Senator concluded?

Mr. FEINGOLD. I have.

Mr. DOMENICI. I assume that Senator BINGAMAN has another person he would like to yield to. I will yield to one of his, Senator CANTWELL or Senator SALAZAR.

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

The PRESIDING OFFICER. The ranking member has 2 minutes and 2 seconds.

Mr. BINGAMAN. In light of that, I know there are other Members, particularly on the Democratic side, who wish to speak. I believe Senator DOMENICI has some time to provide.

Mr. DOMENICI. Mr. President, I yield 3 minutes to Senator CANTWELL.

The PRESIDING OFFICER. The Senator is recognized.

Ms. CANTWELL. Mr. President, I thank my colleagues for their hard work on this important legislation. We are here to talk about passing an Energy bill that is not a complete answer to all our energy needs. This is not the end of discussion about energy independence and getting off our over-dependence on foreign oil, but it is an important first step. My colleagues need to understand that the provisions in this bill are nuts-and-bolts important for our energy economy, moving forward. As a Senator who supports this legislation, there are certain technologies, certain investments in this legislation that I hope will win the day and will help us build a different kind of energy economy, based on newer technologies and energy supplies than the ones we have today. But this bill represents a compromise that was forged in the Senate and was fought hard for by my colleagues, both Democrats and Republicans, when they went to conference.

I am proud that it has an extension of renewable production tax credits so that our utilities can continue to invest in even more renewable energy; that for the first time it has a renewable clean energy bond section, so that local governments and public power can make greater investments in renewable energy; that it has an extension of the renewable energy production incentive program for public power; that there are efficiency provisions in the bill for appliances and other types of standards that will save 3.5 quads of energy.

That is the same as building 85 powerplants. It has a hybrid vehicle incentive provision. It has a biodiesel incentive program. It reinstates the oil spill liability trust fund, which was going broke and which helps us clean up oil pollution, and taxes those who are the polluters. It has research on the smart grid technology that is going to get us more efficiency in our transmission system, and it has incremental steps to push the States toward better standards on net metering. For the Northwest, the electricity title in this legislation is clearly a victory, and I would say the efficiency title in this bill is also a victory.

We are moving closer to the key tools we need to upgrade our transmission system. We will have many more debates about what this body can do, though, to continue to diversify off of foreign oil. But we should take the step today to secure that transmission system and get reliability standards in place, something this body has debated now for more than 5 years. After a Western blackout, after a New York blackout, after people in Ohio and Michigan have been affected, the least we can do is push this legislation to improve the security and reliability of our electricity grid.

I ask my colleagues to support this legislation as a first step, a short stroke of success, and get about going back to the broader decisions we need to make truly start moving in the direction toward energy independence.

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

Who seeks time?

The Senator from Louisiana.

Ms. LANDRIEU. I seek 5 minutes under the majority time.

The PRESIDING OFFICER. The majority time remaining is 11 minutes 44 seconds.

Mr. DOMENICI. I yield 4 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 4 minutes.

Mr. DOMENICI. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Is it not correct that the point of order is going to be made? Can that point of order be made so the Senator will not have to wait? Can it be made just before the vote on the Energy bill?

The PRESIDING OFFICER. By consent, it can be made now.

Mr. DOMENICI. Otherwise it will be made then?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. The Senator can make it just before the Energy bill vote and we have 2 minutes on each side then. So the Senator will not have to wait now on that.

Mr. FEINGOLD. I appreciate that and I intend to make that point.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I rise today to support this Energy bill. I heard my colleague from Washington State speak beautifully and passionately about many of the important aspects of this bill. There are Members who can come to this floor and pick out one or two things they had hoped to get in that did not make it. We had a lot of arguments about this bill, a lot of debate, but overall it is very balanced legislation. It does look to the future, as well as holding on to some of the things in the past that have served us well.

It seeks to increase independence of the United States of America so we can produce more energy on our shore, under our control, to not only help boost our economy, make our industries more competitive, but most importantly make this Nation more secure when it comes to international involvements. Americans want lower prices at the pump, but they want to know that this Congress is taking action to make them more secure nationally. By being more self-reliant, we can.

Now, yes, we have to open up our shores to liquefied natural gas because our price is going through the roof, and unless we increase supply substantially and rather quickly, that price will remain high. It will put almost every industry in this country at a very serious disadvantage for international competition.

As Senator CANTWELL stated, it does give new protections for consumers from market manipulation. Senator DORGAN has led the fight with regard to hydrogen, with Senator BINGAMAN's help. It has opened up new frontiers for that. We have opened up new frontiers for renewable energy sources. As a Senator from an oil-and-gas-producing State, we do need to get beyond petroleum and this bill is helping us to do that.

Under Senator DOMENICI's leadership, we are expanding in an extraordinary way the nuclear industry, which is going to help Japan, France, and others who have been leading the way. It is time for America to get with the program.

In my last 1 minute, let me compliment these leaders. We have not had an energy bill for 13 years. For 5 years, we have literally been laboring mightily to get a bill. Senator DOMENICI, Senator BINGAMAN, Chairman BARTON, and Mr. DINGELL, ''the big four'' as they have been called, have worked tirelessly, their staffs have worked tirelessly, and I might say with the patience of Job. This bill is balanced because these two leaders said they were going to build a bill together for the future of our country. As a Senator on that committee, I am so proud of the honesty in which they built this bill, the openness in which they built this bill, and the fact that no deals, to my knowledge, were cut behind closed doors. It was all open and actually on television so people could see the results of this work.

I commend that process to the Senate and the whole Congress and thank them for their extraordinary leadership and thank them, too, on behalf of the people of Louisiana and the Gulf Coast States for recognizing the contribution we have made of offshore oil and gas drilling and to get a very robust coastal impact assistance program that is going to mean a great deal to us and to the wetlands of America.

I yield back.

The PRESIDING OFFICER. The Senator yields back.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield 2 minutes to the distinguished junior Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 2 minutes.

Mr. SALAZAR. Mr. President, I rise today in support of the Energy bill. I start first by congratulating my colleagues, the two Senators from New Mexico, the Land of Enchantment, Mr. DOMENICI and Mr. BINGAMAN, for their leadership in helping us get together what has been a true bipartisan effort. I commend them both for the process as well as for the end result of this legislation.

As I look at this legislation, it seems to me what we are embracing today is a vision for energy independence. I think Democrats and Republicans all agree what we need to do is to get to a point where this country gets rid of its overdependence on foreign oil. We need to do that for national security reasons, we need to do that for economic reasons for our country, and we also need to do it for environmental reasons.

From my point of view, this legislation is based on four cornerstones. One of those cornerstones is conservation and efficiency. There are more important measures in this bill that deal with conservation and efficiency. It is a new ethic for the 21st century. Secondly, embracing renewable energies from the ethanol provisions to dealing with the development of cellulosic ethanol, this bill gets us on the right direction where America can grow its way toward energy independence. Third, technology, research and development, we have lots of resources in America we can use to make sure we are having the energy we need for our country. The new technology that includes coal gasification and other kinds of technologies will help us move in that direction. And finally, balanced development, we need to continue to develop our natural resources in this country.

So from my point of view, this bill is a good bill and is moving us in the right direction. It is not a perfect bill and there are aspects of this bill some of us advocated for that we hoped would have been a part of this bill, but they are issues we can continue to work on. We can use this as a foundation from which to build. There is the issue of the renewable portfolio standard which was adopted by this Senate and we need to move forward continuing to try to address that issue in the way it has been addressed in my State. Finally, the issue of global warming and how we deal with that issue in the future is very important.

With that, again I commend the Senators from New Mexico, Mr. DOMENICI and Mr. BINGAMAN.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator OBAMA be given 2 minutes and it not be included in the majority time.

The PRESIDING OFFICER. Is there objection to the Senator from Illinois being granted 2 additional minutes beyond the time originally granted to both sides?

Without objection, it is so ordered.

The Senator from Illinois.

Mr. OBAMA. Mr. President, I rise to commend the chief sponsors of this bill in the Senate, Senators DOMENICI and BINGAMAN, who I think have displayed the sort of statesmanship and civility in working out this difficult legislation that I think all of us expect from this body. I also want to indicate the degree to which this bill takes significant steps in the right direction on energy policy. It helps us realize the promise of ethanol as a fuel alternative by requiring 7.5 billion gallons to be mixed with gasoline over the next few years. It provides a tax credit for the construction of E85 stations all over America—E85, a blend of ethanol and gasoline that can drastically increase fuel efficiency standards for our cars.

It will provide funding for the clean coal technologies that will move America to use its most abundant fossil fuel in a cleaner, healthier way, including more low emission transportation fuels, and it will support the development of what we hope ultimately will be a 500-mile-per-gallon automobile technology.

All of these things are wonderful and worthy of support. But I do have to say we have missed an opportunity and

that is not the fault of the sponsors of this bill who have done yeoman's work. Rather, I think it is the timidity of all of us as a body in not addressing what has to be one of the most significant problems we face as a nation.

The Department of Energy predicts that American demand for fossil fuels will jump 50 percent over the next 15 years. The Heritage Foundation says this bill will do virtually nothing to reduce our dependence on foreign oil. Even President Bush and supporters of the bill in Congress concede as much.

As we debate this bill today, the price of crude oil has surpassed a record high of $60 a barrel, and gas is now up to $2.28 per gallon. At this price, the United States is sending $650 million overseas every single day.

As demand continues to skyrocket around the world, other countries have started to realize that guzzling oil is not a sustainable future. What is more, these countries have realized that by investing early in the energy-efficient technology that exists today, they can create millions of tomorrow's jobs and build their economies to rival ours.

China now has a higher fuel economy standard than we do, and it has 200,000 hybrids on its roads. Japan's Toyota is doubling production of the popular Prius in order to sell 100,000 in the U.S. next year, and it is getting ready to open a brand new plant in China. At the same time, Ford is only making 20,000 Escape Hybrids this year, and GM's brand won't be on the market until 2007.

So here we are. People paying record prices at the pump and America sending billions overseas to the world's most volatile region. We have countries like China and India using energy technology to create jobs and wealth, while our own businesses and workers fall further and further behind. And we have the energy bill that is before us today.

So I ask, is this the best America can do? The country that went to the moon and conquered polio? The country that led the technological revolution of the 1990s?

It would be one thing if the solutions to our dependence on foreign oil were pie-in-the-sky ideas that are years away. But the technology is right at our fingertips. Today, we could have told American car companies, we will help you produce more hybrid cars. We could have made sure there were more flexible fuel tanks in our cars. And so America has a choice.

We can continue to hang on to oil as our solution. We can keep passing energy bills that nibble around the edges of the problem. We can hope that the Saudis will pump faster and that our drills will find more. And we can just sit on our hands and say that it is too hard to change the way things are and so we might as well not even try.

Or we could accept and embrace the challenge of finding a solution to one of the most pressing problems of our time, our dependence on foreign oil. It will not be easy and it will not be without sacrifice. Government cannot make it happen on its own, but it does have a role in supporting the initiative that is already out there.

I vote for this bill reluctantly today, disappointed that we have missed our opportunity to do something bolder that would have put us on the path to energy independence. This bill should be the first step, not the last, in our journey towards energy independence.

I close by saying I hope we do not wait another 5 years before we work on the important issue of energy independence. I plan to support this bill because of the fine work that was done by the sponsors, but I would insist that in the next year or two we immediately address the issue of how we can wean ourselves off of Middle Eastern oil.

Mr. LEAHY. Mr. President, I firmly believe our Nation needs a sound and balanced national energy plan, emphasizing a clean, reliable, sustainable, and affordable energy policy. Unfortunately, this bill fails to do that. The Senate sent a good energy bill to conference, and we got back a frog. This conference report fails to reduce our dependence on imported oil, fails to address the threat of global warming, fails to make much needed new investments in clean energy production and fails to provide any help to consumers that are suffering from record high gas prices.

Specifically, this conference report does not include the Senate's mandatory oil savings clause, which would have reduced oil use by 1 million barrels per day. The bill also deletes the renewable energy standard that would have required utilities to obtain at least 10 percent of their electricity from renewable sources by 2020. Increasing the production of electricity from renewable energy sources will help improve the quality of our country's water and air. Instead of supporting the advancement of renewable energy technologies to create jobs and reduce pollution, we have a bill that gives oil, gas, ethanol, and nuclear companies enormous subsidies.

In addition, the bill does not include any provisions to address global warning. I believe we have a responsibility to act now to curb greenhouse gases; thus, I was pleased the Senate bill agreed on the need for mandatory programs to address greenhouse gases. Two major scientific reports released last fall warned that global warming is occurring more rapidly than previously known, and that the effects of such warming trends are widespread. In Vermont, we will also see ecological and economic consequences of these alarming trends. Vermonters working in our ski and maple syrup industries have already reported changes they have been forced to make in recent years to adjust to climate change. This bill's refusal to take any steps to combat global warming is not only disappointing, but dangerous to our future generations. One hundred years from now, it may turn out that global warming was the single most important problem that the United States almost totally ignored. At that stage I will not be able to say ''I told you so,'' but some academic scholars might note my timely warmings. Indeed, when I was chairman of the Agriculture, Nutrition, and Forestry Committee, I included a provision on the impacts of global warming in U.S. food production in the 1990 farm bill—15 years ago.

The bill also contains a number of anti-environmental provisions that were not included in the Senate's bill. It threatens drinking water by allowing the underground injection of diesel fuel and other chemicals during oil and gas development and exempts oil and gas construction activities from the Clean Water Act. It also includes a seismic inventory of oil and gas resources in sensitive Outer Continental Shelf areas.

In addition, I am disappointed that this Energy Bill doesn't take a single concrete step to address the high and rising cost of gasoline for American consumers. The Senate unanimously adopted my amendment to allow the Federal Government to take legal action against any foreign state, including members of OPEC, for price fixing and other anticompetitive activities. It is high time we say, ''no!'' to OPEC's illegal price fixing schemes. Yet, due to opposition from the Bush administration, under whose tenure the average price of gasoline has skyrocketed from $1.45 per gallon to more than $2.30 per gallon, this provision was deleted from the Energy bill conference report.

This bill fails on almost every count. Yet, almost unbelievably, it could have gotten much worse. Under the leadership of my friend from New Hampshire, Senator GREGG, we were able to stop the House GOP leadership from letting MTBE polluters off the hook for contaminating our ground water and drinking water. I understand that the conferees came to an agreement which in no way impacts the rights of citizens and local governments to pursue all available State and Federal remedies where there is environmental harm and other injury that results from leakage of MTBE into the ground water. While I was concerned about any effort to alter the subject matter jurisdiction of these cases, I am relieved to learn that they did not do so in conference. I understand that nothing in the current language will alter the substantive law that courts currently apply in these cases and that they will apply to future claims.

After a colloquy between conferees on the record, Representative STUPAK did not offer his amendment clarifying their unanimous understanding of the relevant section. The amendment that he withheld would have simply added the phrase ''under applicable state or federal law'' to the permissive removal provision. I am told by Senator BINGAMAN that the conferees found this amendment unnecessary because it was

clear to them, as it is to me, that the relevant language adopted does not change the substantive law that applies and it does not change the current law that applies in consideration of removal petitions.

This administration and this Congress had a real opportunity to produce a bill that would lead the Nation towards balanced, sustainable, clean energy production. Instead, we have 1,700 pages worth of policies that will increase our dependence on fossil fuels, provide billions to wealthy energy corporations, and threaten environmental and public health. I do not see how my Republican colleagues can any longer justify their drastic cuts to vital social programs while pushing through this multibillion dollar legislation that does nothing to secure our energy future.

Mr. AKAKA. Mr. President, I rise to today in support of the Energy bill and to provide some perspective on the conference report for H.R. 6, the Energy Policy Act of 2005.

I have been in Congress since 1976, serving first in the House of Representatives, and since 1990 in the Senate. I have served with many outstanding Congressmen, Congresswomen, and Senators who have advanced my knowledge and appreciation for comprehensive energy policy in the long-term. I served with Representative Jim Lord, who was my mentor in the House when I first arrived. I saw him again just before I stepped into last Sunday's conference committee meeting in Rayburn. I served with my good friend and colleague, JOHN DINGELL, from Michigan, and I served with the dedicated and ever-insightful Congressman from Massachusetts, ED MARKEY. Both of them have made enormous contributions to this year's energy bill, as have all the House Members.

I have served on the Senate Committee on Energy and Natural Resources for more than 10 years. I was here when the Senate passed the last energy bill, the Energy Policy Act of 1992. That bill was a benchmark that established a range of energy efficiency, conservation, renewable energy, research and development, and regulatory frameworks for energy that are still in place today.

My observation is that the compromise that we have now may be the best we can get in the next 5 to 10 years, given the regional nature of energy and the partisan nature of politics. Energy is an issue with regional, special interest, and State and local ''tugs'' and ''pulls'' unlike other national issues. The breadth of this energy bill is almost incomprehensible. An energy policy sounds simple, but it is a complex, interlocked patchwork of agreements, prohibitions and incentives.

If we do nothing, we will be worse off than when we started. We will not advance energy conservation, efficiency, or production of alternative fuels if we do not pass the bill. I urge members to remember that we have spent over 5 years debating an energy bill and we have seen bills that are much, much worse. This bill represents a victory in many ways.

It is victory of democratic process over regional politics. This bill was fully heard by the committee and fully debated and amended in the Senate. It was a bipartisan effort on which we spent 3 months exploring the topics making a comprehensive bill. We spent another 2 weeks debating and changing this bill in the Committee on Energy and Natural Resources. We accepted many amendments on the Democratic side. The Senate debated the bill for another 2 weeks, changing it and improving it again.

I applaud the efforts of Senators DOMENICI and BINGAMAN, the chair and ranking member of the Energy Committee, for upholding the promise of the Senate energy bill in the conference discussions. They showed great leadership in holding firm to the Senate bill, rejecting House provisions that were unacceptable. Their staffs were determined to provide us an energy bill that did not include excessive spending or destructive environmental compromises.

The energy conference report is not perfect, but its a good bill. I know the bill does not have provisions for fuel efficiency standards for cars, SUVs, and trucks, provisions which I supported in the Committee and on the floor. It does not have controls on carbon dioxide or standards for renewable electricity, although the latter was approved in the Senate.

In many respects, these are small steps, but important ones, in the right direction to meet our energy challenges. It encourages cleaner alternative energy initiatives such as hydrogen, solar, wind, geothermal, and natural gas resources. It emphasizes greater use of renewables. It promotes greater efficiency in the way we currently use appliances, home heating and cooling, with more stringent standards. It encourages more efficient cars, homes, and commercial appliances such as dishwashers. It strengthens the reliability of our electricity grid, encourages more transmission lines, and protects ratepayers from market abuses. These are things that are needed now, not in another 5 years when the composition of Congress or the White House might change.

The bill does not go as far as I would have liked to address some of the biggest energy problems our Nation faces. It seems Congress cannot mobilize the political will to take the difficult steps needed to reduce our reliance on foreign oil, improve vehicle fuel efficiency or deal with global warming. I supported those amendments, both on the Senate floor and in conference committee deliberations, but we lost in fair votes in an open process.

What we have before us, in the long run, is a bill that is balanced in terms of production of energy from a variety of sources and it uses appropriated funds and tax expenditures to encourage research, development, and production. There will always be detractors who can find problems with particular pieces of this far-reaching energy bill. The comprehensive bill is so broad that I do not believe it will ever satisfy the positions of every interest group. The bottom line is that this bill does not include the onerous provisions of an MTBE liability waiver, an ozone bump-up, and it does not include categorical waivers for NEPA for oil and gas developments.

It does include many tax provisions to encourage alternative and renewable fuels, nuclear energy, and oil and gas industries. But the proportions allocated to the renewable sector, clean coal, and energy efficiency are greater than the tax credits and royalty relief for oil and gas, particularly when you consider that a large portion is for a refining capacity incentive, badly needed to increase the efficiency of oil and gas refineries. I greatly appreciate the efforts of Senators GRASSLEY and BAUCUS, and their staffs, who bore the responsibility of crafting the finance portion of the bill under great pressure with grace and generosity.

In this era of alarming Federal budget deficits and declining domestic discretionary spending, we have to look to tax incentives and loan guarantees to mobilize capital investment in new and cleaner energy. For the Nation to maintain our leadership in technology and engineering, we must spend money. Because of many circumstances, namely the war in Iraq, the war on terrorism, and future extensions of tax cuts, we do not have adequate funds to spend on this effort. The only place we can find revenue to encourage the adoption of new technologies is through tax incentives. To me, this is an innovative way to create opportunity out of hardship.

The bill the Senate will consider today, on balance, improves our energy policy and deserves to be enacted. Enormous credit for the success of the conference and the development of the bill goes to my colleagues from New Mexico, Senators PETE DOMENICI and JEFF BINGAMAN, and their staff, who worked long and hard around the clock to bring this bill to fruition. Senator DOMENICI has taken a fresh look, from the beginning of the 109th Congress, and changed his entire approach to the energy bill. I greatly appreciate his orientation and his strategy working with his colleagues on this energy bill. I also extend my great appreciation to Chairman JOE BARTON and Ranking Member JOHN DINGELL for their openness and willingness to work with members on the special needs of their States. Their leadership ensured that the conference was fair, open, and bipartisan from start to finish. I look forward to voting for this bill and I urge my colleagues to support it.

CLARIFICATION OF SECTION 1287 OF THE ENERGY POLICY ACT OF 2005

Mr. JOHNSON. Mr. President, would the gentleman from New Mexico yield to me for purposes of engaging in a colloquy?

Mr. DOMENICI. I would be happy to yield to the gentleman for that purpose.

Mr. JOHNSON. I thank the gentleman. Section 1287 of the conference report to accompany H.R. 6 includes rulemaking authority for the Federal Trade Commission to adopt rules protecting the privacy of electric consumers in connection with their receipt of electric utility services. Am I correct in understanding that it was the conference committee's intent to grant the FTC rulemaking authority with respect to the information practices of ''traditional'' utility companies and not financial institutions regulated by the Gramm-Leach-Bliley Act?

Mr. DOMENICI. The gentleman is correct. We did not intend to revisit issues regulated under the GLBA, or provide the Commission with rulemaking authority over financial institutions regulated under Gramm-Leach-Bliley.

Mr. JOHNSON. Am I further correct that it was not your intention that utility companies be restricted in their ability to report payment history information to consumer reporting agencies, as such information can be very beneficial to consumers, such as those consumers with ''thin'' files at credit bureaus?

Mr. DOMENICI. The gentleman is correct.

Mr. JOHNSON. Am I further correct that it was not your intention that the FTC be given broad rulemaking authority with respect to the goods or services that can be offered to any utility customer, but rather the FTC has the authority to regulate the products or services offered by ''traditional'' utility companies and not financial institutions regulated by the GLBA?

Mr. DOMENICI. The gentleman is correct.

Mr. JOHNSON. I thank the gentleman for his clarifications.

Mr. DOMENICI. I thank the gentleman for bringing these issues to my attention.

Mr. GRASSLEY. Mr. President, today we have the opportunity to finish a very long journey in the quest to build a dynamic, comprehensive energy policy for the United States of America. I can say with pride that this Congress, through many trials and tribulations, has now performed admirably in its duty to the American people. This is a balanced energy bill that focuses as much on the future as it does the present. We have the opportunity with the passage of this legislation to safely produce more energy from more sources and with more infrastructure security then ever before.

On June 21st, the Senate passed H.R. 6 which included the Energy Policy Tax Incentives Act of 2005. The tax provisions were a bipartisan product formulated with Senator BAUCUS, after consultation with many Members of the Senate.

In my estimation, the energy policy tax incentives reflected in this conference agreement are a fair balance of the interests of the Members and effectively supports the development of energy production from renewable and environmentally beneficial sources.

I would like to briefly describe these tax incentives that are included in the final energy Conference agreement.

For years, I have worked to decrease our reliance on foreign sources of energy and accelerate and diversify domestic energy production. I believe public policy ought to promote renewable domestic production that uses renewable energy and fosters economic development.

Specifically, the development of alternative energy sources should alleviate domestic energy shortages and insulate the United States from the Middle East-dominated oil supply. In addition, the development of renewable energy resources conserves existing natural resources and protects the environment.

Finally, alternative energy development provides economic benefits to farmers, ranchers and forest landowners, such as those in Iowa who have launched efforts to diversify the State's economy and to find creative ways to extract a greater return from abundant natural resources.

Section 45 of the Internal Revenue Code currently provides a production tax credit for electricity produced from renewable sources including wind, biomass, and other renewables. The final Energy Tax Incentives Act extends the section 45 credit through the end of 2007.

I have been a constant advocate of alternative energy sources. Since the inception 13 years ago of the wind energy tax credit, wind energy production has grown considerably. In addition, wind represents an affordable and inexhaustible source of domestically produced energy.

Extending the wind energy tax credit until 2008 will support the tremendous continued development of this clean, renewable energy source.

The conference agreement supports a maturing green energy source. Experts have established wind energy's valuable contributions to maintaining cleaner air and a cleaner environment. Every 10,000 megawatts of wind energy produced in the United States can reduce carbon monoxide emissions by 33 million metric tons by replacing the combustion of fossil fuels.

In addition, this agreement helps to empower our rural communities to reap continued economic benefits. The installation of wind turbines has a stimulative economic effect because it requires significant capital investment which results in the creation of jobs and the injection of capital into often rural economic areas.

In addition, for each wind turbine, a farmer or rancher can receive more than $2,000 per year for 20 years in direct lease payments. Iowa's major wind farms currently pay more than $640,000 per year to landowners, and the development of 1,000 megawatts of capacity in California, for example, would result in annual payments of approximately $2 million to farm and forest landowners in that State.

Environmentally friendly biomass energy production is a proven, effective technology that generates numerous waste management public benefits across the country.

The biomass definition covers open loop biomass. Open loop biomass includes organic, nonhazardous materials such as sawdust, tree trimmings, agricultural byproducts and untreated construction debris.

The development of a local industry to convert biomass to electricity has the potential to produce enormous economic benefits and electricity security for rural America.

In addition, studies show that biomass crops could produce between $2 and $5 billion in additional farm income for American farmers. As an example, over 450 tons of turkey and chicken litter are under contract to be sold for an electricity plant using poultry litter being built in Minnesota. This is a win-win. Not only do the farmers not have to pay to dispose of this stuff, they get paid to sell the litter. You could find similar examples throughout the Midwest and other farm regions across America.

Finally, marginal farmland incapable of sustaining traditional yearly production is often capable of generating native grasses and organic materials that are ideal for biomass energy production. Turning tree trimmings and native grasses into energy provides an economic gain and serves an important public interest.

I am very proud of a long history of supporting new alternative energy concepts in the production of electricity. The energy conference agreement continues that commitment.

By using animal waste as an energy source, an American livestock producer can reduce or eliminate monthly energy purchases from electric and gas suppliers and provide excess energy for distribution to other members of the community.

Swine and bovine energy is truly green electricity, as it also furthers environmental objectives.

Specifically, anaerobic digestion of manure improves air quality because it eliminates as much as 90 percent of the odor from feedlots and improves soil and water quality by dramatically reducing problems with waste runoff. Maximizing farm resources in such a manner may prove essential to remain competitive in today's livestock market. In addition, the technology used to create the electricity results in the production of a fertilizer product that is of a higher quality than unprocessed animal waste.

The Energy Tax Incentives Act is important to agriculture, rural economy and small business. It is also important for domestic supply and energy independence.

Rural America can play an important part in energy independence and domestic supply. In addition to the production of electricity, this agreement includes additional tax incentives for the production of alternative fuels from renewable resources.

We continue the small producers credit for the production of ethanol. We continue the incentive for the production of biodiesel. Biodiesel is a natural substitute for diesel fuel and can be made from almost all vegetable oils and animal fats. Modern science is allowing us to slowly substitute natural renewable agricultural sources for traditional petroleum. It gives us choices for the future and it can relieve the strain on the domestic oil production to fulfill those important needs that agricultural products cannot serve.

Renewable fuels like ethanol and biodiesel will improve air quality, strengthen national security, reduce the trade deficit, decrease dependence on the Middle East for oil, and expand markets for agricultural products.

This package is fiscally responsible. The conference report provides a net $11.5 billion in tax relief over 10 years. That figure aligns with the budget resolution. Over 5 years, the package loses only about $6.9 billion.

The Energy conference agreement is a balanced package. I would like to note, with some satisfaction, that today we have performed the people's business in the way they want us to do business. This Energy Tax Incentives Act was crafted in a bipartisan, bicameral way on an important initiative, in a way that reflects the diversity of our views and the diversity of our Nation.

Mrs. FEINSTEIN. Mr. President, I thank Senators DOMENICI and BINGAMAN for insisting upon a more open, bipartisan conference than we have seen in a number of other important bills.

Chairman DOMENICI deserves great credit for making sure that this conference report does not include some of the most egregious House provisions, particularly retroactive liability protection for MTBE producers and broad Clean Air Act exemptions.

However, I am extremely concerned that this bill does nothing to address global warming and fuel economy standards. I believe that climate change is the most urgent energy-related problem of my lifetime.

This bill refuses to accept responsibility or chart a course to deal with the United States' profligate use of emissions-producing energy sources.

The United States is the largest consumer of energy, yet this bill does nothing to reduce our energy consumption. This bill deletes a very modest oil savings provision that would have required us to save 1 million barrels of oil per day in 2015.

Nor does it include a renewable portfolio standard that I would have required that 10 percent of the nation's electricity come from renewable resources by 2020. California will achieve a renewable portfolio standard of 20 percent by 2017. It is doable nationally.

Climate change is the most important energy and environmental issue facing us today. The earth's temperatures are expected to rise between 2.5 degrees and 10.4 degrees Fahrenheit over the next century.

During the same time period, the American Southwest could see a rise of 14 degrees or more.

Glaciers are melting, sea levels are rising, and water supplies in the West are at severe risk.

By not acting to aggressively reduce our emissions, we are putting California's water supplies at severe risk.

California depends on the Sierra Nevada snowpack as its largest source of water. It is estimated that by the end of this century, the shrinking of the snowpack will eliminate the water source for 16 million people—equal to all of the people in the Los Angeles Basin.

We must act now. Carbon dioxide emissions accumulate in the atmosphere—the more we emit, the worse the impacts on our environment. If we curb our emissions now, we may have a chance to limit the damage we are causing to our fragile ecosystem.

Yet this bill does not include the Sense of the Senate on climate change that recognizes that climate change is being caused by man-made emissions, and that Congress must pass legislation that establishes a mandatory cap on emissions.

The lack of action on climate change and fuel economy is an enormous deficit of the bill.

Increasing fuel economy standards is the single most important step we can take to reduce our dependence on oil. We have the technology now to increase the fuel economy of our vehicles.

GM, DaimlerChrysler and Honda have already developed something known as cylinder cut-off technology that provides the fuel efficiency similar to a vehicle with a smaller engine, but with all the power of a big engine. The auto manufacturers could use a more fuel efficient design, using lighter materials that increase fuel economy without sacrificing safety.

The list goes on and on, yet the auto manufacturers will not act unless Congress forces them to. We are missing a huge opportunity to address the real problem that consumers are facing—rising gas prices. Those gas prices are not going to fall until or unless we reduce our demand for oil by increasing our fuel economy.

I am also concerned about the following provisions in the bill:

Ethanol—the bill has an egregious 7.5 billion gallon mandate for ethanol. My State does not need the fuel additive to meet clean air standards.

I thank the conferees for retaining an amendment I offered to protect California's air quality. It waives the requirement that California use ethanol in the summer months when it can end up polluting the air more than protecting it.

However, I believe that this mandate will raise gas prices for Californians. So far, ethanol in California's gasoline has increased the cost of our gasoline by 4 to 8 cents per gallon.

Further, the ethanol mandate maintains the 54 cent-per-gallon import duty that prevents oil producers from buying ethanol on the global market, or wherever it is cheapest.

Moreover, ethanol receives a tax credit of 51 cents per gallon. A 7.5 billion gallon mandate means an almost $2 billion loss to the U.S. Treasury over today's receipts. I believe this mandate is an unnecessary giveaway.

In addition, increasing the use of ethanol will not decrease our use of oil. When this mandate is fully implemented in 2012 it will only reduce U.S. oil consumption by less than one-half of one percent.

I believe this is bad public policy and that it is an unnecessary, costly mandate that should not be in the energy bill.

LNG Siting—this bill gives the Federal Energy Regulatory Commission exclusive authority over siting LNG terminals. There are three projects proposed in California. It seems to me that the location of these projects should be left up to the State, not to the Federal Government.

The Federal Energy Regulatory Commission should ensure that the technicalities of natural gas delivery are taken care of, not where these facilities are located on the coastlines of our states.

Outer Continental Shelf—this bill provides for an inventory of the resources off our shores. This is not necessary unless we plan on drilling, to which I remain very much opposed.

I strongly oppose lifting the moratoria on drilling on the Outer Continental Shelf and my State is unified in its opposition as well. Our coast is too important to California's economy and to our quality of life.

Environmental Rollbacks—the bill exempts the underground injection of chemicals during oil and gas development from regulation under the Safe Drinking Water Act, and waives the storm water runoff Clean Water Act regulations for oil and gas construction sites.

These are unnecessary environmental rollbacks that should not have been included in the Energy bill conference report.

I reluctantly voted for the Energy bill when it was considered on the Senate floor. The reason I voted for it was because it included strong consumer protections, and great energy efficiency tax incentives that Senator SNOWE and I have been pushing for the past several years.

While I am pleased that the strong consumer protections are still included in the bill, I am extremely disappointed with the energy efficiency tax incentives.

The tax incentives for energy efficiency in the Senate bill were the cornerstone of a sensible energy policy to address high natural gas prices, peak power reliability, and global warming. It would have saved over 180 million metric tons of carbon emissions annually in the year 2025—some 10 percent of U.S. emissions for all purposes, while saving consumers over $100 billion annually.

But the Energy bill conference report cut these incentives back by over two-thirds, leaving the Nation with only the skeleton of an effective energy efficiency tax program. While it is possible that this hobbled program could still work, it is so under-funded that it could also fail.

The Senate bill provides performance-based incentives of up to $2,000 for retrofits made to homes that would achieve a 50 percent energy savings, and applied to all types of homes, whether owner-occupied or renter-occupied, whether owned by families or by businesses, and whether the tenant or the landlord performs the retrofit.

The conference report gutted this program—providing cost-based incentives limited to 10 percent of the cost of the retrofit, or a maximum of $500. This is problematic because nearly identical cost-based tax incentives for home retrofits were tried in 1978. They cost the Treasury over $5 billion and not a single study has found that they produced any energy savings.

The Senate bill also provided 4 years of eligibility for high technology air conditioners, furnaces, and water heaters. The conference report cut this eligibility back to 2 years.

This is a big problem because an equipment manufacturer has to make a large investment to mass-produce the efficient equipment.

If that investment must be fully amortized over two years of incentivized sales, manufacturers may be unwilling or unable to make it.

A 4-year amortization period would cause much more manufacturer interest and spur the energy efficiency that we want to promote with these tax credits.

In other words, these energy efficiency tax credits may be meaningless when it comes time to implement them. That would be a terrible shame—energy efficiency has been a huge success in reducing California's demand for energy.

In California, efficiency programs have kept electricity consumption flat for the past 30 years, in contrast to the rest of the United States, where consumption increased 50 percent.

During the Western energy crisis, California faced energy shortages and rolling blackouts, but it could have been much worse. Ultimately, the State was able to escape further blackouts because Californians made a major effort to conserve energy. This reduced demand for electricity and helped ease the crisis.

Unfortunately, the conference report dramatically reduced the effectiveness of the most important step this nation could take to reduce our energy usage—incentivizing energy efficiency.

By not including the oil savings amendment, the renewable portfolio standard, the Sense of the Senate on climate change, and by gutting the energy efficiency tax incentives, this bill preserves the status quo and does nothing to reduce our dependence on oil or on other fossil fuels.

This bill will not solve our Nation's energy problems, lower gas prices, or reduce emissions. And while I thank Senators DOMENICI and BINGAMAN for the fair, open process by which they brought us this bill, I will cast my vote against the conference report.

Ms. CANTWELL. Mr. President, I rise today to discuss the conference report on H.R. 6, the Comprehensive Energy Policy Act of 2005. I stand before my colleagues today with very mixed feelings about this legislation. This conference report has many meaningful achievements and measures that can help provide this Nation, our researchers, and innovators, with the basic tools to start moving America forward toward a new energy strategy for the 21st century. Yet it is far from perfect. It sidesteps many of the most fundamental energy security challenges we face—challenges like our dependence on foreign oil and global climate change, which grow more intractable the longer we wait to address them. It contains provisions that I simply do not support. It is certainly not the Energy bill that this Senator would write if I alone held the drafting pen—the kind of legislation that would put this Nation on a far more ambitious path toward greater energy security in the global economy. I know many of my colleagues feel exactly the same way.

And yet I believe all Senators must clearly acknowledge that this legislation is in many ways superior to the Energy bill conference report we considered during the 108th Congress. And that is true in some very meaningful ways for my region, the Pacific Northwest.

When the Senate, last month, approved its version of this legislation, I noted that I appreciated the skill and thoughtfulness with which the chairman and ranking member of the Energy Committee, Senators DOMENICI and BINGAMAN, had navigated a path forward for this bill. I suggested at the time that they would need every bit of that skill in coming to resolution with the House of Representatives, on a piece of legislation worthy of this Senate's support. Frankly, I doubted very much that it could be done.

But I stand here today ready to vote for this conference report—with reservations, of course—but in recognition of the fact that this legislation is probably better than many of us had reason to expect; and as good as the current political will of Congress would allow. For that, I give enormous credit to the chairman and ranking member. As a member of the Senate Energy Committee, I want to say that I have appreciated the bipartisan nature in which they have handled this bill from the outset. At every turn, they have treated this Senator—and her constituents' interests—with complete fairness. The process by which this legislation was assembled should serve as a model for this body.

I want to talk briefly about what I view as some of the most important achievements of this legislation—particularly for my region and the great State of Washington. These are some of the basic tools that can help serve as building blocks to a more ambitious energy strategy for America.

First and foremost, it is important to understand that the Pacific Northwest is a region completely unique when it comes to our energy system. More than 70 percent of the electricity production in Washington State is derived from hydroelectric sources—designed around our great river, the mighty Columbia. This was a system built as part of President Franklin Delano Roosevelt's efforts to electrify the West. As a result, we are a region with a rich and diverse energy history, an uncommon collection of public and private institutions, a large Federal presence that starts with the Bonneville Power Administration, BPA, and a diverse array of stakeholders rightly concerned about the river's multiple uses. I know all of my colleagues from the Northwest who sit on the Energy Committee—there are five of us, in fact—appreciate this tremendous heritage, our region's history of cost-based power, and the valuable asset that we inherited from our predecessors, great leaders like Senators Jackson, Hatfield, and Magnuson.

That is why we worked hard, in a bipartisan manner at every turn, to safeguard the Northwest's system of cost-based power—the engine of our regional economy. That is why the electricity title of this legislation is so important to my region, and to the ratepayers of Washington State.

I am proud this legislation specifically protects the Northwest's transmission system, by prohibiting the Federal Energy Regulatory Commission, FERC, from converting the Bonneville Power Administration's existing system of cost-based, firm transmission contracts to a market-based auction of financial transmission rights.

Now, this auction of financial transmission rights was a central tenet of FERC's controversial and ill-fated standard market design, SMD, proposal. All of us from the Northwest were united in our opposition to SMD because we recognized right away that it was a scheme with the potential to result in tremendous amounts of cost-

shifting onto our ratepayers, and to substantially undermine our cost-based system. The provision that protects the Northwest's existing system is thus an important achievement because it slams the door on any sort of future FERC-imposed proposal like standard market design. I would also note that the Senate-passed Energy bill would have slammed the door on SMD once and for all. This became unnecessary, however, when FERC's new chairman officially terminated the commission's SMD proceeding earlier this month. I think that was a very wise choice and think it speaks quite well of the commission's new leadership.

Also important to my region are provisions that this bill does not contain. Specifically, this conference report omits the administration's legislative proposals—unveiled earlier this year—to hamstring BPA's ability to invest in regional infrastructure and upend Bonneville's system of cost-based power sales. The Northwest Power and Conservation Council has estimated the administration's proposal would raise regional power rates by $1.7 billion. That would translate to a $480-a-year rate hike for families in some of Washington's most rural communities. Again thanks to the bipartisan efforts of Northwest Senators, those legislative proposals were dead on arrival.

When it comes to protecting Washington State consumers, I must also mention a number of other provisions. At long last, the bill establishes mandatory, enforceable reliability rules for operation of the Nation's transmission grid. This effort also began in the Pacific Northwest—after an August 1996 blackout resulting from two overloaded transmission lines near Portland, OR which caused a sweeping outage that knocked out power for up to 16 hours in 10 States, including Washington. As a result, both a DOE task force and the industry itself in 1997 recommended mandatory reliability rules for operating the transmission grid. The Senate first passed this legislation just over 5 years ago, in an effort begun by my predecessor, Senator Slade Gorton. It is legislation that I have championed since I have arrived in the Senate, an effort that gained more urgency with the Northeast blackouts of two summers ago; and I will be very pleased to see this measure through to the end.

This bill also takes steps to respond to the disastrous western energy crisis, which extracted billions of dollars and hundreds of thousands of jobs from our regional economy. As I have recounted many times on this floor, the illegal and unethical practices of Enron and others sent Washington power rates through the roof. This Energy bill puts in place the first ever broad prohibition on manipulation of electricity and natural gas markets. These provisions are modeled on a measure that I have authored that has now passed the Senate twice, and I am pleased that they are included in this conference report—particularly given the far inferior provisions contained in the House legislation, which would have in many ways gone in the entirely opposite direction.

In light of the now-infamous audiotapes of Enron traders and others conspiring to gouge consumers, the legislation also gives Federal regulators new authority to ban unscrupulous energy traders and executives from employment in the utility industry. In addition, it substantially increases fines for energy companies that break the rules. And importantly for my constituents, this legislation prohibits a Federal bankruptcy court from enforcing fraudulent Enron power contracts, including $122 million the now-bankrupt energy giant is attempting to collect from Snohomish PUD. That would translate to more than $400 from the pockets of every family in Snohomish County, WA, who have already seen their utility bills rise precipitously as a result of the western energy debacle.

For all these provisions, I am tremendously grateful to the chairman and ranking member. I know they faced a steep uphill battle with the House in retaining these measures, and I applaud and thank them for their efforts in ensuring that the Senate positions prevailed.

I should also mention the renewable fuels provisions of this bill, which I believe will help put Washington State farmers and entrepreneurs in the biofuels business. Today, production of biofuels is dominated by the midwestern region of the country, as traditional policies have supported corn- and soy-based fuel production and helped that technology gain maturity. However, the key to lowering costs and establishing a truly national strategy is to make an investment in new technologies that will diversify biofuels production in the United States.

Researchers at Washington State University estimate that our State has the capacity to produce 200 million gallons of ethanol from wheat straw, and up to 1.2 billion gallons with technology improvements. Meanwhile, biodiesel is another emerging opportunity for Washington State farmers, using canola or yellow mustard. These crops are particularly well-suited to Washington State, providing high yields without irrigation.

Around Spokane, it is estimated that 500,000 acres a year could be put into oil seed production, enough oil to produce 25 million gallons of biodiesel. Statewide, at least 2 million acres could be put into oilseed production for biodiesel.

There are a number of very important provisions in this bill that will help my State capitalize on the promise of biofuels, including an Advanced Biofuel Technology Program I authored, to help demonstrate these new technologies; important market-based incentives for refiners to diversify the types of biofuels they use; and financial support in many forms for cellulosic ethanol and biodiesel production.

These are very important achievements that will help transform biofuels from a boutique regional industry to something that can become part of a truly national strategy to help supplant our Nation's petroleum imports—lowering costs and helping provide greater economic security to our farmers at the same time.

But in addition to renewable fuels, we should acknowledge the provisions of this legislation promoting renewable electricity generation. Obviously, this legislation does not go as far as I would like. I vigorously support a renewable portfolio standard—even a more aggressive standard than what passed the Senate. It is unfortunate, indeed, that the House would not accept this provision, and those of us who strongly advocate it will continue to attempt to move the RPS forward.

But this legislation does extend through the end of 2007 the existing production tax credit for renewable energy, such as wind resources. It is estimated that this credit can help save Washington State ratepayers $260 million over the next 10 years. As Northwest utilities add wind resources to help bolster regional power supplies, these investments are also helping fill the coffers of local communities. For example, a new wind project near Ellensburg, WA, has generated an additional $2 million in revenue for Kittitas County. Similarly, wind energy is helping provide another source of income for Northwest farmers. Growers in Columbia County, WA, home to the new 150 Megawatt Hopkins Ridge wind project, receive about $5,000 per turbine located on their land. One farmer estimates the revenue generated by the project will equal the income generated by 250 acres of harvest.

For the first time, the Energy bill creates clean renewable energy bonds, to support investment in renewable energy resources by governmental entities, including tribes, agencies such as BPA and other public power entities. I am also pleased that for 20 years the Renewable Energy Production Incentive, REPI, Program, which provides a direct payment to public power entities, which do not qualify for tax credits, for renewable electricity production. Eligible resources are expanded to include ocean energy. The REPI Program has already been used by multiple Washington State public utilities to make renewable energy investments.

Washington State is also home to the Pacific Northwest National Lab, and for that reason, the research and development title of this legislation bears mentioning. The Energy bill conference report authorizes hundreds of millions of dollars of investment in research ongoing at the Pacific Northwest National Lab and Washington State universities, including systems biology research, distributed and smart energy technology research and development; bio- and nanotechnology related to the production of bioproducts; and advanced scientific computing.

The Energy bill's ''personnel and training'' title is also worth noting, since it will help provide a skilled energy workforce for the 21st century, as the energy industry braces for a critical shortage. Washington State is poised to help train the next generation of engineers and innovators in this area. The legislation requires the Secretaries of Energy and Labor to monitor workforce trends in the area of electric power and transmission engineers and identify critical national shortages of personnel. It also authorizes the Secretaries to establish a grants program of up to $20 million a year to enhance training—including distance-learning, such as the program now being pioneered at Gonzaga University—in electric power and transmission engineering fields. While fewer than 15 universities nationwide offer world-class, Ph.D.-level programs in power engineering, both Washington State University and the University of Washington offer strong programs in this area. In addition, Gonzaga University this year established a specialized masters of science degree and certification program in transmission and distribution engineering.

This conference report also streamlines technology transfer rules for national labs such as PNNL, and extends the 20 percent R&D tax credit to energy research done by nonprofit consortiums involving small businesses, National Labs, and universities to promote interaction and collaboration between public and private researchers. The research and development and workforce provisions of this bill hold some of the most promise in putting in place the building blocks for a real, innovative energy strategy for the 21st century.

Years in the making, the Energy bill also includes bipartisan reform of the hydroelectric relicensing process. The hydro provisions included in this legislation are designed to improve the accountability and quality of Federal agencies' decisions. At the same time, the compromise restores the rights of the public to participate in the process on equal footing with license applicants—provisions that have been missing in previous versions of the bill. Over the next 15 years, 70 percent of Washington State's non-Federal hydro must go through the hydro relicensing process.

Another provision of importance to my State is this legislation's reinstatement of the oil spill liability trust fund, OSLTF. Earlier this year, a Coast Guard report found that the OSLTF—which has been used to clean up spills in the Puget Sound—would run out of money by 2009. The OSLTF was established in the 1990 Oil Pollution Control Act, and has been funded through a per-barrel fee on oil companies until it reached its statutory cap of $1 billion. The fund was designed to be maintained from interest on that original $1 billion, but increasing cleanup costs and low liability caps have eroded the principal amount. The Energy bill would reinstate the fee in April 2006 or thereafter, once the Secretary finds that the balance in the account falls below $2 billion. The bill authorizes application of the fee through 2014.

Lastly, I want to mention this legislation's provisions to provide energy assistance to some of our Nation's neediest families. The Energy bill would boost authorization for the Low-Income Home Energy Assistance Program, LIHEAP, from its traditional level of $2 billion to $5.1 billion, for 2005–2007. LIHEAP funding is critical for some of Washington State's most vulnerable citizens. As a result of the western energy crisis, electricity rates have gone up more than 20 percent statewide while 72 percent of low-income families in Washington use electricity to heat their homes. And already, the 105,000 Washingtonians with incomes below 50 percent of the Federal poverty level spend 34 percent of their entire annual pay on home energy bills. In recent years, less than 30 percent of Washington's eligible families have been able to receive energy assistance—as demand has for LIHEAP dollars has far outpaced their availability. More than doubling available LIHEAP funding would provide a much-needed boost to local organizations in Washington struggling to meet the needs of their communities.

As my colleagues can see, this legislation is tremendously complex. I have listed many of the provisions important to my constituents. Of course, there are a number of other measures with which I simply disagree. Perhaps that is to be expected of a 1,700-page piece of legislation that touches every sector of the American economy. For example, the inventory of Outer Continental Shelf oil and gas resources is wrong-headed, and I oppose it. I would note, however, that in order for the inventory to move forward, it must be funded. I know this Senator believes any such inventory would constitute a tremendous waste of taxpayer funds, and the fight is far from over on this issue.

Similarly, I oppose the liquefied natural gas provisions of this bill because I believe States and local communities need a bigger role in these decisions. Some of the nuclear provisions of this bill are particularly offensive, in that they create an inherent conflict of interest at the Nuclear Regulatory Commission, which should not be subject to the cross pressures of protecting public safety and the public interest, at the same time the commission is under fiscal pressure to unwisely accelerate its proceedings under the guise of some new form of ''risk insurance.''

I oppose the Clean Water Act and Safe Drinking Water Act rollbacks in this bill. The National Energy Policy Act provisions are similarly unnecessary. But I recognize that they are far less sweeping than those originally proposed by the House. If this Senator had her way, we would not be repealing the Public Utility Holding Company Act. Yet I am at least comforted by the fact this legislation hews closely to the compromise on utility mergers reached by the Senate.

Moreover, the tax package does not resemble the tax package I would have written. On this point, I agree with the President: The oil and gas industry does not need these incentives, given where prices are at today.

I am not the first Senator to say it, and I won't be the last. This bill is not as I would have written it. It has the flaws that I have listed. It is also incomplete. It is a status quo bill when it comes to one of the most difficult challenges to our economic and national security faced by this generation: America's dangerous dependence on foreign oil. This bill does not address this festering problem. It will not provide relief to consumers at the gas pump. Any suggestion to the contrary would be simply false.

It is clear to this Senator that if this body is truly serious about putting in place a framework that will allow the United States to compete in the global marketplace; a framework that will allow America to control its own destiny in the coming decades as it relates to our energy security, our work is not done. Tomorrow isn't soon enough to go back to the drawing board and get serious about our dependence on foreign oil. And this Senator will keep fighting to do just that. Our work on energy security has hardly begun—it is far from finished if we want to live up to our responsibilities to future generations of Americans. We must not leave to them a Nation crippled by its addiction to foreign sources of oil—an overdependence that jeopardizes our economic future and national security.

On the contrary, it is our responsibility to face up to a simple fact: The accidents of geology make it impossible for this Nation to drill its way to energy independence, since we are situated on just 3 percent of the world's proven oil reserves. We must recognize that fact and read the economic indicators. We must consider emerging competitors such as China and India, and recognize the seismic shifts that are likely to occur in the dynamics of world energy markets.

I firmly believe that future generations of Americans will measure us on how we choose to address the challenges of energy security and climate change. They are that vital to this Nation's security and our economic future.

But this Senator also recognizes that the leadership of this Congress is not yet prepared to take that step; that my colleagues and I who believe so fundamentally in the importance of enhancing our oil security have more work to do to change the hearts and minds of our colleagues. The American people must also demand better leadership from their elected officials when it comes to energy security. And this Senator stands ready to work across

the aisle to do what is necessary to make meaningful progress on these issues.

This bill is not perfect. We have much more work to do to bolster our energy security, and this Senator is ready to roll up her sleeves and do it. But on the whole, this bill provides some basic building blocks toward a better energy future. For that reason, I will support the Energy bill conference report and urge my colleagues to do the same.

Mrs. CLINTON. Mr. President, I rise to speak on the Energy bill that the Senate will be voting on today. Unfortunately, I cannot support this bill.

The bill does include some worthy provisions. For example, the bill includes the major provisions of the Hydrogen and Fuel Cell Technology Act of 2005 that I have worked on for years with Senator DORGAN. It includes my Dirty Bomb Prevention Act of 2005, as well as a provision that I authored to require backup power for emergency sirens around the Indian Point nuclear powerplant. It extends and expands the wind production tax credit, and includes a provision to help us continue to develop and commercialize clean coal technology. It will push energy efficiency standards of air conditioners and other appliances forward. It will establish mandatory, enforceable reliability standards, something that I have been pushing for since the August 2003 blackout. And it includes a bill I introduced with Senator VOINOVICH to create a grant program at the U.S. Environmental Protection Agency to promote the reduction of diesel emissions.

In spite of these positive measures, I oppose the bill for two reasons. First, it contains a number of highly objectionable provisions. Second, it simply ignores several of our most pressing energy challenges, such as our dependence on foreign oil.

I won't list all of the problematic provisions here, but I want to highlight a couple of the most troubling. The bill includes billions in subsidies for mature energy industries, including oil and nuclear power. These are giveaways of taxpayer money that do nothing to move us toward the next generation of energy technologies. The bill accelerates the siting procedures for liquid natural gas terminals and weakens the State role in the process, something I am very concerned about, given the Broadwater proposal looming off the Long Island shores. As ranking member of the Water Subcommittee of the Environment and Public Works Committee, I object to the provisions that exempt hydraulic fracturing from coverage under the Safe Drinking Water Act and exempt oil and gas construction sites from stormwater runoff regulations under the Clean Water Act. Despite a long-standing moratorium on oil drilling off most of the U.S. coast, including the New York coast, the bill authorizes an inventory of oil and gas resources there.

None of these provisions should be in the bill. But the main reason that I must oppose this bill is that it simply doesn't address the most pressing and important energy challenges that we face. It is a missed opportunity to reduce our dependence on foreign oil, spur the development of renewable resources, and address climate change.

While the Senate-passed bill did not go as far as I would like in terms of reducing our dependence on foreign oil, it did contain a provision that would reduce U.S. oil consumption by 1 million barrels of oil per day by 2015. That was dropped in conference.

The Senate bill had a modest provision to increase the percentage of electricity generated from renewable sources to 10 percent by the year 2020. That, too, was dropped in conference.

In addition, the Senate went on record as supporting a mandatory program to start reducing the greenhouse gas emissions that are contributing to climate change. That is gone as well.

So as I look at the bill as a whole, I see a major missed opportunity. By the President's own admission, this bill won't do anything to reduce gasoline prices, but we know for a fact that it will give billions in tax breaks to companies like Exxon Mobil. It doesn't do nearly enough to push the development and commercialization of clean, next-generation energy technologies, but it gives huge tax breaks to nuclear power, a technology that has been with us for 50 years. And given what we now know about the looming threat of climate change, it makes no sense to make energy policy without integrating a cost-effective strategy to reduce greenhouse gas emissions. But that is exactly what this bill does.

In short, this bill simply misses the mark. It ignores our biggest energy challenges, subsidizes mature energy industries like oil and nuclear, and rolls back our environmental laws. I know it will pass today, but I will not be voting for it.

Mr. JEFFORDS. Mr. President, I want to share my views on the final Energy bill conference report now before us. I regret that I will be unable to support this legislation, and I will explain my substantive concerns about the bill in greater detail. But, first, I want to comment on the process that brought us to this point because the process has been very different than the last energy conference report.

The last energy conference report to come before the Senate in the 108th Congress contained more than 100 provisions in the jurisdiction of the Environment and Public Works Committee. In my role as the ranking member, I came to the floor to share with the Senate that the EPW Committee was not consulted in the development of any of those provisions.

That closed-door process did not occur with this conference report, and I believe that was due to the efforts of Senators DOMENICI and BINGAMAN. Though neither Senator INHOFE nor I were conferees, we were apprized of conference discussions. Our staff reviewed and provided technical assistance on provisions. For example, we agreed to revise the House's nuclear title to incorporate three nuclear bills reported by the Environment and Public Works Committee. We also worked closely on the ethanol provisions, given their implications for the Clean Air Act.

The Senators from New Mexico worked hard to limit the items in the conference report in the EPW Committee's jurisdiction. They faced a very uphill task. The House bill had many troubling environmental provisions that were strongly supported by House conferees. Unfortunately, though, many troubling environmental provisions were removed during conference negotiations, several provisions of concern to me and to several other Democratic members of the EPW Committee remain in the final conference report.

I say all this to make clear to the Senate that I am not opposing this bill on process, but on policy. It contains bad environmental policy. It is a missed opportunity with respect to our energy policy. It contains the wrong fiscal priorities with $80 billion in giveaways to the oil, gas, coal, and nuclear industries. And, for those reasons, I feel it is not the right energy policy for America today, and certainly not for the future.

I am deeply concerned that the conference report before us does not represent the kind of forward looking, balanced energy policy that our Nation needs. It does not go far enough in reducing our country's reliance on imported oil. Provisions to set a goal to curb our Nation's oil use, overwhelmingly supported in the Senate, were defeated. Provisions in the Senate bill to set a national goal to obtain 10 percent of our Nation's electricity from renewable sources were also stripped in the conference.

I have spent my congressional career promoting the use of renewable energy in our country. This Nation has abundant renewable energy sources, from wind to animal methane to geothermal, in every State, and it is in our economic and environmental interest to use them. It is very disappointing to me, as we stand here on the threshold of passing an energy bill that will likely serve as our country's energy policy well into the next decade, that many of the same polluting coal-fired power plants that were operating when I came to Congress are still operating without modern pollution controls. Though this conference report takes an important step by asking the Federal agencies to get roughly 8 percent of their energy from renewable sources in 2020, this should have been an economy-wide goal.

It also fails to substantively address many other important issues, such as climate change and the need to improve vehicle fuel economy to give consumers more affordable and less-polluting choices when they buy their family's next automobile.

But worst of all, this bill seriously harms the environment. During the conference, along with the majority of Senate Environment Committee minority colleagues, I wrote the conferees listing six of what I believed to be the most troubling environmental provisions of the House-passed bill. Several remain in this bill.

I am disappointed that the renewable fuels provisions in the conference report continue to differ significantly from the provisions that were reported by the Environment and Public Works Committee in the last three Congresses. The provisions that my committee reported were the ones contained in the energy legislation that the Senate passed this year and last year.

Though we know methyl tertiary butyl ether, or MTBE, is environmentally harmful, the conference report does not phase out its use.

The Senate bill would have phased out MTBE use nationwide over 4 years. The conference report contains no such ban. In addition, critical language allowing the U.S. Environmental Protection Agency to pull future gasoline additives off the market if they caused water pollution problems was eliminated.

The conferees have included language similar to a provision in the House-passed bill that exempts oil and gas exploration and production activities from the Clean Water Act storm water program.

The Clean Water Act requires permits for storm water discharges associated with construction. The conference report changes the act to exempt oil and gas construction from these permits.

The scope of the provision is extremely broad. Storm water runoff typically contains pollutants such as oil and grease, chemicals, nutrients, metals, bacteria, and particulates.

According to EPA estimates, this change would exempt at least 30,000 small oil and gas sites from clean water requirements. In addition, every construction site in the oil and gas industry larger than 5 acres are exempt from permit requirements. Some of those sites have held permits for 10 years or more. This is a terrible rollback of current law and an unneccessary one. These permits have not been hampering production by these drilling sites, but they do protect the fragile water resources around them.

Section 327 of this conference report exempts the practice of hydraulic fracturing to extract coalbed methane from the Safe Drinking Water Act. This practice involves injecting a fluid under pressure into the ground in order to create fractures in rock and capture methane.

The primary risk with hydraulic fracturing is drinking water contamination that occurs when fluids used to fracture the rock remains in the ground and reach underground sources of drinking water. According to the U.S. Government Accountability Office, approximately half of the U.S. population obtains its drinking water from underground water sources. In rural areas, this percentage rises to 95 percent. In its June 2004 study, the EPA reported studies showing that 18–65 percent of injected chemicals can remain stranded in hydraulically fractured formations.

This is wrong. The American people do not want enhanced energy production at the expense of the environment, particularly if it jeopardizes their drinking water wells.

And, they also do not want enhanced energy production at the expense of their own pocketbook, especially in these times of high energy prices. This bill contains several very costly provisions that are more of a giveaway to energy companies than a guarantee of new energy for the American people. One of the most concerning of these are new provisions that provide risk insurance for the construction of six new nuclear power plants.

Now, I agree that siting an energy project is a risky and time-consuming investment. But this provision, in my view, goes too far. This provision would allow the Secretary of Energy to enter into a contract with private interests for the construction of six advanced nuclear reactors. Further, it authorizes the payment of costs to those private interests for delays in the full operation of these facilities.

The payments are up to 100 percent of the delay costs, or a total of $500 million each for the first two facilities. The next four plants would get a payment of up to 50 percent of the delay costs, up to a total of $250 million for each facility. This is a total of $2 billion.

The ''delays'' for which private interests can be compensated include the inability of the Nuclear Regulatory Commission to comply with schedules that it sets for the reviews and inspections of these facilities.

If the NRC finishes its work on time, but the full operation of one of these facilities is delayed by parties exercising their democratic right to seek judicial review to ensure the safe operation of a nuclear facility in their community, the plant owners can be compensated while the case is litigated.

Nuclear powerplants are large capital investments and risky investments. But so are other energy projects. Just ask anyone who drills for oil, sites a windmill, or seeks to deploy a new energy technology. We do not provide any other type of energy facility this type of guarantee. And what a guarantee, while the Federal Government processes your permit, or if the Federal Government gets sued, the taxpayers will pay you, not for generating energy but for doing nothing.

This is an enormous Federal spending commitment, and one we really are not likely to be able to afford. The intent really is to put pressure on the NRC to approve these new reactors and get them on line. If that is our intent, we should do so without obligating taxpayers to pay for the appropriate process to get them sited and built.

I also am disappointed that the recycling tax credit provisions I authored to preserve and expand America's recycling infrastructure were stripped from the final bill. In a bill that provides $14.5 billion in tax incentives for energy production, these modest provisions would have gone a long way to encourage energy savings and job creation through investment in state-of-the-art recycling technology.

In conclusion I try not to support legislation that exploits our natural resources and pollutes our environment. This bill contains too many provisions that represent real departure from current environmental law and practice to garner my support. Other Senators who believe that we can obtain energy security for America while preserving our environment should vote no as well.

I ask unanimous consent that some additional materials clarifying my views on several bill provisions in the jurisdiction of the Environment and Public Works Committee be printed in the RECORD.

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

ADDITIONAL VIEWS OF SENATOR JEFFORDS ON THE CONFERENCE REPORT ACCOMPANYING H.R. 6, THE ENERGY POLICY ACT OF 2005

Mr. JEFFORDS. Mr. President, as I indicated to the Senate in my remarks, this conference report fails to properly balance the need for energy exploration and production with important environmental and conservation concerns. There are a number of environmental provisions in this bill that were either considered by the Senate Environment and Public Works Committee or are in the jurisdiction of that Committee, on which I serve as Ranking Member. Given that the conference report contains no detailed statement by the conferees regarding how these provisions are to be implemented by the relevant federal agencies, I felt it important to provide additional comment on these provisions to serve as legislative history.

MTBE AND MOTOR VEHICLE FUELS AND FUEL ADDITIVES

The conference report fails to ban methyl tertiary butyl ether (MTBE), an important and constant element of the Senate bill reported by the Environment and Public Works Committee in the 109th Congress. While I am pleased that an MTBE liability waiver is not included in this bill, I am concerned that MTBE will continue to be used in gasoline, leak from underground storage tanks and continue to pose significant and costly drinking water problems.

The elimination of the oxygen-content requirement for reformulated gasoline and the new ethanol mandate (Section 1504) may result in oil companies reducing the amount of MTBE used, but it is unlikely to eliminate its use entirely since it was used as an octane enhancer and anti-knock agent by petroleum refiners long before the Clean Air Act requirements of 1990. The continued use of MTBE in gasoline means that drinking water supplies will continue to be in jeopardy. Therefore, the Environmental Protection Agency and state regulatory agencies should continue with their efforts to ban and limit the use of MTBE.

I am pleased to see that the bill includes several provisions from the bill, S. 606, which was reported out of the Environment and Public Works Committee, that are intended to protect public health and the environment. Perhaps most important of these is the toxics anti-backsliding language to ensure that the elimination of the oxygenate requirement and the growing number of States' MTBE bans will not encourage refiners to use toxic replacement materials. The baseline against performance is judged is set at the average of the years 2001 and 2002, though EPA has evidence of continued improvement in toxics reduction performance in later years. Thus, setting a baseline even a few years old may allow refiners to backslide on performance and increase toxic air emissions from fuels.

For unknown reasons, the conferees failed to adopt an important Senate provision that would prevent MTBE-like water contamination problems from occurring in the future. As was recommended in 1999, by the Blue Ribbon Panel on Oxygenates in Gasoline, the Senate provided EPA the clear authority under the Clean Air Act to regulate fuels and fuel additives due to their impact on water quality and resources. Sadly, we will be doomed to repeat the mistakes of the past on into the future, because the conferees have apparently not learned enough from the $25–85 billion remediation costs facing municipal and residential water systems around the country.

Another Senate bill improvement to current law which was retained in the conference report was making EPA regularly require manufacturers registering fuels or fuel additives to conduct tests publicly to determine public health and environmental effects before registration and use. The report also requires EPA within two years of enactment to conduct a study of the effects on air and water and sensitive subpopulations of fuel additives (Section 1505). Today there are a dozen or so different types of fuel additives and little is known about the toxicological effects of these chemicals on human health and the environment. These studies will help us better understand where MTBE and other fuel additives have leaked and contaminated water resources and how these chemicals are affecting our nation's water resources.

As in the Senate bill, the conference report provides that EPA must update its complex emissions model to reflect vehicles in the motor vehicle fleet from the 1990 baseline to a more accurate 2007 fleet, and study the permeation effects of increased ethanol use on evaporative emissions. Unfortunately, in section 1513, the conferees opted for the less protective House provision on blending and comingling.

The Senate bill, consistent with the recommendations of the Government Accountability Office June 2005 report on ''Gasoline Markets,'' directs EPA to study the air quality and public health impacts of reducing the number of fuel formulations in the market, as well as looking the effects on refiners and gasoline supply and price. This report is due in mid-2008. The conferees wisely included this useful provision in the report, which will provide the information necessary for EPA, the States and Congress to eventually make sound judgments about reducing the number of fuel formulations. However, the conference report also includes an illogical and unnecessarily complex system in section 1541 for limiting the fuel formulations in advance of data to be collected pursuant to the Senate report and the GAO recommendation. That same section also provides unnecessarily expansive and confusing waiver authority for the Administrator to allow increases in pollution from fuels and fuel additives.

COAL (TITLE IV)

This bill authorizes $3 billion in grants and loans through the Department of Energy and $2.9 billion in tax credits to assist coal-fired power plant owners in installing more modern pollution control equipment and to develop better control technologies. Unfortunately, most of these funds are not directed at truly advanced and significantly cleaner and more efficient electricity generation from coal. As a result, taxpayers will be heavily subsidizing only incremental improvements, rather than the substantial and radical improvements that need to be made in thermal efficiency to combat global warming and in state-of-the art technology to reduce other harmful air pollutants, like mercury, ozone, and particulate matter. This Title will not prepare the United States to live up to its responsibility to be a global leader in reducing greenhouse gas emissions from our heavily coal-based electricity-generating base.

UNDERGROUND STORAGE TANK COMPLIANCE (TITLE 15, SUBTITLE B)

Leaking underground storage tanks present a significant threat to drinking water supplies nationwide. EPA estimates that there are approximately 150,000 leaking underground storage tanks currently needing cleanup. While I feel that the twenty-year old law needs more comprehensive changes, I am pleased with many of the underground storage tank provision included in this bill.

This bill will for the first time set a mandatory inspection frequency for all federally regulated underground storage tanks. Unfortunately, this requirement falls short of the every two-year inspection requirement unanimously approved by the Senate in the 108th Congress. Instead, tanks that were last inspected in 1999 may be able to evade re-inspection until 2010 or 2011. EPA believes tanks should be inspected at least once every three years to minimize the environmental damage caused by undetected leaks. I encourage EPA and the states to meet the three-year inspection frequency upon enactment of this legislation.

I am pleased with the increased authorization provided from the Leaking Underground Storage Tank (LUST) Trust Fund and the flexibility given to EPA and the states to use the money not just for cleanups but also for compliance activities. Increased authorization is meaningless, however, unless the President and Congress fulfill their responsibilities to appropriate adequate resources to carry out these activities. To ensure that adequate money is provided in the future, I encourage EPA to work with the states to improve data collection to demonstrate the public health and environmental benefits of increased funding.

The bill contains an important new provision to protect groundwater by requiring secondary containment of new tanks within 1,000 feet for a community water system or potable drinking water well. I'm concerned, however, about an exemption from this modest secondary containment provision that allows owners and operators to install underground tanks without secondary containment if the manufacturer and installer of the new tank system maintain evidence of financial responsibility to pay for cleaning up a potential spill. This exemption foolishly emphasizes cleanup over leak prevention. In addition, this financial responsibility requirement is likely to lead to delayed cleanups while owners, manufacturers and installers fight in court over who is responsible for the leak.

EPA and the states should work closely to encourage owners and operators of underground storage tanks to opt for the secondary containment of new underground storage tank systems rather than face potential legal complications in the future when the less protective systems leak. EPA should also work with the states and owners and operators to identify whether this provision results in litigation or delays cleanups and to identify, address and share information about common manufacturing and installation problems with the states and other owners and operators.

I also question the wisdom of limiting the secondary containment requirement to systems within 1,000 feet of a community water system or potable drinking water well as leaks, especially MTBE, which quickly moves beyond 1,000 feet radius of the facility. A broader provision requiring secondary containment on all new tanks has proven very effective in Vermont. EPA and the states should carefully identify all potable drinking water sources in these areas and monitor whether the 1,000 feet radius is adequate to protect public health.

WESTERN MICHIGAN (TITLE IX RESEARCH AND DEVELOPMENT—SECTION 996)

Hidden as a demonstration project in the Research and Development Title is a provision that provides an exemption from any new specifically ozone-related requirement or sanctions under the Clean Air Act for counties in southwestern Michigan that have been designated as non-attainment for the 8-hour ozone standard. These areas are not given a free pass from any existing Federal or State requirement or enforcement of such existing requirement, including any that the counties may face as ozone maintenance areas or as part of any conditions in the state's ozone implementation plan in place at the time of enactment of this Act. No pollution source in those counties is provided any exemption of any kind from requirements or sanctions related to any other pollutant except as it directly relates to ozone.

The two-year hiatus in enforcement or application of new requirements is unwisely provided to several counties with large populations that are contributing to or causing nonattainment in areas downwind from those counties. This is in direct contradiction to the purposes of the Clean Air Act, particularly as amended in 1990, which recognize the need for all states and areas to be sensitive to the transported pollution that they inflict on downwind areas. The Senate Committee on Environment and Public Works, which has jurisdiction over matters such as this and on which I serve as the ranking member, has never had a hearing on this provision, nor would I have supported such a broad and poorly drafted temporary exemption.

I expect that in the ''demonstration'' project process over the next two years, EPA and the Governor of Michigan will not only assess the difficulties such areas may experience in meeting the 8-hour ozone standard because of transported ozone pollution, but also the extent of the downwind damage and pollution caused by this ''demonstration'' project exemption and the adequacy of the EPA's SIP review process under section 110(a)(2). In addition, I would note for any electric generating unit or any similar major stationary source in these counties, that the ''demonstration'' period designation does not permit evasion of existing New Source Performance Standard requirements in these counties or any other such programs.

REFINERY REVITALIZATION (TITLE III OIL AND GAS—SECTION 391/392)

I refute the implication in the findings that environmental regulations have limited the U.S. refining capacity. Therefore, I find the Refining Revitalization provisions in

this bill to streamline environmental permitting unnecessary, preferential treatment for the oil and gas industry.

While it is true that 175 refineries closed in the last 22 years and no new refineries opened, it is also true that at the same time refining capacity has grown steadily from 6.2 billion to 8.2 billion barrels per day. In fact, the Energy Information Administration earlier this year projected that refining capacity will increase and that refining costs are expected to remain stable or decline.

Despite industry attempts to cut costs and achieve greater efficiencies through rampant mergers—over 2,600 oil companies merged in the 1990s—low returns on investment inhibited expansion in the refinery sector, not overly burdensome environmental regulations.

Proponents of streamlining environmental permitting argue that a large number of closed or idle refineries seeking to reopen are having difficulties obtaining environmental permits. Yet, neither EPA nor the states currently have permits pending to restart refineries.

To address this perceived problem, this energy bill encourages Governors to request that EPA and the state regulatory agencies streamline environmental permitting by accepting consolidated permit applications and tells EPA to find ways to better coordinate among state and federal agencies and to provide additional financial assistance, without providing EPA and the states additional resources to accomplish this task. I am also concerned that this focus on refinery permitting without additional resources will be done at the expense of other important environmental priorities. Refineries are getting preferential treatment that other energy sectors will not be getting and just another example of how this bill is just a transfer of taxpayer dollars to the wealthiest energy companies in the country.

When submitting its budget for next year, EPA should include a large enough request to ensure that adequate resources will be available to conduct expedited review of new and expanding refinery capacity in the United States. Due to the serious environmental impacts these facilities have on our nation's air and water, EPA and the States must ensure that adequate resources are available at the Federal and State level to conduct expedited, but comprehensive and complete reviews to ensure that the American people are protected from the hazards these facilities present.

NUCLEAR TITLE (TITLE VI)

This title adopts the majority of the provisions of Senate Environment and Public Works Committee reported nuclear bills in the 109th Congress: the Nuclear Fees Reauthorization Act of 2005 (S. 858), the Nuclear Safety and Security Act of 2005 (S. 864) and the Price Anderson Amendments Act of 2005 (S. 865).

In particular, Section 651 of the conference report includes provisions of S. 864 that would regulate accelerator-produced material, discrete sources of radium-226, and discrete sources of naturally occurring radioactive material (NORM) under the Atomic Energy Act. The section does so because these materials pose a ''dirty bomb'' risk. There is wide agreement that radium, accelerator-produced materials and naturally occurring radioactive materials could be used in a dirty bomb and therefore should be regulated by the Nuclear Regulatory Commission. Even so, some have raised questions about why we need to address the disposal of these materials in the conference report.

The conference report addresses the waste disposal issue because some of the materials which are not now regulated under the Atomic Energy Act can currently be disposed of under the authority of Acts such as the Resource Conservation and Recovery Act, as long as their activity levels are sufficiently low. Since the provisions agreed to by the conferees place these materials under the jurisdiction of the Atomic Energy Act, they would no longer be able to be disposed of under the authority of Acts such as the Resource Conservation and Recovery Act without the additional provisions we included in the language.

Though the conferees included this language, neither the NRC nor the Environmental Protection Agency and the states should conclude that the intent of the disposal provisions is to expand or alter the waste disposal requirements associated with these materials. This language is not intended to alter current disposal practices in any way, but is rather intended only to preserve the disposal options that are currently available under existing authority for this material.

In all discussions with the conferees, it was my intent that these provisions to remain neutral on the issue of waste disposal, and to ensure that there are no new restrictions and no new authorities granted by this language. To make it clear, these provisions would in no way result in granting new authority for materials that are currently regulated under the Atomic Energy Act to be disposed of in facilities not licensed to accept radioactive waste by the Nuclear Regulatory Commission or an Agreement State under the Low Level Radioactive Waste Policy Act (LLRWPA).

Bringing accelerator-produced material, discrete sources of Radium-226, and discrete sources of naturally occurring radioactive material (NORM) under the Atomic Energy Act because they pose a dirty bomb risk, without making special provision for their disposal, would mean that in accordance with the LLRWPA, as amended, these materials would have to be disposed of at low-level radioactive waste disposal facilities licensed by either the NRC or an Agreement State. Because of interstate import and export restrictions adopted by compacts under the LLRWPA, bringing radium 226, accelerator-produced materials and NORM under the jurisdiction of the Atomic Energy Act could eliminate for generators in the majority of States a disposal capability for these materials that is currently available to and being used by generators across the nation. In addition, regulating these materials under the Atomic Energy Act might result in making any Act that excludes Atomic Energy Act material from the Act's coverage (such as the Solid Waste Disposal Act, popularly referred to as the Resource Conservation and Recovery Act (RCRA)) inapplicable. These provisions are intended only to preserve the disposal options that are currently available under existing authority for this material, such as those that are available under the authority of the Resource Conservation and Recovery Act, and would not affect the disposal of Atomic Energy Act materials not covered by this section.

HYDRAULIC FRACTURING TITLE III/SECTION 327

By excluding hydraulic fracturing from the definition of underground injection, Section 327 changes how the Environmental Protection Agency can regulate this practice under the Safe Drinking Water Act. Hydraulic fracturing involves injecting diesel fuel or potentially hazardous substances such as benzene, toluene, and MTBE underground to fracture rock and release oil and gas. It is clear this language allows the EPA to restrict the use of diesel as a hydraulic fracturing fluid, and the agency should continue to use its existing authorities under the Clean Water Act and the Safe Drinking Water Act to reduce loadings of these pollutants associated with these activities from reaching surface and drinking water.

Hydraulic fracturing has historically been performed in very deep wells. Today, it is also used in coalbed methane extraction that occurs at much shallower depths. This practice leaves hazardous substances in the ground that leach into groundwater and jeopardize drinking water. Groundwater provides drinking water for half the U.S. population. In rural areas, 95 percent of drinking water comes from groundwater.

More than 167,000 oil and gas-related injection wells are currently regulated under the Safe Drinking Water Act and pose no impediment to oil and gas production. As they implement this regulation, EPA and the States should continue to monitor these activities to ensure that drinking water sources are protected and report to Congress and the public all incidences where harmful chemicals from hydraulic fracturing leach into drinking water sources.

STORMWATER (TITLE III/SECTION 328)

Title III of the conference report also changes how the Environmental Protection Agency is able to regulate oil and gas construction activities under the Phase I and Phase II of the Clean Water Act Stormwater Program. Since 1990, the Phase I Stormwater Program has required permit coverage for large municipal separate stormwater systems and 11 categories of industrial discharges, including large construction sites disturbing five or more acres of land. In 2005, GAO reported that over a one-year period, in three of the six largest oil and gas producing states, 433 oil and gas construction activities obtained Phase I Stormwater Permits. Some of those sites have held permits for ten years or more.

Phase II of the program, adopted in 1999, requires permits for small municipal separate stormwater systems and construction sites affecting one to five acres of land. EPA extended the Phase II permitting deadline, originally March 10, 2003, to June 12, 2006 for just the oil and gas industry. EPA's rationale was that it needed more time to complete its legal and economic analysis of the rule.

The water quality implications from exempting the oil and gas industry from stormwater permitting are significant. Over a short period of time, storm water runoff from construction site activity can contribute more harmful pollutants, including sediment, into rivers, lakes, and streams than had been deposited over several decades. Sediment clouds water, decreases photosynthetic activity, reduces the viability of aquatic plants and animals; and can ultimately destroy animals and their habitat. These permits have not been hampering production by these drilling sites, but they do protect the fragile water resources around them.

The EPA should construe any exemption for oil and gas construction activities contained in this conference report as very limited. The agency should continue, as appropriate, to require stormwater discharge permits for oil and gas construction activities that are similar to those performed at other construction sites such as the construction of roads, clearing, grading, and excavating. The Clean Water Act requires that construction sites of all types obtain stormwater discharge permits. When oil and gas construction activities are similar to other construction activities they should continue to be regulated.

Mr. President, it is my hope that I have clarified for my colleagues how these provisions were developed and the effect of these provisions on the environment. It is my hope

that the Nuclear Regulatory Commission and the Environmental Protection Agency will review and incorporate my statement as they implement the Energy Policy Act of 2005.

Mr. CONRAD. Mr. President, I rise today to support the Energy bill conference report.

For many years, I have supported passage of a comprehensive national energy policy. Such a policy is necessary to reduce our increasing dependence on foreign energy sources. A comprehensive energy policy will help lower energy prices in the long run. Furthermore, any far-reaching bill will move us toward newer technologies that will keep our economy growing strong while making us more energy independent.

Although not perfect, this Energy bill moves us in the right direction. It will expand our electricity transmission system and make it more reliable. The bill contains incentives for renewable energy, including the renewable energy production tax credit that I helped include. It will also spur an increase the production and use of domestic biofuels such as ethanol and biodiesel. Because of this bill, our coal-burning plants will improve their efficiency and emit less pollution. Finally, the bill provides needed incentives to increase natural gas infrastructure, measures that will lead to lower prices for natural gas consumers in the long run.

Equally important, this bill benefits North Dakota for a number of reasons. The transmission incentives will enable my State's power producers to export electricity to distant markets. In this way, transmission incentives benefit the lignite and wind energy sectors in my State. The clean coal production incentives will make it easier to build advanced clean coal power plants. The inclusion of the wind energy production tax credit will help North Dakota realize its potential to be the biggest producer of wind energy in the country. The Renewable Fuels Standard and tax incentives for ethanol and biodiesel will aid my State's farm economy, create more jobs, and reduce our dependence on foreign oil. In addition, the bill will assist my state in developing exciting new technologies, such as coal-to-liquid fuel plants.

I believe we still have a lot of work to do in order to make our Nation less dependent on foreign energy. However, this bill takes positive steps to address our energy needs. As I just mentioned, this bill will provide significant benefits to my State.

For these reasons, Mr. President, I support the conference report.

Mrs. MURRAY. Mr. President, today I rise in opposition to H.R. 6, the Energy Policy Act of 2005.

I do so because this bill fails to move us beyond the status quo of today's energy situation. Congress rarely steps forward to address our Nation's energy policy, and I believe when we do so we should provide real direction that addresses real problems. Unfortunately, that is not the case here.

I voted for the bill as reported by the Senate, but only narrowly. A few provisions in the Senate bill attempted to address our need to promote renewable energy resources and decrease our consumption of foreign oil. Those few forward-looking provisions have been dropped from this final bill, leaving me with little choice but to vote no for our failure to truly provide some new direction to our Nation's energy policy.

Crafting comprehensive energy policy should offer the opportunity to address the most difficult issues facing our country. The bulk of this bill sidesteps those tough issues and in place of solutions it offers bandaids. Moving toward independence from foreign oil should be a top priority, but it is not addressed meaningfully.

Climate change is a serious issue that Congress simply refuses to address. While some voluntary measures are included, these are simply not enough. We must have meaningful action if we are to protect our health, environment, and economy of our country.

Gone from this bill is the renewable portfolio standard promoted by the Senate. The Senate's provision would have increased the penetration of alternative energy sources. This bill also fails to take adequate steps to develop conservation and efficiency technologies, and yet it offers substantial subsidies to the fossil fuels industry.

This is not the bill I would have written, and this is no longer a bill I can support.

There are sections of the bill that are positive. For example, I am pleased that the conference bill contains provisions protecting the Pacific Northwest's electricity system from unwarranted interference by the Federal Energy Regulatory Commission, FERC, and protects Washington ratepayers from excessively high electricity rates. I am also pleased that the current bill contains a fair and balanced hydroelectric relicensing process and sets new grid reliability standards. I commend my colleague, Senator CANTWELL, who championed Washington State interests.

This bill in particular supports cutting edge research and development at the Pacific Northwest National Laboratory and Washington State universities in the areas of smart energy, advanced scientific computing, and systems biology.

I am equally pleased to see that the bill does not provide MTBE liability protections.

As the world's leading energy consumer, the United States should lead by example and innovation. However, this bill stops short of taking commonsense measures that would truly reduce foreign oil dependence and mitigate the looming threat of climate change. To diversify energy sources in America, fossil fuel use must be offset by conservation, energy efficiency, and clean and renewable fuels.

Yet proposals to set ambitious, yet achievable, targets for reduced oil imports, tighter fuel economies for cars and trucks were defeated. Instead, oil and gas companies will be allowed to scour our fragile coastlines for more oil and gas reserves. Furthermore, this bill awards multimillion dollar tax breaks to those same companies, which are reaping windfalls from record-high oil prices at the expense of Washington consumers, to continue us down the path of fossil fuels, which are a key contributor to climate change. This bill also rolls back significant clean water laws that keep our water safe to drink.

Despite ample protections for Washington ratepayers, it is hard to ignore that this bill, this national energy blueprint, does absolutely nothing to improve energy security or reduce dependence on foreign oil. We need a national energy policy but one that acknowledges the needs for the future, sets a plan, and moves us forward, not a bill that delivers the status quo.

Mr. JOHNSON. Mr. President, today the Senate is poised to pass the Energy Policy Act of 2005, the most sweeping comprehensive Energy bill in over a decade. We need a comprehensive set of policies to attack the energy crunch facing Americans on multiple fronts.

Electricity systems on the West Coast are strained as electrical transmission lines lack capacity and interconnection to move power throughout regions. The dependence of our economy on foreign sources of energy continues to climb unabated, with close to 60 percent of the oil used to power the economy originating from foreign ports and oil fields.

As a Member of the Senate Energy and Natural Resources Committee and as Member of the conference committee charged with hammering out an agreement, I have steered my colleagues in the House and in the Senate to look toward the Heartland as a rich land ready to contribute to our energy security. The Energy Policy Act of 2005 incorporates many of the ideas I have long championed to spring forward South Dakota and the Great Plains as a key future energy producer.

First and foremost, the Energy Policy Act of 2005 establishes a robust Renewable Fuel Standard that will lessen imports of foreign sources of energy and encourage the use of clean-burning renewable fuels.

Beginning in 2006, the Energy bill establishes a robust renewable fuels standard requiring refiners to blend 4 billion gallons of renewable fuels, such as ethanol and biodiesel. That standard would be increased over the next several years until 2012, when refiners would be required to blend a total of 7.5 billion gallons of renewable fuels.

Just in South Dakota alone, over 8000 farm families are invested in ethanol facilities through direct deliveries of corn or in more indirect paths, such as equity shares. The Nation's economy will get a significant and positive boost from enactment of the RFS.

There are several other provisions in the bill that bring South Dakota's

strength to solving the Nation's energy challenges.

Key tax incentives included in the final version of the Energy bill extend the tax credit for small ethanol producers and expand the eligibility of that credit to plants with an annual capacity of up to 60 million gallons is a major victory.

The conference report also provides incentives for bio-diesel. Ethanol is not the only renewable fuel that can be produced in the United States soybean-based bio-diesel holds great promise for use in the Nation's fuel supply.

We focused also on tapping wind energy resources by extending for 2 additional years the production tax credit for wind energy facilities. The production tax credit is a tool used by developers of wind energy projects, such as the wind energy farm near Highmore, SD.

One final tax provision that I feel holds particular promise is the authorization of $800 million in tax credit bonds to finance the construction of renewable energy projects by not-for-profit utilities and rural electric cooperatives.

I have heard from dozens of electric cooperative and municipal utilities that want to undertake the construction of wind energy projects. However, until this bill, these non-profit entities were excluded from some of the incentives provided for Investor-Owned Utilities pursuing similar renewable energy projects. Now, rural cooperatives can finance, construct, and operate clean energy projects, such as wind turbines and geo-thermal facilities.

The conference report does not include what I believe is an important provision to set benchmarks and targets for producing electricity from renewable energy resources. Like a renewable fuels standard, a renewable portfolio standard would not only reduce the use of fossil fuel sources, but increase economic activity in South Dakota through wind energy and biomass projects.

A modest renewable portfolio standard of 5 or 10 percent is achievable and can be done without increasing retail electricity rates. The benefits of balancing traditional energy sources, such as coal, nuclear, and natural gas, with new technologies will reduce air emissions and spur the creation of jobs in developing energy technology sectors. I include clean coal technologies, such as Integrated Gasification Combined-Cycle as an emerging clean coal technology that along with wind and geothermal plants hold the promise of producing clean-burning electricity.

As Congress and the States and cities move forward on addressing the energy challenges of the 21st Century, policymakers and industry leaders can lose sight and leave behind developing renewable energy sources. As the Nation and world strain finite fossil fuel resources the need to bring on-line these technologies will only become more acute and practical.

I intend to vote for the Energy Policy Act of 2005. As a Member of the Senate Energy and Natural Resources Committee, I am proud of the job we did in fashioning a bill that will make strong strides forward in tackling the disparate parts of energy supply, transmission, and distribution. The bill also holds strong promise for making South Dakota a substantial energy producer of clean energy and renewable fuels. I urge my colleagues to support the Energy Policy Act of 2005.

Mr. LIEBERMAN. Mr. President, I commend Senators DOMENICI and BINGAMAN for their efforts in securing an energy bill that retains many features important to the Senate. Had I been present for the final vote on the Senate bill 1 month ago, a vote I missed because of the passing of my mother, I would have voted ''yes'' because I believed that the Senate bill took positive early steps toward development of a comprehensive energy policy, including an important initiative for renewable energy development.

I consulted urgently with Senator BINGAMAN during the House-Senate Conference on an issue that was put before the conferees by the House that would have undermined the Clean Air Act and worsened air pollution in Connecticut and a number of other States. Senator BINGAMAN was able to keep that proposal out of the conference report and I thank him for that. I learned, through that bit of first-hand experience, how hard both Senator DOMENICI and Senator BINGAMAN worked to keep faith with the Senate in producing a conference report that reflected some of the Senate's chief concerns. For that I believe we owe them both a debt of gratitude.

Senators BINGAMAN and DOMENICI are to be commended for recognizing the deep concerns that public officials across New England have about the LICAP proposal and for including a sense-of-the-Congress resolution in the bill directing FERC to reevaluate this proposal in light of their concerns. I note that the sense-of-the-Congress resolution specifically draws to FERC's attention the objections of all six of New England's governors—both Democrats and Republicans.

(See Exhibit 1.)

Mr. President, I ask unanimous consent that two letters, from those governors to the Chairman of FERC expressing their objections to LICAP, be inserted in the RECORD following my remarks.

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

Mr. LIEBERMAN. I cannot emphasize enough the need for FERC to reconsider this deeply flawed proposal—a proposal that would cost New England ratepayers more than $12 billion over the next 5 years. The governors rightly argue that there are much more cost-effective alternatives to achieving the goal of ensuring our region of the country has adequate electricity that FERC should consider. And I am pleased that conference report directs FERC to address the governors' objections and recommendations.

While I am disappointed with many of the changes made in the final version of the bill emerging from conference, and feel that we are still far from developing the bold national energy policy we so urgently need, I am voting ''yes'' today because this bill at least starts the process of changing the status quo.

Still, it is my strong hope that having addressed issues of conventional energy supply through this legislation, we will turn, in the very near future, our urgent attention to the most pressing issues—the clear and inextricable linkage between energy supply and national security, the resulting urgent need for aggressive development of a portfolio of alternative and renewable fuels and conservation strategies, and the need to take comprehensive steps to set mandatory caps on greenhouse gas emissions. Solving these problems—and soon—is a responsibility that we have to today's public as well as our children and grandchildren, an obligation that we will not have fulfilled when this legislation passes.

When this bill becomes law, new energy efficiency standards for appliances will be put into place and businesses, homeowners and consumers will see a range of new incentives to invest in and adopt in their homes, factories and automobiles, clean technologies, such as fuel cells, solar energy, alternative fuel vehicles and hybrids. All this will be done without forcing the Senate and the States to accept a number of provisions that would have done damage to the environment and to the treasuries of State and local governments contending with groundwater contamination, from MTBE. Finally, the bill offers some hope that we will get at least a little bit further in developing some of the technologies that can help combat climate change. Again, it includes a sense-of-the-Congress resolution regarding LICAP, an issue now important to the State of Connecticut but potentially important to us all.

There is also good news to be found in what this bill does not do. It does not include provisions for drilling in the Arctic National Wildlife Refuge. It avoids rollbacks to the Clean Air Act, rollbacks harmful to not just the Northeast, but to all who live and work in areas downwind of pollution sources.

Despite these positives, I am disappointed by the missed opportunities for setting a bold, forward-looking 21st century energy policy. Opportunities to establish a renewable portfolio standard. Opportunities to protect the Outer Continental Shelf fully from potential exploration and drilling. Opportunities to develop clear steps to reduce our dependence on oil. Opportunities to protect our drinking water from possible contamination by toxic hydraulic fracturing fluids. Opportunities to take our first real steps to reduce greenhouse gas emissions.

I urge my colleagues to consider this a beginning, and to continue in earnest our work to reduce the dependence on oil that is so undermining of our national and economic security, to develop alternative and renewable energy sources as well as conservation techniques, and to address the problem of climate change with mandatory steps that are so clearly required, as clearly expressed in the sense-of-the-Senate resolution passed by this body last month.

EXHIBIT 1

THE COMMONWEALTH OF MASSACHUSETTS,
Boston, MA, June 24, 2005.

Re ISO–New England LICAP Proposal, Docket No. ER 03–563, NESCOE Petition, Docket No. EL04–112.

Hon. PATRICK WOOD, III,
Chairman, Federal Energy Regulatory Commission, Washington, DC.

DEAR CHAIRMAN WOOD: As you know, Massachusetts has been closely monitoring the proposal of ISO–New England (ISO–NE) to develop and implement a locational capacity (LICAP) market in the New England region. Recently, my New England colleagues wrote to you on this important issue expressing their concerns, and I want to take this opportunity to do the same.

While Massachusetts shares the Federal Energy Regulatory Commission's (FERC) interest in an effective capacity mechanism to secure an adequate supply of electricity to serve our region, it is our view that the LICAP proposal is a broader, more costly approach than is necessary to assure the region's reliability. Cost estimates of the LICAP proposal range from $10 to $13 billion across New England over the next five years, or approximately a 25 percent increase in the energy portion of the average ratepayer's electricity bill—both residential and commercial customers. This figure translates to approximately $6.4 billion over five years for Massachusetts alone, which is simply unacceptable. This type of rate shock will have a detrimental effect on Massachusetts and the region's economy.

Massachusetts strongly believes that the ISO–NE has prematurely pursued the development of a LICAP market, rather than first pursuing the development of other solutions that may be less costly for our consumers. The ISO–NE is in the process of developing a locational reserves market to address specific, targeted operating reserve needs that would support fewer required generators. The development of an appropriate capacity market to address regional adequacy issues should be viewed in the context of a regional market plan that considers the existing locational energy market and the development of the locational reserves market, in addition to other contemplated mechanisms. If after the implementation of more cost-effective solutions a resource adequacy issue persists, a further intervention can be developed to solve these problems, while minimizing consumer costs and market disruption.

Given the significant cost associated with this issue to our region, it is important that the FERC consider the other proposals currently under development that may in fact provide a more cost effective solution, while ensuring the adequacy of the region's electricity supply. As always, we look forward to working with the FERC on these important matters so that our consumers and businesses are well served by these important policy initiatives.

Respectfully submitted,

MITT ROMNEY.
Governor.

NEW ENGLAND GOVERNORS' CONFERENCE, INC.,
Boston, MA, June 23, 2005.

Re ISO New England LICAP Proposal, Docket No. ER 03–563, NESCOE Petition, Docket No. EL04–112.

Hon. PATRICK WOOD, III,
Chairman, Federal Regulatory Commission, Washington, DC.

DEAR CHAIRMAN WOOD: The New England states, through their regulatory agencies, have been litigating the proposal of ISO New England (ISO–NE) to develop and implement a specific type of locational capacity market in the region (LICAP). We share the Commission's interest in an effective capacity mechanism to assure an adequate supply of resources to serve the region's load. It is we governors, after all, on whom citizens ultimately rely to provide for the public health and safety. However, we do not believe that ISO–NE's LICAP proposal is that mechanism. ISO–NE's proposal: (1) does not provide any assurance that needed generation will be built in the right place at the right time; (2) is not linked to any long-term commitment from generators to provide energy; and (3) is extremely expensive for the region. In short, ISO–NE's LICAP is a costly scheme that offers little in terms of true reliability benefits.

The Administrative Law Judge's (ALJ) recommended decision, issued on June 15th, adopted the ISO's proposal and rejected the arguments of state regulators with little or no discussion of the rationale for rejecting the arguments and despite extensive evidence provided in support of their positions. As you can see, we have serious reservations about the efficacy of the demand curve mechanism, we are alarmed by the financial impact on our citizens and businesses, and we are troubled by the process that was employed to arrive at this result. Accordingly, we are obliged in the best interests of our constituents to oppose this decision.

Late last year we answered your invitation and presented a proposal to you for a regional state committee (RSC). Per your suggestion, we identified resource adequacy assurance as a core area of policy leadership we would provide. Many months have passed since we filed our proposal but the Commission has yet to act on the matter. The purpose of this letter is to urge you to defer action on ISO–NE's deeply flawed LICAP proposal, to issue an order authorizing the RSC, and to direct the RSC to develop a proposal that serves the region.

Deferring immediate action on ISO–NE's LICAP proposal will not undermine system reliability. Short-term contractual arrangements are available to ensure reliability in any sub-regional zone that may, during peak periods, require additional support. In addition, New England currently has adequate overall capacity and a surplus of generation in some states.

ISO–NE's LICAP proposal is only one of many capacity market proposals that could assure long-term resource adequacy in the region. The specific proposal before the Commission is based on an administratively set pricing system that we fear will set capacity charges too high. This fear appears well grounded in light of estimates we have seen that show increased costs in the vicinity of $10 billion for the region's constituents over the next five years. In isolation these numbers are disturbing enough but imposition of LICAP charges of this magnitude on top of the increases we are already experiencing in energy commodity prices will place serious stress on our state economies. Indeed, in Maine alone up to 1,500 jobs could be lost as a result of the decrease in consumer spending resulting from LICAP price shock. In Connecticut, there is a significant risk that large industrial customers will relocate out of state due to the projected massive price increase resulting from the LICAP charge. Given these high cost estimates and the lack of any assurance that new capacity will indeed be built, it is essential to allow the states, through the regional state committee, to fully consider all alternatives to the ISO–NE proposal—something which has not been allowed in the current proceeding.

We write today not only to highlight the real world effects that your decision in this case may have on our constituents. As governors of the New England states, we also stand ready to assist the Commission in developing a sensible approach to New England's capacity needs through the vehicle you identified as responsible for formulating resource adequacy policy—namely the RSC. We, through the regional state committee, are prepared to lead.

We are hopeful that you will take our concerns to heart by deferring action on this matter until you have permitted the regional state committee to have the opportunity to propose a more effective, less costly approach.

Sincerely,

Governor DONALD L. CARCIERI,
Chairman, Rhode Island.
Governor JOHN LYNCH,
New Hampshire.
Governor M. JODI RELL,
Connecticut.
Governor JAMES H. DOUGLAS,
Vermont.
Governor JOHN E. BALDACCI,
Maine.

Ms. MIKULSKI. Mr. President, the United States needs an energy plan that balances traditional sources of energy with alternative energy sources and conservation. The energy conference report is not a perfect bill, but it is the result of true bipartisan compromise that managed to put some of the most harmful provisions on the cutting room floor.

On balance, I support this bill because it moves us towards a more stable, reliable electricity grid, protects our consumers, and includes much needed investments in renewable sources of energy.

I am especially pleased that this bill strengthens the reliability of our electricity grid and protects ratepayers from market abuses, particularly in the wake of Enron and the massive blackouts that struck parts of the Midwest and Northeast 2 years ago. I am also pleased that the bill reauthorizes the Low Income Home Energy Assistance Program, LIHEAP. This program protects our most vulnerable citizens by assisting them with their heating and cooling bills.

I am also pleased that the conference report does not contain many of the most harmful provisions that were included in this legislation in the past. The bill does not allow for drilling in the Arctic National Wildlife Refuge, ANWR. The bill also does not include provisions that would shield producers of gasoline additives from lawsuits. I strongly opposed these provisions in the past and am pleased they are not included in this bill.

Unfortunately, the bill does contain some questionable environmental provisions. I am also disappointed that the bill does not include important provisions I supported in the Senate bill, particularly the renewable portfolio standard, steps to deal with global warming, and requirements that would have lessened our dependence on foreign oil.

In the end, this is not the bill that the Democrats would have written. It doesn't address the most pressing issues facing our country today: sky-high gas prices, global warming, and our growing dependence on foreign oil. But the bill does take important steps to strengthen the reliability of our electricity grid, protect consumers from market abuses, and move us towards greater use of renewable sources of energy. This is just the beginning of a serious debate that will continue in the halls of Congress and in communities all across the country in the days to come.

Mr. LEVIN. Mr. President, I am supporting the conference report on the Energy bill. The conference report includes provisions that will increase the diversity of our Nation's fuel supply, encourage investment in infrastructure and alternative energy technologies, increase domestic energy production, take steps to improve the reliability of our electricity supply, and improve energy efficiency and conservation. This conference report is far from perfect but on balance it moves toward a sounder energy policy that will lead the way to greater energy security and efficiency for the United States.

Our policies have long ignored the problem of U.S. dependence on foreign oil, and we remain as vulnerable to oil supply disruptions today as we have been for decades. Taking the steps necessary to reduce our dependence on foreign oil is an important objective for this country. We need a long-term, comprehensive energy plan, and I have long supported initiatives that will increase our domestic energy supplies in a responsible manner and provide consumers with affordable and reliable energy.

There are some positive provisions included in the conference report in this regard, particularly those provisions that address energy efficiency and will lead us toward greater use of advanced vehicle technologies and alternative fuels such as ethanol and biodiesel. I have also long advocated Federal efforts that will lead to revolutionary breakthroughs in automotive technology that will in turn help us reduce our oil consumption. We need a level of leadership similar to the effort of a previous generation to put a man on the moon.

The conference report includes a wide-range of energy efficiency provisions that will make conservation and efficiency a central component of our Nation's energy strategy. These provisions address Federal, State, and local energy efficiency programs, provide funding for important programs such as home weatherization, and establish efficiency standards for a wide variety of consumer and commercial products. I am particularly pleased that the conference report authorizes both the weatherization program and the Low Income Home Energy Assistance Program, LIHEAP, at higher levels of funding than the Congress has provided in recent years.

The conference report takes critical steps to improve the reliability of our electrical grid and promote electricity transmission infrastructure development. Our economy depends upon electric power, and, in some cases, electric power literally saves lives. Failures in the electric system interrupt many crucial activities, and the need for improvement was underscored painfully by the August 2003 blackout. There were 2 key lessons from the blackout—the need for strong regional transmission organizations to ensure that reliability standards are carried out and enforced, and the need for additional transmission upgrades to maintain reliability. I regret that it has taken 2 years to legislate on these issues, but I am pleased that the conference report includes the steps necessary to ensure there will be mandatory and enforceable reliability standards.

The conference report also puts increased emphasis on diversity of supply and includes a range of provisions intended to encourage the use of new and cleaner technologies, particularly for power generation. Nearly 60 percent of electricity generation in Michigan is generated from coal, which will remain a vital resource well into the future. Programs authorizing research in clean coal-based gasification and combustion technologies will ensure that the most advanced technologies are developed for power generation. Other provisions of the conference report also encourage the use of innovative technologies for both power generation and other end-uses.

Increased emphasis on diversity of fuel supply will help to take the pressure off our tight natural gas supply, which is important for States such as Michigan with a large manufacturing base. Over the past 6 years, the tight natural gas supply and volatile domestic prices have had significant impacts on the U.S. manufacturing sector, which depends on natural gas as both a fuel source and a feedstock and raw material for everything from fertilizer to automobile components. As domestic production of natural gas has declined, demand for natural gas has increased dramatically, particularly in the area of power generation. Today, U.S. natural gas prices are the highest in the industrialized world, and many companies have been forced to move their manufacturing operations offshore. More than 2 million manufacturing jobs have been lost to overseas operations in the 5 years, in part no doubt because natural gas prices jumped from $2 per million Btu to more than $7 per million Btu.

I am pleased that the conference report includes significant provisions from the Senate bill for research, development, demonstration and commercialization effort in the area of hydrogen and fuel cells. I believe that this program will help us make critical strides toward realizing the goal of putting hydrogen fuel cell vehicles on the road over the next 10 to 15 years. The conference report also includes an amendment I offered in the Senate to have the National Academy of Sciences conduct a study and submit a budget roadmap to Congress on what level of effort and what types of actions will be required to transition to fuel cell vehicles and a hydrogen economy by 2020. If hydrogen is the right answer, we will need the equivalent of a moon shot to get there. We will need a significant Federal investment—well beyond anything we are doing today—in conjunction with private industry and academia to reach that goal. This study and roadmap will be an important step toward determining if that is the right path to follow.

We also need to put greater Federal resources into work on other breakthrough technologies such as advanced hybrid technologies, advanced batteries, advanced clean diesel, and hybrid diesel technology. Federal Government investment is essential not only in research and development but also as a mechanism to push the market toward greater use and acceptance of advanced technologies. Expanding the requirements for the Federal Government to purchase advanced technology vehicles will help provide a market for advanced technologies. Encouraging and supporting State and local efforts is also important in the effort to push these advanced technologies forward. Therefore, I am pleased the conference report includes the amendment offered by Senator VOINOVICH in the Senate to authorize $200 million annually for 5 years to fund Federal and State grant and loan programs that will help us to replace older diesel technology with newer, cleaner diesel technology. These initiatives will help the U.S. to develop advanced clean diesel technology, which can make a major contribution toward our meeting stricter emissions standards in a cost-effective manner.

Finally, the conference report also includes important tax incentives for advanced technology vehicles—including advanced clean diesel, as well as hybrid and fuel cell vehicles—that are critical to encourage consumers to make the investment in these technologies. I would have liked for the tax package to have included more generous tax credits for consumers and to have included an investment tax credit to manufacturers to help defray the cost of re-equipping or expanding existing facilities to produce advanced technology vehicles. The tax incentives included in the conference report are a modest first step. I will continue to

press for an investment tax credit for manufacturing of advanced technology vehicles because I believe it is necessary to offset the high capital costs of such an investment and to ensure that these vehicles will be made in the U.S.

I am pleased that the conference report includes an amendment that I offered in the Senate with Senator COLLINS to direct the U.S. Department of Energy to develop and use cost-effective procedures for filling the U.S. Strategic Petroleum Reserve. This provision requires DOE to consider the price of oil and other market factors when buying oil for the SPR and to take steps to minimize the program's cost to the taxpayer while maximizing our energy security. Since early 2002, DOE has been acquiring oil for the SPR without regard to the price or supply of oil. During this period the price of oil has been very high—often over $30 per barrel—and the oil markets have been tight. Many experts have stated that filling the SPR during the tight oil markets over the past several years increased oil prices. With this provision, the conference report directs DOE to use some common sense when buying oil for the SPR.

I am also pleased that the conference report provides at least a short-term approach to some air quality issues in West Michigan. Interstate pollution from upwind areas such as Chicago and Gary, has resulted in several Michigan counties being designated by the EPA as in nonattainment with the National Ambient Air Quality Standards. This interstate pollution not only has environmental and health ramifications, but also has economic development implications because nonattainment regions are required to comply with more stringent regulatory standards. The 2 year respite from these additional regulatory provisions for West Michigan counties whose air quality problems were caused by upwind sources will provide temporary regulatory relief. However, these counties are still burdened with air pollution they did not cause. I am hopeful that EPA's 2 year demonstration study of the long-range transport of ozone and ozone precursors required in the Energy bill will provide helpful information for addressing the source of the pollution and result in improved air quality for downwind areas. Until the source pollution is addressed, West Michigan will continue to be plagued by pollutants from upwind areas. I am hopeful that this study and 2 year delay in regulatory requirements will provide the motivation for addressing the broader problems of interstate air pollution.

I am pleased that the conference report contains a ban on future drilling in the Great Lakes. Millions of people rely on the Great Lakes for drinking water, and it is simply irresponsible to risk contamination of this source of drinking water, tourism and recreation. Preventing future drilling does not jeopardize more than a minute amount of our energy supply, and the bill does that for a very good cause, which is the protection of one of the world's truly great natural assets, the source of about 20 percent of the world's fresh water.

The conference report puts some increased emphasis on renewable energy technologies, such as wind, biomass, and solar power. These technologies are becoming more economical every year. In fact, in some areas of the country these technologies are competitive with traditional fuels such as coal and natural gas. However, I regret that the conference report deleted the Renewable Portfolio Standard, which I supported in the Senate bill that would have pushed the sellers of electricity to obtain 10 percent of their electric supply from renewable energy sources by the year 2020. I believe that these goals could have been met and that an increased use of renewable technologies will both reduce our dependence on foreign oil and lead to the creation of tens of thousands of new jobs.

I regret that the conference report does not include a comprehensive effort to adequately address the impact of global climate change. For years, almost all scientists have agreed that human actions are causing temperatures around the world to increase. Experts also agree that this global climate change will lead to environmental problems and economic hardship, but there has been no consensus in the United States about what we should do to stop climate change.

The threat is real and growing, and the longer we wait to reach a reasonable consensus, the more painful the solutions will be. I believe two major policy changes are needed at the Federal level: support for a new, binding international treaty that includes all countries, and a massive new Federal investment in research, development and commercialization of new technologies. Both of these steps would provide real environmental and economic benefits while being fair to American workers. The Senate considered several well-intentioned proposals on this issue, though I did not believe they would have taken us in a comprehensive direction. I supported a Sense of the Senate resolution that acknowledges the problem and calls on the administration to work with the Congress to enact a comprehensive national program to address this issue. I regret that the conference report did not include such a modest provision.

Finally, I am disappointed the provision allowing continued export of highly enriched uranium was included in the conference report. The amendment that Senator KYL and Senator SCHUMER offered to strike this provision from the Senate passed bill was adopted by the Senate by rollcall vote. It is unfortunate that this provision, which is a special interest provision, granting relief to one Canadian company was reinserted in the final agreement. This provision undermines longstanding U.S. efforts to eliminate highly enriched uranium in commerce, and increases the possibility that highly enriched uranium could be stolen by terrorists and used in a nuclear weapon or radiological device.

The energy bills considered by the Congress over the last couple of years have been doomed by a heavy-handed, partisan approach. We lost valuable time in putting us on the course toward a sounder energy policy. The conference committee pursued a different approach this year, and as a result, was able to produce a bill with bipartisan support, which, while far from perfect, on balance, is an improvement over current policy.

Mr. DURBIN. Mr. President, first, I would like to thank both the chairman and the ranking member of the Energy and Natural Resources Committee, Senators DOMENICI and BINGAMAN, for working together in a more open and bipartisan way in developing the bill we are considering today.

While there are many provisions that should be in this bill but aren't and many other provisions in here that I don't agree with, this bill could have been worse. There are numerous extraneous and environmentally harmful provisions that were in previous energy bills but are not included here. I appreciate both of my colleagues' efforts to avoid those pitfalls and produce the Energy bill we are now considering.

However, there remains one very large and glaring omission in this bill. While framed as a ''comprehensive national energy policy,'' this bill completely ignores the most important energy issues facing America, our growing dependence on foreign oil and the impact this dependence has on our economic security and national security.

I have no doubt that our Republican colleagues will go home and hold press conferences claiming victory. They will say that they finally broke through the obstructionism and passed an energy bill that will reduce America's dependence on foreign oil; a bill that will make America more secure.

I wish that were true—but it is not. This is not an energy policy for America in the 21st century. And that is very unfortunate.

The price of a barrel of oil is above $60 and rising, gas prices are again reaching record highs, yet this bill offers no solution. In all of the pages of text, there is no meaningful program or plan to reduce our dependence on foreign oil. There is no provision that increases fuel efficiency or promotes oil conservation. There is no provision to create a comprehensive, long-term program for the development of renewable, sustainable fuels.

This bill could have been a roadmap to a new energy future in America, but instead it leaves us stuck in our current energy mess.

Supporters of this bill will claim that it can reduce America's dependence on foreign oil by increasing domestic oil production. But I would point out a

well-known fact—the U.S. contains only 3 percent of the known global oil reserves in the entire world. No matter how much we drill here, we will never drill enough to meet our growing thirst for oil.

As long as we continue to consume as much oil as we do today, without addressing the hard issues such as fuel economy standards, we will become more, not less, reliant on foreign oil. With global demand for oil steadily increasing, this continued dependence on imported oil could have devastating economic consequences.

Today we import 58 percent of our oil. The Department of Energy's Energy Information Administration projects that the U.S. will import 68 percent of our oil by 2025—more than ⅔ of our oil consumption.

Former CIA Director James Woolsey, Robert McFarlane, former President Reagan's National Security Adviser, and other national security experts have created a group they call the Set America Free Coalition. According to them, ''It is imperative that the nation's energy policy address the national security and economic impacts of growing oil dependence.''

Imagine what would happen to the U.S. economy if there were a major disruption in oil supplies in a foreign producing country—perhaps in the Middle East. Can you imagine what could happen to our economy?

I can. Thirty years ago, war in the Middle East caused oil prices in the U.S. to increase by 70 percent. Overnight, the price of oil rose from $3 per barrel to $5.11 per barrel. Just a few months later, oil prices more than doubled again to $11.65 per barrel.

At the time of the 1970s oil embargo the U.S. imported less than a third of our oil. This embargo hit Americans hard, as many remember well. Back then, Congress recognized the economic impact of oil dependence and took steps to address oil consumption in America. Among other actions, Congress passed national fuel economy standards, raising passenger cars from an average 12.9 miles per gallon in 1973 to 27.5 miles per gallon by 1985.

Increasing fuel economy standards for cars is one of the most effective steps we can take to reduce oil dependence. Unfortunately, this Congress has rejected that goal.

Listen to this, from an article published in BusinessWeek about a month ago:

> As Congress puts the final touches on a massive new energy bill, lawmakers are about to blow it. That's because the bill almost certainly won't include one policy initiative that could seriously reduce America's dependence on foreign oil: A government-mandated increase in the average fuel economy of new cars, SUVs, light trucks and vans.

BusinessWeek was right, Congress did blow it.

Congress has blown it at a time when the National Academy of Sciences and many other energy and engineering experts tell us the technology is available today to reduce our need for oil by 3 million barrels per day by 2015.

Not only is there no new fuel economy standard, the energy conferees even rejected a modest provision that would have reduced oil consumption by 1 million barrels per day by 2015—just 4 percent of the petroleum it is projected we will use by 2015.

Incredibly, it is President Bush's stated policy to oppose any fuel savings measures.

Does this make any sense?

There is only one provision in this entire bill that may—may—reduce America's dangerous dependence on foreign oil: a renewable fuels provision that requires a doubling in ethanol production by 2012. This provision will reduce oil consumption by about 1 percent over the next 7 years.

But does this limited 1-percent reduction in imported oil over 7 years represent the best we can do for America's energy security? Economic security? National security?

Senate Democrats believe that Americans can do better than we are today.

We offered a plan to reduce America's dependence on imported oil by 40 percent by 2025. This goal was a realistic goal—with realistic changes in the way we use energy, advance the production and application of energy technology, and promote energy efficiency and conservation.

Nearly half of the Members of this body voted for our plan.

But big oil companies, car companies, and their allies in the White House and Congress rejected even setting a goal.

How is it that the same administration that talks about sending a man to Mars does not have enough faith in American genius and American know-how to believe that our scientists and engineers can determine how to increase the fuel efficiency of our automobile fleet safely?

Almost 3 months ago, I spoke to an auditorium of scientists at the Argonne National Energy lab—America's first national energy lab just outside of Chicago. The scientists there do not think that decreasing America's over-reliance on foreign oil is impossible. They think it is imperative.

Instead of shoveling billions of dollars at oil and energy companies, we ought to be investing in the work of those and other scientists. Yet, the Republican leadership, from the White House on down, is cutting public investments in scientific research and providing billions of dollars in tax incentives to big oil companies that have been recording record profits.

This bill takes much of the $11.5 billion in tax incentives that could have been used to develop renewable and alternative energy sources and instead gives it to big oil and energy companies.

For instance, there are generous royalty payment relief provisions for energy companies that drill on Federal lands. A better bill would have maintained royalty payments and used these funds to extend the production tax credit for wind generation beyond the 2 years written in this bill. Unfortunately the 2-year extension will continue the boom and bust cycle we've witnessed in the investment of wind generation.

The President himself says that oil and energy companies do not need tax cuts—but he will sign this bill anyway, even if they are included.

Think about that: the upcoming reconciliation bill will contain $10 billion in cuts in health care for the poor while this bill provides over $10 billion in tax breaks, mostly for big oil and energy companies.

Talk about a Congress out of touch with America.

And we will have to borrow the money to pay for those tax breaks and pay interest on that money too, so the true cost is even higher.

This is a failure in leadership.

From the day they took office, the Bush administration made passing a new national energy bill a top priority. The President put the Vice President in charge of getting the job done. We still don't know how much of this bill can be traced back to the Vice President's secret energy task force because the administration has gone to extraordinary lengths—all the way to the U.S. Supreme Court—to keep all of its records about the task force secret.

There are at least two things the big oil and energy companies wanted that are not in this bill.

For 5 years, MTBE manufacturers prevented the passage of an energy bill by demanding that they be shielded from liability for groundwater contamination caused by their product. Thankfully, the liability waiver is not in this bill—so Americans won't have all the cleanup costs shifted onto the taxpayers.

Oil companies also fought hard against increasing ethanol production—knowing that this renewable fuel would replace some of their products. The oil companies wanted only a token nod toward ethanol.

Thankfully, this bill contains a renewable fuel standard that increases the use of domestically produced renewable fuels to 7.5 billion gallons by 2012. This change will be good for America's economy, good for our energy security and good for Illinois farmers.

Illinois farmers grow corn that provides 40 percent of the total ethanol consumed in the U.S. annually. They stand ready and eager to meet the new challenges in this bill.

I believe the renewable fuels standard can lead to greater energy security for our Nation.

I will vote for this bill for one reason. After 4 years of fighting this battle, it is clear we are not going to get an energy plan for the 21st century as long as Texas oil men are in charge of the Federal Government. This is as good as we are going to get.

It has been 13 years since the last time America passed a national energy plan. I can guarantee you, it will not be another 13 years before this plan is abandoned and replaced with a more visionary and responsible plan.

We should have increased America's national and economic security by reducing our reliance on oil imported from Saudi Arabia and other politically volatile nations. We have the scientific ability to meet that challenge. Unfortunately, we lack the political leadership to do so.

The price we will pay for this failure of leadership in rising gas prices and increased risk to our national economy and national security will far exceed the cost of the wasteful tax breaks this bill gives to big oil.

This bill does not reduce gas prices at the pump, it does not reduce dependence on foreign oil, it does not address fuel efficiency and conservation, and it does not increase America's economic and national security. It is not an energy plan for the 21st century.

And it is definitely not the end of the energy debate—only the beginning.

Mr. HATCH. Mr. President, as the Senate is poised to pass the Energy Policy Act of 2005 and send it to the President, Utahns should sit up and take notice, because our State is at the heart of this legislation. So many of the problems in our energy structure have solutions that can be found in Utah, whether it is the need for more clean coal, more clean geothermal energy, more natural gas, better hydroelectric, more refining capacity, or more major sources of domestic oil, Utah will play a major part in the solution.

I want to talk more about some of these solutions, but first, let me take a moment to thank Chairman DOMENICI and Senator BINGAMAN of the Senate Committee on Energy and Natural Resources for leading us to this point. The Senate Finance Committee, on which I sit, has made a major contribution to the bill with its tax incentives title. Chairman GRASSLEY and Senator BAUCUS deserve just as much praise for their outstanding coordination and hard work on that important part of this bill.

As the ranking member of the Finance Committee and as a Conferee on this legislation, I was able to watch all 4 of these men work together under pressure, and I could not be more impressed with their leadership and the work their excellent staffs have provided to our nation at this critical time. Working together, they have given us what I consider to be one of the most important bills to be enacted in a long time.

I have, at times, been criticized for reaching across the aisle to accomplish important policy goals. Some believe that compromise signals weakness. Well I just plain disagree, and after 4 years of failing to pass a major Energy bill with a simple majority, I think the Senate has proven that we stand the strongest when we stand together. And our energy situation calls for this type of leadership and strength.

Over the last decade, American consumers have increased their demand for oil by 12 percent, but domestic oil production has grown by less than ½ of 1 percent. Is it any wonder that we rely on foreign countries for more than half our oil needs? We import 56 percent of our oil today, and it is projected to be 68 percent within 20 years.

On the larger scale, global demand for oil is growing at an unprecedented pace—about 2½ million barrels per day in 2004 alone. While global oil production is increasing, the discovery of new oil reserves is dropping off at an alarming rate. Moreover, trends indicate that the global thirst for petroleum will continue to grow, especially in Asia.

If our Nation must rely on oil imports to meet our future energy needs, we are headed for trouble, because, unless something changes, a sufficient oil supply will not be there. We should keep in mind that the transportation sector in the U.S. accounts for nearly ⅔ of all of our oil consumption, and that sector is 97 percent dependent on oil. It could not be more clear: if we want to improve our energy security, we must focus on our transportation sector, and we must focus on diversifying our transportation fuels.

Recently, we heard President Bush call on our Nation to ''develop new ways to power our automobiles,'' and he spoke of his proposal to provide $2.5 billion over 10 years in tax incentives for the purchase of hybrid technologies. The President also called for a better alternative fuel infrastructure and the need to develop hydrogen fuel cell vehicles.

As for these policies the President addressed, my legislation, S. 971, the Clean Efficient Automobiles Resulting from Advanced Car Technologies Act, or CLEAR ACT, is exactly where the rubber meets the road. The CLEAR ACT, now a part of this Energy bill, is the most comprehensive and effective plan put forward by Congress to accelerate the transformation of the automotive marketplace toward the widespread use of fuel cell vehicles. And it does so without any new Federal mandates. Rather, it offers powerful market incentives to promote the advances in technology, in our infrastructure, and in the alternative fuels that are necessary if fuel cells are to ever reach the mass market. With the CLEAR ACT we accomplish this goal, but in the meantime, we also get cleaner air, we reduce our dependency on foreign oil, and we help lead our Nation into the future.

Historically, consumers have faced three basic obstacles to accepting the use of alternative fuels and advanced technologies. These are the higher cost of the vehicles, the lack of an infrastructure of alternative fueling stations, and the higher cost of alternative fuels. The CLEAR ACT will lower all three of these market barriers through the use of tax incentives.

First, we provide a tax credit for the purchase of alternative fuels. Next we promote a new infrastructure of alternative fuel filling stations by extending an existing tax deduction for the purchase of the necessary equipment and providing a new tax credit for the cost of installing it.

Finally we provide a Clear Act Credit to consumers who purchase alternative fuel and advanced technology vehicles. This includes fuel cell, hybrid electric, alternative fuel, and battery electric vehicles.

All of the technologies promoted in the CLEAR ACT—whether they be battery or electric motor technologies or advances in fuel storage and alternative fuel infrastructure—lead us closer to the hydrogen fuel cell vehicle. I believe fuel cells are in our future. However, even if the widespread use of fuel cell vehicles never becomes a reality, advances in these other technologies provide a dramatic social benefit on their own.

I have heard from some who question the need for incentives for hybrid vehicles when they are popular in some areas. It may be true that demand for these vehicles is high in a few regions. However, these high-demand areas tend to have local or state incentives in place for the purchase of these vehicles. Where incentives are not in place, hybrid sales are minimal. This demonstrates that incentives can indeed provide a market breakthrough to consumer acceptance of alternative vehicles.

With the CLEAR ACT, we are trying to provide that breakthrough on a national scale. And the numbers show that a breakthrough is desperately needed. It may be true that hybrid sales have doubled in the last couple of years, but they still represent a minuscule 0.48 percent of cars that were sold in 2004. So I am very pleased, Mr. President, that the energy bill will lead us into the future in this regard.

We should also be using more clean alternatives when we generate another form of energy—electricity. I am very pleased that the Energy bill includes S. 1156, my legislation that extends and expands the production tax credit for electricity from renewable sources, including geothermal. This is particularly important to my home State of Utah, which has vast potential for the creation of electricity from geothermal sources, along with other renewable energy sources, such as wind and biomass.

While this production tax credit has been in the tax code for some time, it had an unfair feature that provided the tax credit for 10 years for electricity produced from wind, but only for 5 years for electricity produced from most of the other renewable resources. This inequity has skewed investment in these resources unfairly and in a way that has not led to the best use of these national assets.

I am happy to see that this provision has survived in conference. This should result in a better-balanced and higher output of electricity from all our renewable resources.

And, I have highlighted just two among many important provisions in this bill that will promote the greater use of alternative and renewable sources of energy.

We cannot escape the fact that our nation remains reliant on oil and gas, and we absolutely must increase our supply of these resources in a big way.

It is a little known fact that the largest hydrocarbon resource in the world rests within the borders of Utah, Colorado, and Wyoming. I know it may be hard to believe, but energy experts agree that there is more recoverable oil in these 3 states than there is in all the Middle East. In fact, the U.S. Department of Energy estimates that recoverable oil shale in the western United States exceeds 1 trillion barrels, but it is not counted among world reserves, because it is not yet commercially developed. If anyone is wondering what the significance is of that number, he or she should know that the world's oil reserves stand at just about 1.6 trillion barrels. That means we have almost as much unconventional oil in Utah, Colorado, and Wyoming as the rest of the world's conventional oil combined.

Companies have been waiting for the Federal government to recognize the potential of this resource and allow access to it. My legislation, S. 1111, the Oil Shale and Tar Sands Development Act, will do just that, and more.

Some have been understandably hesitant to develop this resource. During the 1970s, there was a very large and expensive effort in western Colorado to develop oil shale there. When the price of oil dropped dramatically, though, the market for oil shale went bust and the region suffered an economic disaster.

We need to remember that our past failure in this area was not necessarily a failure of technology, but was due to a dramatic slump in gas prices. We now have a different scenario. Today, the world is reaching peak oil production of conventional oil, and cheap oil prices are nowhere in sight.

We have already seen that a shift in focus to unconventional fuels such as tar sands produce mind-boggling results. Only a few years ago, Alberta, Canada recognized the potential of its own tar sands deposits and set forth a policy to promote their development. As a result, Canada has increased its oil reserves by more than a factor of 10, going from a reserve of about 14 billion barrels to its current reserve of more than 176 billion barrels in a very short period. And just think—we are sitting on a similar resource of oil shale and tar sands in the United States.

It is frustrating to learn that Utah imports about one-fourth of its oil from Canadian tar sands, even though we have our own very large resource of tar sands in our own state sitting undeveloped. I look forward to the day in the not-too-distant future, when Utah's oil shale and tar sands are developed to their potential. If it happens, and I believe that it will, Utah will become a world leader in oil production.

But even if we do solve the oil importation issue, we still have another problem. Our Nation is so lacking in refining capacity for crude, that we are forced to import 10 percent of our refined fuel. We could produce all the domestic oil in the world, but until we can refine it, we cannot use it.

It is clear that one of the reasons we currently have sharply higher gasoline prices is that we simply do not have enough refining capacity in this country. This is both a short-term and a longer-term concern for our economy and national security.

Regrettably, gasoline, diesel, jet fuel and home heating oil supplies are simply too tight in America today. There is not a lot that can be done in the very near term to address the higher cost of fuel that is attributable to refining bottlenecks. However, ensuring the long-term viability of the U.S. refining industry should be at the very heart of a smart national energy policy.

One of the major problems with our refining capacity is that industry profitability has been poor over the past several decades. This has contributed to the steady decline in the number of operating refineries in America from more than 300 in 1980 to less than 150 today. I am told the last major refinery to be built in America came on line in the 1970s.

Earlier this year, the National Petroleum Council reported that U.S. refining capacity growth was not keeping pace with demand growth, that poor historic returns in the refining sector was impeding further investment, and that major expenditures in new regulations were limiting the funds available for capacity expansions. This was bad news crying out for a solution.

Another problem mentioned in the report is that the 10-year depreciation schedule prescribed by the current tax law for refining assets is much longer than the write-off periods for similar process equipment in other manufacturing industries. Also, the tax code does not contain any incentives to encourage new investment in refining capacity, which is an endeavor that carries high costs and risks.

With these facts in mind, I introduced S. 1039, the Gas Price Reduction Through Increased Refinery Capacity Act of 2005. S. 1039 would adjust the depreciation period for assets used in refining from 10 years to 5 and would allow an immediate write-off of these assets if companies made an early and firm commitment to invest in new capacity within a relatively short time.

I thank Senator GRASSLEY for including the temporary refinery expensing provisions of S. 1039 in the Chairman's mark of the tax title to the Energy bill. This provision passed the Senate as part of the energy tax package. I am pleased the Conference Committee accepted this provision even though cost constraints forced us to limit the incentive to 50 percent expensing.

This is the first provision passed by Congress in the past half century that gives the U.S. refining industry a specific tax incentive designed to spur investment in increased refining capacity. The National Petrochemical & Refiners Association, which represents virtually all U.S. refineries, has indicated this measure will help stimulate facility expansions and output. It is the only provision in the entire Energy bill that encourages refining capacity growth and increased gasoline, diesel and jet fuel supply for consumers. This provision alone should make a significant difference in fuel supplies.

Utah is a major gas producer. But most of Utah's natural gas lies under our vast public lands. Utah has a large supply, but as you might guess, Federal red tape is the number one obstacle to supplying the country with the natural gas it demands.

One example is the natural gas found within Utah's tar sands. Historically, extracting natural gas from tar sands has required a dual application requiring both a permit for gas extraction and mineral extraction. I introduced a bill that amends the Mineral Leasing Act to allow a company only going after the gas to forgo the permitting for mineral extraction, while fully leaving in place every relevant environmental law and regulation. This legislation, S. 53, was included in the energy bill.

In another effort to create a lose-lose situation, the Department of the Interior recently published a rule that would tack on a new and expensive fee on new Applications for Permit to Drill (APDs) for natural gas development. As members of the Conference Committee, Senator CRAIG THOMAS and I joined forces to put an end to this fee for at least 10 years.

We do not need another hurdle to obtaining gas from our public lands. The Federal government receives about $1.6 billion every year in royalties from gas production on public lands. With every new well in Utah, gas companies pay a generous royalty to Federal and State governments. It is simple math—in the long run, Utah and the Nation loses money when wells are stopped because of fees. We also suffer from the resulting slow down in the supply of natural gas.

Finally, I was a proponent of an item in the Energy bill that reduces the depreciable lives of natural gas gathering and distribution lines. By being able to depreciate their equipment more quickly, companies are better able to invest in future production activity. This provision should help spur investment in more exploration and production of this clean and important fuel.

As I mentioned at the beginning of my remarks, the Energy Policy Act will have a very large impact on Utah,

not only in positive economic growth and jobs, but also in the benefits of cheaper and cleaner energy costs for families and businesses. Again, I thank the leaders in the Senate who have brought us to this point, along with their counterparts in the House of Representatives. I think we have proven today, that Congress can respond to the needs of the nation and our citizens when we work together with that goal in mind.

Mr. BYRD. Mr. President, 13 years have passed between the time Congress passed national energy legislation and the conference report we are taking up today. This conference report is not perfect, and it does not go as far as I would have hoped in terms of moving the U.S. down a different energy path. It does, however, include a number of positive elements, including several relating to coal and clean coal technologies that I have supported for a number of years. But, if we wait another 13 years and continue to ignore the looming energy threats that remain unaddressed, we may find ourselves woefully behind the rest of the world.

If the U.S. is to remain competitive and keep pace with our growing energy demands, then we must take stock, as a Nation, of our energy security and make it a top national priority. We cannot achieve energy independence with continued incremental, piecemeal efforts. It is time to devote new innovation and ingenuity to energy policy and blaze a path forward. We need to be free of the chains of foreign oil. To do that, we must invest in the energy resources that we have here at home. Coal is at the heart of that effort.

By encouraging the cleaner, more efficient use of coal in powerplants and other facilities, we help to ensure jobs in West Virginia's coal communities for many years to come. At the same time, we must find more ways to utilize coal as an energy source in the 21st century. West Virginians know that, for the United States to be free of our heavy reliance on Middle Eastern oil, we must make investments in coal, biomass, and other domestic, power-producing resources. We must be prepared to make the hard decisions to make energy security a national priority, not a mere afterthought.

For many years, the Middle East has been a hotbed of tumult and strife. An underlying reason for our continued presence in this region is the protection of our oil lifeline. Unfortunately, even if the Congress passes this energy legislation, it will do little, if anything, to reduce our dependence on foreign energy. In fact, we will continue to become more dependent by the day. Instead of disentangling ourselves from this foreign oil dependency, we will be sinking our military and energy fortunes deeper and deeper into the sands of the Middle East.

West Virginians and Americans everywhere should understand that there are some very good features of this conference report, but they should not be fooled. Our citizens will see little change in terms of gas prices or natural gas prices. There will likely be few changes in our production or use of energy. I fear the U.S. will continue to ride down the same rocky road for years to come.

Regrettably, House Republicans also objected to including in the Energy conference report my commuter tax benefit to help rural workers who are paying exorbitant prices at the fuel pump. Big Oil, which is reaping huge windfalls from fuel prices this year, is denying modest relief to working Americans. This is but one of the many examples of how this bill sidesteps the difficult decisions that ultimately must be made to address energy costs, to reduce our reliance on foreign energy, to substantially improve our domestic energy supply and energy efficiency needs, and to deal with global climate change. We are doing little, if anything, to address seriously these critical challenges.

I am delighted to support the inclusion of certain targeted tax incentives that will help promote the next generation of clean coal technologies. I have been working on these issues for more than 6 years and am delighted that the Congress has recognized their value. This would include, for the first time, $1.3 billion to help fund the deployment of the ''next generation'' of powerplants, including integrated gasification combined cycle and advanced combustion-based powerplants. There is also $350 million for a new program to accelerate the use of coal and other domestic resources at industrial gasification facilities. I note that several important coal research, development, and demonstration programs, especially the clean coal technology demonstration program, have been reauthorized and improved upon in this conference report.

This legislation makes many promises to the country on energy policy. It makes promises to the men and women who pull the coal from the ground and to those who are finding ways to use that coal more cleanly and more efficiently. To make good on those promises, the administration must be willing to put financial support behind these initiatives. Will this administration do that? Is the President going to request the funding required in his budget to make the clean coal and other important energy programs a reality? In the end, the President will likely have a Rose Garden ceremony and press releases touting its accomplishments. But, given this administration's track record, is this energy bill simply a soapbox to stand on?

The final legislation before us is only a way station on a long journey and more work remains ahead. This bill is not the whole answer. It is a start, and I am committed to continuing to work toward that goal. I want to thank Senators DOMENICI and BINGAMAN for their continued diligence and hard work in this endeavor. I applaud their efforts to ensure that the consideration of this legislation was open and bipartisan from start to finish. I will vote to support H.R. 6, the Energy Policy Act of 2005.

TAX INCENTIVES FOR COMMERCIAL BUILDINGS

Ms. SNOWE. Mr. President, I want to thank you for your dedicated work in defending the Senate-passed Energy bill language in conference, particularly concerning the energy efficiency tax incentives. For the first time, there will be energy efficiency tax incentives for commercial buildings for each of the three energy-using systems of the building—the envelope, the heating, cooling and water heating system, and lighting. Each is eligible for one-third of the $1.80 per square foot tax incentive if it meets its share of the whole-building savings goal. This will apply to buildings that cut energy use by 50 percent, an ambitious but very important target as buildings account for 35 percent of our Nation's energy usage, and commercial buildings are a large part of that percentage.

My concern is that, because the eligibility period was cut back from the end of 2010 to just 2 years, this shorter window of effectiveness could undercut the program, since the time it takes to design and construct these large buildings and skyscrapers could take longer than the 2 years of eligibility. This is especially a concern as the incentives for commercial buildings is one of the fastest ways in the entire Energy bill that we can cut down the Nation's energy usage in the short term.

Mr. GRASSLEY. We are committed to this as the correct policy for large scale commercial projects. In addition, we are committed to seeing energy-efficient skyscrapers in the sky and recognize that these types of projects take years to design and build. We will continue to work with you to make this a long-term policy of the Tax Code.

Ms. SNOWE. Again, your assistance is greatly appreciated and I look forward to working with you on this matter in the Finance Committee in the coming months.

CLARIFICATIONS RELATING TO THE SECTION 29(C)(1)(C)

Mr. SANTORUM. Mr. President, I wish to confinn that certain language in the Conference Report to the Energy bill, with respect to the Internal Revenue Service stopping the issuance of private letter rulings and other taxpayer-specific guidance regarding the section 29 credit, actually refers to a solid fuel produced from coal and ''coal waste sludge,'' a waste product composed of tar decanter sludge and other byproducts of the coking process. This fuel is commonly referred to as ''steel industry fuel'' because it is a superior feedstock for the production of coke that is used by the domestic steel industry. Steel industry fuel provides significant energy benefits by recapturing the energy content of the coal waste sludge and significant environmental benefits because the Environmental Protection Agency classifies

coal waste sludge as a hazardous waste unless it is processed with coal into a solid fuel product. The conference report expresses the conferees' understanding and belief that the Internal Revenue Service should consider issuing such rulings and guidance on an expedited basis to those taxpayers who had pending ruling requests at the time the moratorium was implemented. I would like to confirm the understanding and belief of the conferees that this language in the conference report actually refers to steel industry fuel and the requests for private letter rulings that the producers of steel industry fuel submitted in Fall 2000.

Mr. GRASSLEY. Mr. President, Yes, the distinguished Senator is correct. The conferees understand that there are requests for private letter rulings with respect to the process the Senator from Pennsylvania has described. Moreover, these requests were submitted in Fall 2000. The conferees expect that the Internal Revenue Service would consider issuing these rulings immediately, with due diligence, and without delay.

Mr. SANTORUM. I would also like to ask the distinguished Chairman of the Committee on Finance to confirm that steel industry fuel is a ''qualified fuel'' that is eligible for the section 29 nonconventional fuel tax credit through 2007 when one, the production facility was placed in service after 1992 and before July 1, 1998, pursuant to a binding written contract—including a supply or service contract for the processing of coal waste sludge—and, two, the steel industry fuel is sold to an unrelated party.

Mr. GRASSLEY. The Senator from Pennsylvania raises an important and time-sensitive question. When we considered the section 29 changes, the conferees were aware of the process described by the Senator. As the senior conferee for the Committee on Finance, I urge the Internal Revenue Service to consider that process as a qualified fuel that is eligible for the section 29 credit under such circumstances.

Mr. SANTORIUM. I thank the distinguished chairman for these clarifications.

CLARIFYING SECTION 703 OF THE ENERGY POLICY ACT

Mr. DORGAN. Mr. Chairman, can I ask you to clarify something regarding Section 703? It is my understanding that by creating an alternative compliance mechanism that essentially we are creating a system that will allow more technologies to receive credit under the EPAct program without specifically naming them.

Mr. DOMENICI. That is correct.

Mr. DORGAN. So, for instance, neighborhood electric vehicles or low speed electric vehicles would now qualify under this program even though they are not specifically named?

Mr. DOMENICI. That is correct.

Mr. DORGAN. I thank the chairman and yield the floor.

FOREIGN UTILITY—SECTION 203

Mr. BINGAMAN. Mr. President, I would like to engage the chairman of the Energy and Natural Resources Committee—Senator DOMENICI—in a colloquy.

Mr. DOMENICI. Certainly.

Mr. BINGAMAN. Mr. President, it has come to my attention that section 1289 of the Domenici Energy Policy Act of 2005 could be interpreted as requiring FERC approval of certain foreign transactions wholly outside of the United States.

I am a strong supporter of section 1289 because I believe it is vital, especially since we are repealing the Public Utility Holding Company Act, that FERC be given the authority it needs to protect U.S. consumers. In my opinion, section 1289 gives FERC the appropriate authority to ensure that utility mergers and acquisitions do not adversely impact consumers. I also think it is appropriate for FERC to be able to ensure that retail customers in the United States do not subsidize foreign acquisitions.

However, Section 1289 could also be interpreted as requiring FERC approval of a holding company's acquisition of a foreign utility where the holding company has no retail customers in this country. A company that has a subsidiary that simply owns generation assets in the United States for wholesale electric sales is also defined as a holding company. As a result, that holding company's acquisition of an electric utility company operating entirely overseas could be interpreted as being subject to FERC's purview as a result of section 1289 of the bill we are considering today.

Subjecting foreign utility acquisitions by holding companies without any U.S. retail customers to FERC oversight could potentially have a chilling effect on investment here in the United States. At a time that we are trying to encourage investment in U.S. generation, we may be dissuading investments coming into the United States if a foreign-based holding company believes its next transaction in Great Britain is going to be subject to a FERC merger review proceeding. Moreover, the ''public interest'' test present in section 203 of the Federal Power Act does not readily fit the situation present with respect to foreign transactions.

I note that section 1289 does give FERC the authority to, by rulemaking, identify types of transactions that will receive expedited Commission review. I certainly believe that the acquisition of a foreign utility company by a holding company with no retail customers in the United States should fall in that category. Other categories of foreign transactions that could possibly be interpreted as being covered by section 1289 also may fall into this category.

Mr. DOMENICI. Mr. President, I agree with my colleague—Senator BINGAMAN—that FERC, if it determines that certain foreign transactions are covered by the language of section 1289, should provide expedited review and approval to the acquisition of a foreign utility by a holding company that has no retail customers in the United States and other transactions that raise no significant U.S. consumer issues. These types of transactions don't require FERC's scrutiny in order to ensure that American consumers are adequately protected.

Mr. BINGAMAN. I thank my colleague.

Mr. BAUCUS. Mr. President, for 4 years, Congress has failed to enact a comprehensive Energy bill. Today, however, I am confident we can change that record.

The conference committee has assembled a well-balanced package. It is right for America. We should send it to the President's desk.

The House and the Senate gave the conferees a difficult task. The House and Senate Energy bills took two very different approaches to tax policy. The two bills had very little in common. Thus, we could not include everything in both bills without busting our budget.

Most of the provisions in the House bill promoted investment in traditional energy infrastructure. It favored pipelines, electricity lines, and oil and gas production.

In contrast, the Senate bill—which I helped develop with my good friend Senator GRASSLEY—advanced new technologies. It encouraged conservation efforts, improved energy efficiency, and expanded use of alternative fuels.

Conference negotiations were hard fought. We made some tough decisions.

But overall, the process was very positive. We kept within our budget, and we worked with a spirit of compromise and cooperation.

The energy tax incentives that the conference has recommended take an evenhanded approach to an array of promising technologies.

For example, the bill provides a uniform period for claiming production tax credits under section 45 of the Tax Code. This encourages production of electricity from all sources of renewable energy.

The bill recognizes the value of coal and other traditional energy sources to our economy. It provides investment tax credits for clean-burning coal facilities and projects. It provides substantial tax incentives to facilitate much needed expansion of refinery capacity. And it promotes expansion of American energy delivery systems.

The bill recognizes the need for a diverse energy portfolio, it fosters energy production from wind or coal in Montana to geothermal sources in California, and it will help create jobs by promoting domestic energy production.

The bill also rewards energy conservation and efficiency. It includes incentives for energy-efficient homes, alternative fuel vehicles, and development of fuel cell technology. These incentives are environmentally responsible they reduce pollution, and they help improve people's health.

These energy tax incentives are good for America. They will promote the delivery of reliable, affordable energy to consumers. They will help to create jobs through domestic energy production, and they make meaningful progress toward energy independence.

I am proud of the bipartisan effort that produced the conference agreement. I encourage my colleagues to support this important legislation.

Mr. CONRAD. Mr. President, I rise today to support the Energy bill conference report.

For many years, I have supported passage of a comprehensive national energy policy. Such a policy is necessary to reduce our increasing dependence on foreign energy sources. A comprehensive energy policy will help lower energy prices in the long run. Furthermore, any far-reaching bill will move us toward newer technologies that will keep our economy growing strong while making us more energy independent.

Although not perfect, this energy bill moves us in the right direction. It will expand our electricity transmission system and make it more reliable. The bill contains incentives for renewable energy, including the renewable energy production tax credit that I helped include. It will also spur an increase in the production and use of domestic biofuels such as ethanol and biodiesel. Because of this bill, our coal-burning plants will improve their efficiency and emit less pollution. Finally, the bill provides needed incentives to increase natural gas infrastructure, measures that will lead to lower prices for natural gas consumers in the long run.

Equally important, this bill benefits North Dakota for a number of reasons. The transmission incentives will enable my State's power producers to export electricity to distant markets. In this way, transmission incentives benefit the lignite and wind energy sectors in my State. The clean coal production incentives will make it easier to build advanced clean coal powerplants. The inclusion of the wind energy production tax credit will help North Dakota realize its potential to be the biggest producer of wind energy in the country. The Renewable Fuels Standard and tax incentives for ethanol and biodiesel will aid my State's farm economy, create more jobs, and reduce our dependence on foreign oil. In addition, the bill will assist my State in developing exciting new technologies, such as coal-to-liquid fuel plants.

I believe we still have a lot of work to do in order to make our Nation less dependent on foreign energy. However, this bill takes positive steps to address our energy needs. As I just mentioned, this bill will provide significant benefits to my State.

For these reasons, I support the conference report.

Mr. CORZINE. Mr. President, I thank Senator SHELBY and Senator SARBANES for their hard work on H.R. 3, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (SAFETEA). I know how much time, effort and energy went into completing that bill and I commend the chairman and ranking member. I especially appreciate their willingness to work with me to get language included in the bill in support of a full funding grant agreement for the New Jersey Trans-Hudson Midtown Corridor.

The New Jersey Trans-Hudson Midtown Corridor project entails construction of a 5-mile commuter rail extension from Secaucus, NJ to a new station in midtown Manhattan. The centerpiece of the project is a new trans-Hudson rail tunnel. This project will benefit transit riders from the New York and New Jersey region and will relieve congestion on the existing tunnels for intercity rail riders of the Northeast corridor, the Nation's busiest passenger railroad. A recent economic impact analysis indicates that the entire project will create 44,000 new jobs and increase gross regional product by $10 billion. The project's estimated cost is approximately $5 billion.

The Federal contribution would be matched by comparable local contributions from the State of New Jersey and the Port Authority of New York and New Jersey. New York's Governor Pataki, who along with New Jersey's Governor Codey controls the Port Authority governance, recently declared his support of this project—bolstering prospects for future funding from the Port Authority for local share. In addition, the State of New Jersey will soon be reauthorizing its transportation trust fund, which will provide New Jersey with the funding capacity for its own contribution to the project.

Currently, the project is undergoing environmental review, which should be completed in 2006. It is expected that preliminary engineering will start in fall 2005 and construction will begin in 2007.

The language in the SAFETEA bill will be a significant boost to this project. I would like to take a moment to clarify the intent of a couple of points in that provision in the bill. First of all, it is the intent of the language to include the funding expended for the New Jersey Transit river line and the bi-level railroad cars New Jersey Transit purchased for its lines as part of the non-Federal contribution for the New Jersey Trans-Hudson Midtown Corridor project.

Second, the language says that the Secretary of Transportation must give ''strong consideration'' to the Trans-Hudson Midtown Corridor project when it comes time to awarding a full funding grant agreement, since it will be a crucial link for the Northeast corridor and benefit the region's mobility, security, economy and environment. The term ''strong consideration'' indicates that the New Jersey Trans-Hudson Midtown Corridor project is a high priority for the Secretary and encourages the Secretary to award a full funding grant agreement provided it meets the FTA's New Starts criteria. I appreciate the opportunity to clarify these important points, and I look forward to further progress on the tunnel project.

Mr. MCCAIN. Mr. President, I am afraid that the heralded passage of this energy bill against years of failure by the Congress to legislate a comprehensive energy policy has created a false sense of accomplishment in Washington today. As my colleagues are well aware, oil prices are hovering near the infamous $60 per barrel mark; the greenhouse effect is beginning to have a substantial measurable impact on the global climate; and American families are being gouged at the pump while their tax dollars are carelessly spent on Federal subsides for big oil and gas companies. As leaders, we cannot claim that we have successfully addressed these real-life challenges by enacting this latest incarnation of special interest influence in policymaking.

I do want to acknowledge the work of the Senate conferees for keeping out a few of the most objectionable provisions that prevented passage of the bill during the last Congress, particularly the MTBE liability waiver and the proposed drilling in ANWR. They took the right action in preventing the inclusion of those provisions. Unfortunately, after all the time and effort spent on this issue during the past several years, when it comes to solving America's pressing energy problems, this bill simply does not go far enough. It will not reduce our dependence on foreign oil, it won't assure the growing threat of global warming is addressed in a meaningful way, and it wont effectively reduce the price of gasoline at the pump.

The estimated cost of this energy bill has ballooned far beyond the original $6.7 billion in the President's proposal. The conference agreement provides an estimated $14.5 billion in corporate subsidies and tax credits. And the tax package provides more than twice as many incentives to the oil, gas, coal and nuclear industries as it does to energy efficiency and renewable energy—a significant change from the Senate-passed bill.

Indeed, big oil, coal and gas companies seem to be disproportionally favored under this bill as most of the tax breaks going to traditional industries. Only about 36 percent of the estimated tax package would go to renewable energy and cleaner burning vehicles. Even then, some of the programs to promote renewable energy and alternative fuels are questionable. A loan guarantee program that would cover up to 80 percent of the cost of developing new energy technologies was scored at $3.75 billion for the first 5 years. These

loans carry a 20- to 60-percent risk of default according to the CBO, and after the 5 years there are no limits on the amount of loans that can be guaranteed, thus leaving the taxpayer to cover the losses when such endeavors fail. Perhaps more alarming, the estimated costs of the bill are estimates at best, and don't take into account some of the hidden costs associated with program authorizations and future tax credit extensions.

And then there is the ambiguous realm of alternative fuels for vehicles. Rather than addressing the gas mileage interests of consumers, this energy conference report would boost ethanol production by requiring 7.5 billion gallons of the corn-derived fuel be added to the domestic gasoline supply by 2012. This is double the current ethanol mandate and while it will be a boon for the ethanol producers, it will have a negligible effect on oil imports. While I fully recognize and support efforts to promote clean energy sources, the costs also need to be weighed against any presumed benefits. And at this juncture, the beneficiaries are still the producers, not the consumers and not the environment.

Let me mention some of the more ''interesting'' provisions in the conference report:

Section 134. Energy Efficiency Public Information Initiative. Authorizes a total of $400 million, $90 million for Fiscal Years 2006 through 2010, for the Secretary of Energy to carry out a national consumer information program to encourage energy efficiency through disseminating information to the American public addressing, among other things, the importance of proper tire maintenance. I am fully aware that it is important to rotate your tires, and to take other actions to preserve energy, but do we really need to spend almost half a billion on such a campaign?

Section 138. Intermittent Escalator Study. Requires the GSA to study the advantages and disadvantages of employing intermittent escalators in the United States. I can't imagine many of my colleagues would support removing ''Senators Only'' features in the Capitol Complex and be content to wait for an elevator to intermittently show up, but maybe the rest of the American public is more patient.

Section 207. Installation of Photovoltaic System. Authorizes $20 million for the GSA to install a photovoltaic system, as set forth in the Sun Wall Design Project, for the Department of Energy headquarters building. Of all the sunny places in this country where solar power is viable, the Energy Department Building in DC would not be the first place that comes to mind.

Section 208. Sugar Cane Ethanol Program. Establishes a new $36 million program under EPA that is limited to sugar producers in the States of Florida, Louisiana, Texans and Hawaii for 3 years.

Section 224. Royalties and Near-Term Production Incentives. Under this section, all monies received by the U.S. on all lands except for the State of Alaska, from sales, bonuses, rentals and royalties on leased Federal lands or geothermal resources shall be paid into the Treasury of the U.S. and a percentage of such funding is then partially redistributed to the State within the boundaries of which the revenues were generated. But in the case of Alaska, seems that they will get to keep all of the monies generated.

Section 237. Intermountain West Geothermal Consortium. Establishes an Intermountain West Geothermal Consortium that focuses on building collaborative efforts among universities in the State of Idaho, other regional universities, State agencies and the Idaho National Laboratory, must be hosted and managed by Boise State University, and have a directed appointed by the Boise State University. Why do we need a federal law to promote collaboration at Boise State?

Section 244. Alaska State Jurisdiction Over Small Hydroelectric Projects. Amends the Federal Power Act with respect to certain authorities for the State of Alaska, allowing the State to completely ignore any recommendations received from the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and State fish and wildlife agencies concerning conditions for the protection, mitigation, and enhancement of fish and wildlife in constructing small hydroelectric projects.

Section 245. Flint Creek Hydroelectric Project, located in Granite and Deer Lodge Counties, Montana. The bill basically extends the project's permit for an additional 3 years. And, notwithstanding other laws and regulations regarding payment to the U.S. for the use of Federal lands, such payments surrounding this project would be specified in the bill. I can only assume this payment is less than what would otherwise be required.

Section 354. Enhanced Oil and Natural Gas Production Through Carbon Dioxide Injection. Establishes a $3 million demonstration program solely for 10 projects in the Willistin Basin in North Dakota and Montana and 1 project in the Cook Inlet Basin in Alaska.

Section 356. Denali Commission. Authorizes $55 million annually for fiscal years 2006–2015 for a seven-member commission created in 1998 comprised entirely of Alaska interests to support Alaska interests. This funding would be used to carry out energy programs.

Section 365. Pilot Project to Improve Federal Permit Coordination. Establishes a pilot that only the States of Wyoming, Montana, Colorado, Utah, and New Mexico can participate in.

Section 412. Loan to Place Alaska Clean Coal Technology Facility in Service. This section authorizes a direct Federal loan for up to $80 million for a plant near Healy, Alaska. One of the few protections under this section for the American taxpayer is extremely lax. It states that prior to providing the loan, the Secretary determine that ''there is a reasonable prospect that the borrower will repay the principal and interest on the loan.'' That sure doesn't sound like the type of stringent criteria and risk assessment that would be weighed by many lending institutions that I am aware of. And why does this particular facility merit a Federal loan over other clean energy technologies?

Section 416. Electron Scrubbing Demonstration. Directs the Secretary to use $5 million to initiate, through the Chicago operations office, a project to demonstrate the viability of high-energy electron scrubbing technology on commercial-scale electrical generation using high-sulfur coal.

Section 628. Decommissioning Pilot Program. This section authorizes $16 million for a pilot program to commission and decontaminate the sodium cooled fast breeder experimental test site reactor located in northwest Arkansas.

Section 755. Conserve by Bicycling Program. Provides $6.2 million to establish a pilot program to be known as the ''Conserve by Bicycling Program'' and study the feasibility of converting motor vehicle trips to bicycle trips, including whether such factors make bicycle riding feasible: weather, land use and traffic patterns, the carrying capacity of bicycles and bicycle infrastructure. I find it difficult to support spending $6.2 million to encourage Americans to ride bicycles when we are running a deficit of $368 billion this year and a 10-year projected deficit of $1.35 trillion, according to the Congressional Budget Office.

Section 756. Reduction of Engine Idling. Authorizes $139.5 million to study the environmental impact of engine idling from heavy-duty vehicles and locomotives at truck stops, ports of entry, rest areas and private terminals. Is there any doubt that engine idling may be contributing to air quality problems? Do we need to expend almost $140 million on such a study? It might be cheaper to pay the truckers and engineers to shut off their engines.

Section 955. Department of Energy Civilian Nuclear Infrastructure and Facilities. Requires the Secretary to develop a comprehensive plan for facilities at the Idaho National Laboratory to avoid duplicative efforts at other national laboratories and establish or consider plans to establish or convert various areas into user facilities.

Section 980. Spallation Neutron Source. Requires the Secretary develop an operational plan for the Oak Ridge National Laboratory in Oak Ridge, TN, to ensure the facility is employed to its full capability. It further authorizes the Spallation Neutron Source Project at Oak Ridge at $1,411,700,000 for total project costs.

Section 997. Arctic Engineering Research Center. It directs the Secretary of Transportation to provide annual grants, worth $18 million total, to ''a

university research center to be headquartered in Fairbanks''—that must be the University of Alaska-Fairbanks according to its Web site—to establish and operate a university research center to research improved performance of roads, bridges, residential, commercial, and industrial structures in the Arctic region.

Section 1511. Renewable Fuel. The section authorizes a total of $12 milliom—$4 million for 3 years—for a resource center to further develop bioconversion technology at the Center for Biomass-Based Energy at the Mississippi State University and the Oklahoma State University.

Section 1811. Coal Bed Methane Study. Directs the DOE and EPA to collaborate with the NAS on a study on the effect of coalbed natural gas production on surface and ground water aquifers in Montana, Wyoming, Colorado, New Mexico, North Dakota, and Utah.

Now that we know a little about some of the provisions contained in the conference agreement, let's talk about one very important issue that is not addressed—an issue of worldwide significance: global warming.

Earlier this month, the leaders of the G8 nations met and issued an agreement with respect to climate change. The agreement among the G8 nation states that: ''We will act with resolve and urgency now to meet our shared and multiple objectives of reducing greenhouse gas emissions [.]''

This agreement followed the joint statement that was issued in June in which the U.S. National Academy of Sciences and national academies from other G8 countries, along with those of Brazil, China, and India, which concluded that: ''The scientific understanding of climate change is now sufficiently clear to justify nations taking prompt action. It is vital that all nations identify cost-effective steps that they can take now, to contribute to substantial and long-term reduction in net global greenhouse gas emissions.''

It is very disappointing that the climate change provisions in the conference report fail to address the necessary commitment for taking urgent actions and making substantial reductions in greenhouse gas emissions.

The conference report requires the Department of Energy to develop greenhouse gas intensity technologies and strategies. Such requirements are a waste of time and effort as we already know that using the greenhouse gas intensity does not work. How do we know it doesn't work? We know because the Department of Energy has shown us and because climate change science tells us that the climate system does not respond to greenhouse gas intensity, but rather to greenhouse gas concentration levels in the atmosphere.

Recently, the Energy Information Administration at the Department of Energy released a statement indicating that preliminary data for the year 2004 revealed that energy-related carbon emission intensity fell by 2.6 percent, while energy-related carbon dioxide emissions grew by 1.7 percent. This is an early reality check for those who argue that we can control greenhouse gas emissions by only controlling carbon emission intensity.

Again this clearly shows how our efforts to address climate change are misfocused and without substance. If we continue down this path, the $5 billion per year that we are currently investing in the climate change science and technology programs will not provide the return on investments that the American people deserve.

Furthermore, if you look at any credible scientific report on climate change, it speaks of the impact of greenhouse gases on the climate system, not the impact of greenhouse gas intensity. In all the hearings that we have held in the Commerce, Science, and Transportation Committee over the past few years, I don't recall a single scientist indicating that if we control our greenhouse gas intensity, then we can mitigate the impacts of climate change.

If we are to address climate change consistent with the sense-of-the-Senate resolution passed by this body just over a month ago, then we must pursue solutions that will truly have an impact on the climate system, not those that are no more than ''smoke and mirrors.'' Of course, the conferees failed to agree to even include the modest resolution in the final conference agreement.

If it weren't for the pressing need to show the American public that we are acting in at least some way to address our Nation's energy problems—action that every person is reminded of every time they pay yet a higher price at the pump—I doubt many of my colleagues would be so rushed to pass this bill. Quite frankly, it seems as though the Congress is grasping at straws to address our energy quandary, unwilling or unable to use the foresight necessary to plan for a future America that is less reliant on foreign oil, cleaner under renewable energy generation, or leading in cutting-edge energy efficiency technology. And in our failure, the American people will be disappointed.

Ms. COLLINS. Mr. President, I rise today in support of the Energy bill conference agreement. The final version of this legislation is imperfect, but it takes important steps forward in addressing some of this Nation's energy problems. This bill will strengthen electric reliability, further develop our renewable energy resources, and improve energy efficiency.

I would like to begin by thanking Chairman DOMENICI and ranking member BINGAMAN for their long and arduous work on this subject. We have now been working on comprehensive energy legislation for nearly 5 years, under three different Congresses and three different Energy Committee chairmen. I know it has been a very difficult path. I express my sincere appreciation to Chairman DOMENICI for his dedication, leadership, and willingness to accommodate a great diversity of views on the subject of energy policy.

I am very pleased that the Energy bill provides nearly $3 billion for wind, biomass, and other renewable energy sources. This credit could help a major wind energy development project move forward in Aroostook County and will help Maine's forest products industry by providing an important revenue stream for waste forest products. Developing Maine's wind and biomass resources creates jobs in rural areas, provides additional revenue to farmers and struggling industries, reduces greenhouse gas emissions, and helps diversify our energy supply. While I am disappointed that the bill does not contain the provision which I authored, along with Senator BINGAMAN, to require that 10 percent of our electricity come from renewable energy sources by the year 2020, the bill nevertheless makes important strides forward in developing our renewable energy resources.

This bill will also help improve our electricity reliability by creating new standards for the national electric transmission grid and creating incentives to spur the creation of a stronger and more robust grid. This bill also provides for improved market transparency, the first ever broad prohibition on market manipulation and filing false information, and new consumer protections for utility customers.

I am also pleased by a number of provisions included in the bill to help spur greater energy efficiency. Consumers will be able to take advantage of tax credits for hybrid cars, solar water heaters, and energy efficient improvements to existing homes. Additional tax credits will spur energy-efficient appliances and alternative fueled vehicles, which will not only reduce smog and greenhouse gas emissions but also reduce oil imports. In addition, a number of new Federal programs and 15 new product standards will reduce natural gas use in 2020 by 1.1 trillion cubic feet, and reduce peak electric demand by an amount equivalent to that produced by 85 power plants. All of these programs will not only help protect the environment, but also help consumers save money on their energy bills.

Several other provisions bear mentioning. I am pleased that the final legislation retains the amendment which Senator LEVIN and I offered regarding the Strategic Petroleum Reserve. This amendment requires the Department of Energy to develop procedures for using the Strategic Petroleum Reserve in such a way as to reduce the impact on taxpayers and energy consumers, while maximizing oil supplies and improving U.S. energy security. This amendment will help mitigate the impact of the Department of Energy's misguided policies on the Nation's gasoline prices.

I am also pleased that the bill includes language regarding ISO New

England's misguided Locational Installed Capacity plan, also known as LICAP. This language requires the Federal Energy Regulatory Commission to very carefully weigh the concerns of Maine and other New England States regarding this proposal. I am very concerned that the LICAP proposal would unnecessarily raise electricity rates in Maine, and I urge FERC to consider this issue very carefully.

While I believe the bill makes important progress in some areas, I am extremely concerned that this bill fails to stop our growing and increasingly dangerous reliance on foreign oil. Regretfully, a provision requiring that we save 1 million barrels of oil per day by 2015 was dropped from the bill. This provision, which I co-authored, was included in the Senate-passed bill, but removed by the House. In addition, I am disappointed that the bill does not require any increase in fuel economy standards for automobiles. Although the energy efficiency provisions for hybrid automobiles and alternative fuel vehicles are important steps forward, they are not enough. Four years ago I released a report predicting that crude oil prices would hit $60 per barrel by the year 2010 unless we took aggressive action to increase our energy efficiency and reduce our reliance on foreign oil. Without greater energy efficiency measures, I am concerned that prices are likely to go even higher.

I am also concerned by a provision in the bill that would allow for an inventory of offshore oil and gas resources on the Outer Continental Shelf, OCS. I am strongly opposed to oil exploration on restricted areas of the OCS, and I believe this inventory is pointless since this Congress has no intention of allowing drilling in these areas.

I would note that this bill is much improved over the 2003 conference report which I could not in good conscience support. First, I am pleased that this legislation does not include a very harmful liability waiver for the manufacturers of MTBE. MTBE is a noxious chemical which has polluted drinking water supplies in Maine and many other States. I saw no justification for allowing the manufacturers to be let off the hook in terms of cleaning up this chemical, and I am grateful to Chairman DOMENICI and Ranking Member BINGAMAN for refusing to give in to those advocating for the waiver.

I am also very pleased with the improvements to the electricity title in this bill. The electricity provisions in this bill are good for the Northeast and have the potential to promote competitive markets which are more efficient, more reliable, and lower priced than we have now. I am pleased that the Carper-Collins provision to promote combined heat and power was retained in the bill.

While the legislation before us does not address our dangerous reliance on foreign oil, it nevertheless takes important steps to increase our use of renewable energy, improve energy efficiency, and strengthen our electricity grid. While I am disappointed at some of the things that were included in the bill as well as many things that were not included, I nevertheless believe that the bill is a step in the right direction. Given our extremely high energy prices and an even more dire energy crisis looming just over the horizon, I believe we simply cannot afford to block needed improvements out of fear that they do not go far enough, and I therefore intend to vote in favor of this legislation. However, I ask my colleagues to consider this legislation as a first step, and to again address these issues next year and the year after, until we finally begin to reduce our reliance on foreign oil and provide a secure energy future for the United States.

Mr. BAUCUS. Mr. President, after 4 years, the Senate is on the verge of passing a comprehensive Energy bill. This important legislation will lessen America's reliance on foreign sources of energy, boost renewable resources, and provide reliable energy for the nation.

Putting this legislation together and keeping it within budget constraints took hard work and perseverance. First, I thank the chairman and ranking member of the Energy and Natural Resources Committee, Senator DOMENICI and Senator BINGAMAN, respectively. They provided excellent leadership, and I know their staff stayed up many a sleepless night. They played an important role developing this bill.

I also thank my good friend Senator GRASSLEY, the Chairman of the Finance Committee, for his commitment to taking a balanced approach to energy tax policy.

Let me take a moment and speak about the hard work of the Finance Committee staff. The House and Senate bills took two very different approaches to tax policy. Conference negotiations were hard fought. We made some tough decisions. But we got it done within budget limits largely because we worked with a spirit of compromise and cooperation.

I also thank some staff members in particular. I appreciate the cooperation we received from the Republican staff, especially Kolan Davis, Mark Prater, Elizabeth Paris, Christy Mistr, and Nick Wyatt.

I thank the staff of the Joint Committee on Taxation and Senate Legislative Counsel for their service.

I thank Chairman BILL THOMAS and his staff for their hard work, cooperation and continuing willingness to work with us through the difficult negotiations that produced this important legislation.

I also thank my staff for their tireless effort and dedication, including Russ Sullivan, Patrick Heck, Bill Dauster, Ryan Abraham, and Wendy Carey. I especially want to thank Matt Jones. He is the tax counsel on our staff who has worked for years on the tax legislation in this bill. His hard work and perseverance on this legislation went above and beyond the call of duty. I owe him a deep debt of gratitude. I also thank our dedicated fellows, Mary Baker, Jorlie Cruz, Cuong Huynh, Richard Litsey, Stuart Sirkin, and Brian Townsend.

Finally, I thank our hard-working interns: Rob Grayson, Jacob Kuipers, Heather O'Loughlin, Andrea Porter, Ashley Sparano, Julie Straus, Danny Shervin, Katherine Bitz, Drew Blewett, Adam Elkington, Julie Golder, and Paul Turner.

This legislation was a team effort that really paid off.

I yield the floor.

Mrs. LINCOLN. Mr. President, I rise to announce my support for the Energy Policy Act of 2005. I want to thank Chairmen Grassley and Domenici and Senators Baucus and Bingaman for working with me to include renewable energy and energy efficiency provisions in the bill that are important to my home State of Arkansas.

Some may say this bill is not perfect, but I believe it is a step forward toward reducing our dependence on foreign oil and increasing the use of renewable resources in this country. This bill makes an effort to address energy concerns in every sector of this industry. In Arkansas, we have investor-owned utilities and co-operatives. This bill will help both of these providers serve their customers in a more efficient and reliable manner.

And while this bill may not go as far as some would like in the direction of renewable energy, there are many provisions in this package which will help the United States begin the long process of eliminating our dependence on foreign oil. I look forward to the further growth and development of the biodiesel industry that will be spurred by the extension of the production tax credit provided in the bill that I have fought for during my time in the Senate.

Another provision of which I am particularly proud relates to the cleanup of the Southwest Experimental Fast Oxide Reactor, a decommissioned nuclear reactor near the community of Strickler, AR, in the northwest corner of my State. The site is contaminated with residual radiation, liquid sodium, lead, asbestos, mercury, PCBs, and other environmental contaminants and explosive chemicals. The Federal Government helped create these contaminants and should pay to help clean them up. This is great news for northwest Arkansas, because this site has threatened public health and the environment there for too long.

Finally, I would like to thank the staff on both the Finance and Energy Committee, majority and minority, for all of their help in crafting this bill. Elizabeth Paris and Matt Jones have been patient and helpful with any idea or request I have come to them with. Sam Fowler and Lisa Epifani have been equally accessible when I had questions or concerns on the nontax portion of

the bill. I would also like to take this opportunity to thank Todd Wooten of my staff who has done an incredible job of helping ensure my priorities for Arkansas were included in the final bill. This body would be nothing without the tireless work of our staff, and I wanted to make sure they knew how much I appreciate their hard work.

In conclusion, our current global situation shows us how important it is that we take steps to reduce our dependence on foreign oil. We all know this bill is not a comprehensive solution, but a step in the right direction. We must continue to look toward more useful and progressive technology that brings us to our goal.

Much more work needs to be done if we ever expect this country to lose its dependence on fossil fuel and foreign sources of energy, and I urge my colleagues to continue to work hard until we achieve this goal.

Mr. BUNNING. Mr. President, I rise today to talk about the Energy bill conference report.

I have spoken on this floor many times before on Energy bills. I hope the bill before us is the last one I come to the floor to speak on for a long time.

While not perfect, this is a good bipartisan bill.

I want to thank Chairmen DOMENICI and GRASSLEY and Ranking Members BINGAMAN and BAUCUS for working hard in a bipartisan manner to produce the bill before us.

This Energy bill strikes a balance between conservation and production.

And while passing an Energy bill might not help energy prices in the short term, it will make a difference over the long term by affecting how much our energy costs increase. This bill's increased domestic energy production, coupled with increased conservation provisions, will slow the astronomical price increases we have seen lately.

Without a new national Energy policy, though, there is not much we can do about the rising energy prices.

Many oil producers are working at full capacity.

And with China and India starting to increase their demands for oil, the world's oil supply will continue to decrease while prices continue to increase.

This means that we cannot just try and conserve our way out of any kind of energy problem.

We have to reduce our reliance on foreign oil and do a better job of taking care of our own energy needs.

The bill contains some good policy provisions.

It includes electricity provisions that are a good start to help update our electricity grid.

America has outgrown its electricity system and some changes need to be made to it.

One of the provisions included in the bill is PUCHA repeal, which will go a long way in helping our electricity system meet increasing demands.

The bill also makes strides to increase the reliability of the electricity grid.

We also desperately need new transmission lines built, and I hope that the provisions in this bill will ensure that this happens.

It also contains an incentives title which will encourage the design and deployment of innovative technology to increase energy supply and also protect the environment. These incentives cover projects such as clean coal, electric transmission and generation, and fuel efficient vehicles.

I am glad that the Senate Energy bill contains clean coal provisions which I wrote to help increase domestic energy production while also improving environmental protection.

Coal is an important part of our energy plans. It's cheap and plentiful, and we don't have to go far to get it.

For my home State, this means more jobs and a cleaner place to live. Clean coal technology is estimated to create 62,000 jobs nationwide and cut emissions from coal drastically.

The Energy bill encourages research and development of clean coal technology by authorizing over $1 billion for the Department of Energy to conduct programs to advance new technology that will significantly reduce emissions and increase efficiency of turning coal into electricity.

Almost $2 billion will be used for the clean coal power initiative, where the Department of Energy will work with industry to advance efficiency, environmental performance, and cost competitiveness of new clean coal technologies.

And $3 billion will be used to help coal companies comply with emission regulations by providing funding for pollution control equipment.

The energy tax package also contains tax credits for companies to implement clean coal technology.

The bill provides $1.6 billion in tax credits for investment in clean coal facilities. It also provides over $1 billion in tax credits for amortization of pollution control equipment to help clean up the emission from existing coal facilities.

Coal plays an important role in our economy, providing over 50 percent of the energy needed for our Nation's energy.

The 21st economy is going to require increased amounts of reliable, clean, and affordable electricity to keep our nation running.

With research advances, we have the know-how to better balance conservation with the need for increased production.

I think this bill makes a good start in ensuring that coal remains a viable energy source that can provide cheap power to consumers.

And the other tax provisions from the Finance Committee will do a good job to promote conservation and energy efficiency further by encouraging the use of cleaner burning fuels.

I am pleased the bill contains ethanol and biodiesel tax credits. These expanded tax credits will further encourage the use of these alternative fuels to help increase domestic production and lessen our dependence on foreign oil. This also is good for farmers and is good for jobs.

We have deliberated and discussed for far too long the need for America to follow a sensible, long-term energy strategy.

I am glad the Senate acted to pass an Energy bill.

This is good for our environment, economy, and national security.

Thank you, Mr. President.

Mrs. BOXER. Mr. President, I will vote against this energy bill because it does not do enough to reduce our dependence on foreign oil through the promotion of alternative forms of energy or by encouraging energy efficiency.

I was very disappointed that the conference committee eliminated the Senate's renewable portfolio standard, under which utilities would have provided 10 percent of their total sales from renewable resources by 2020. In addition, the conference also eliminated the Senate provision that called on the President to find ways to reduce oil use by 1 million barrels per day by 2025, as well as the provision promoting hybrids for use in Federal, State, and other vehicle fleets.

I am also very concerned about an authorization for an inventory of energy resources in America's Outer Continental Shelf, which is damaging in itself and may lead to future oil and gas development in some coastal areas.

Overall, this bill is very imbalanced. The bill provides $5.7 billion in tax incentives over 10 years for the fossil fuel industry and $1.5 billion in subsidies and tax breaks for the nuclear industry. Compare this to tax incentives for renewable electricity, alternative vehicles and fuels, energy efficiency, and energy conservation, which were cut from $11.4 billion in the Senate bill to $5.8 billion in the final bill.

With all of these bad provisions, I am pleased that a few good provisions survived, such as my amendment calling on the Federal Energy Regulatory Commission to conclude action on energy crisis refunds by the end of the year or report to Congress explaining what it has done and specifying a timetable for the rest of their process

I am also pleased that this energy bill will exempt California from the proposed new ethanol mandate during the summer months, when ethanol usage in gasoline can increase air pollution, and that it included my original proposal to encourage the production of ethanol from agricultural waste.

Republicans removed many provisions from the Senate bill that would have put us on a more energy-efficient path, and unfortunately we were left with a bill that does not offer the sound and innovative policies we need to reduce our dependence on foreign

oil, protect the environment, and improve our energy and fuel efficiency.

Ms. SNOWE. I rise today not only to cast my support for the conference report to H.R. 6, an energy bill that touches on nearly every aspect of domestic energy production, consumption, and savings, but especially to compliment Energy and Natural Resources chair, Senator DOMENICI, for once again showing what a truly superb leader he is. He and Senator GRASSLEY, chair of the Finance Committee, have been successful in reaching bipartisan agreement on comprehensive energy legislation—something that we have not been able to do since 1992, even though we have actively attempted to do so in the last three Congresses.

I would have written a more ambitious bill that would have more aggressively reduced our Nation's dependence on foreign oil, but this is an improvement over the status quo. What this legislation does include is essential energy efficiency and conservation tax incentives that will make our Nation's energy policy more balanced. As a Nation, we must recognize that we must do more than just produce our way out of an energy crisis, we have an obligation to consume less as well.

For instance, by improving fuel economy standards of our cars and trucks, we could have saved our Nation 1 million barrels of oil a day, as Senator FEINSTEIN and I have attempted to do for these last several years. Also, by keeping Senator BINGAMAN's provisions for Climate Change and Renewable Portfolio Standards in the conference report, we would have had a much stronger bill to address our future energy, environmental, and economic needs. But this bipartisan energy legislation is a reflection of what was possible. These important issues will not go away, we will be addressing them another day—and in the not-too-distant-future, I will predict.

While the report came out of conference far from perfect, the question we need to ask ourselves at the end of the day is, Does the legislation begin to take the Nation forward for responsible energy policy to help decrease our dependence on foreign oil from the most volatile areas of the globe as we begin the 21st century? And this bill does take at least that small step forward, especially for provisions I believe in—greater energy efficiencies and energy from renewable sources that begin to wean the Nation off of its thirst for oil.

For instance, I am extremely pleased that I could secure $1.7 billion through the energy efficiency and conservation provisions from my original bills, the Efficient Energy Through Certified Technologies and Electricity Reliability, or EFFECTER, Act of 2005. I would like to express thanks for assistance over the past 5 years in drafting these energy efficiency tax incentives to Dr. David B. Goldstein of NRDC, a 2002 MacArthur fellowship winner who has worked on energy efficiency and energy policy since the early 1970s, both domestically and internationally.

Also provided are tax incentives from the Lieberman-Snowe fuel cell bill that provide a 30-percent business energy credit for the purchase of qualified fuel cell power plants for businesses, along with a 10-percent credit for the purchase of stationary microturbine power plants. A fuel cell is a device that uses any hydrogen-rich fuel, such as natural gas, methane, or propane, to generate electricity and thermal energy through an electrochemical process. Since no combustion is involved, fuel cells produce almost no air pollution and reduce emissions of carbon dioxide, the major greenhouse gas blamed for climate change. The tax incentive will accelerate commercialization of a wide range of fuel cell technologies for a distributed source of power.

As a senior member of the Senate Finance Committee, I worked with Chairman GRASSLEY to also secure $2.7 billion in alternative energy production tax credits in this energy legislation. Included for the first time is a tax credit for biomass, which is extremely important to those who work at our Maine biomass plants, which provide good paying jobs in rural areas all over Maine. In addition, the tax credit extension for wind power is essential for wind projects in Maine, for instance the one planned in Mars Hill. This legislation will decrease the project's costs by 30 percent.

Also included in H.R. 6 is the permanent authorization of the Northeast Home Heating Oil Reserve that was established in 2000. The NHOR holds 2 million barrels of emergency fuel stocks stored at commercial tank farms that would give Northeast consumers adequate supplies for approximately 10 days, the time required for ships to carry heating oil from the Gulf of Mexico to New York Harbor. The reserve is essential for cold winter States like Maine—especially at a time when fuel prices continue to be sky high. While we are in the midst of a very warm summer, our winters are never that far off, and this provision ensures that emergency fuel stocks are made available in times of need.

And speaking of cold weather, the conference report reauthorizes the Low Income Home Energy Assistance program, or LIHEAP, until 2007, and reauthorizes State weatherization grant and energy programs at $2.1 billion through fiscal year 2008. I cannot emphasize strongly enough how important these programs are to my State of Maine where winters come early and can stay well past the start of spring.

There is an extension 5 years for my original legislation, the National Oilheat Research Act; NORA which expired in February.

Also, the conference report puts in place enforceable electricity reliability standards that were included in my EFFECTER Act and other bills that would further improvements in the electricity grid at a time that the surging demand continues to stress the Nation's power grid. One only needs to recall that in August 2003, a big Northeast blackout disrupted service to 50 million people, and 2 years earlier, soaring prices and isolated blackouts rolled across California.

One of the International Climate Change Taskforce, ICCT recommendations, for which I am a cochair with the Right Honorable Stephen Byers of the United Kingdom, called for incentives for Integrated Gasification Combined Cycle; IGCC, a process that allows CO_2 to be extracted for storage more easily and at less cost than from conventional coal-burning plants. Clean coal technology helps to address climate change by capturing CO_2 rather than allowing it to be released into the atmosphere and has immediate benefits health benefits in terms of reduced emissions of toxic pollutants that cause respiratory and cardiovascular illness. The bill provides a 20-percent credit for clean coal power plants for IGCC plants while other advanced clean-coal projects get the 15-percent credit.

There disappointments to me in this bill, most certainly, as they could affect my State. In particular was the vote loss that would have given States equal say on the siting of Liquified Natural Gas, LNG, siting decisions, but the language in H.R. 6 has been enhanced to give the States a more consultative role, even though FERC still has exclusive jurisdiction. A pre-NEPA National Environmental Policy Act filing process is included in the bill so the FERC will have to work with States on problems before moving any projects forward. Also included is a cost-sharing provision calling for both the industry and communities to share the cost for emergency response plans. Originally, only the communities had to pay for these plans.

I will continue to work to ensure that States have greater authority over LNG siting decisions. I believe this is clearly a States rights issue—and given how contentious these decisions are, it only makes sense to have State input into the process. As I have said before, this is a Liquified Natural Gas facility siting we are talking about, not a Wal-Mart.

Another issue I plan to actively work on with my colleagues from other coastal States is the deletion of a provision that calls for an inventory of oil reserves off the Outer Continental Shelf. I believe those of us from coastal States did everything in our power to strip this potentially environmentally dangerous provision out of the Energy bill. Our amendment during Senate consideration of the Energy bill—despite our best efforts—failed. We did everything we could to have this provision removed—we presented our case to our colleagues and had a fair up-or-down vote. It is a terrible policy that imperils our fragile coastal ecosystems and fisheries around Georges Bank, a veritable nursery for sea life.

Mr. Chairman, what we have here is a step forward as we begin the 21st century and great energy needs that will

have to be met, and we continue to craft national energy policy—we have only begun to do so with many steps ahead of us to take.

I thank the Chair.

Mr. GRASSLEY. Mr. President, today we have the opportunity to finish a very long journey in the quest to build a dynamic, comprehensive energy policy for the United States of America. I can say with pride that this Congress, through many trials and tribulations has now performed admirably in its duty to the American people. This is a balanced energy bill that focuses as much on the future as it does the present. We have the opportunity with the passage of this legislation to safely produce more energy from more sources and with more infrastructure security then ever before.

Among the many people whose hard work has made the difference, I must first thank the chairmen and ranking members of all the appropriating committees that have been involved in this process.

Credit must also go to all members of my staff, who spent many hours sifting through the nuts and bolts of this bill. Kolan Davis, Mark Prater, Elizabeth Paris, Christy Mistr, Kurt Kovarik, John Good, and Nick Wyatt showed great dedication to the tasks before them.

As is usually the case, the cooperation of Senator BAUCUS and his staff was imperative. I particularly want to thank Russ Sullivan, Patrick Heck, Bill Dauster, Kathy Ruffalo-Farnsworth, Matt Jones, and Ryan Abraham.

I also want to mention George K. Yin, the chief of staff of the Joint Committee on Taxation and his staff, especially the fuel fraud and energy team of Tom Barthold, John Navratil, Deirdre James, Roger Colinvaux, Allen Littman, Gray Fontenot, and Gary Bornholdt as well as the always invaluable assistance of Mark Mathiesen, Jim Fransen and Mark McGunagle of Senate legislative counsel.

This conference agreement is infused with the spirit of bipartisan and bicameral cooperation. It is my commitment that spirit will be influential to the entire ongoing legislative process.

Mr. FRIST. Mr. President, we are about to vote on final passage of the most comprehensive energy bill in decades.

After years of careful and patient negotiation, we have before us an energy plan that promises to make America safer and more secure, and our energy supply cleaner and more reliable.

It is a forward-looking plan. And it is a plan that will increase both our economic and national security.

Anyone who has been to the gas pump, or turned on their AC for some relief from the current heat wave, knows that energy prices are skyrocketing.

Suddenly, instead of the lowest energy prices in the industrialized world, we have the highest.

Because of high natural gas prices, manufacturing and chemical jobs are moving overseas. Farmers are taking a pay cut. Consumers are paying too much to be comfortable in their own homes. Small businesses are struggling to pay their bills.

Communities across the country are suffering. And as many as 2.7 million manufacturing jobs have been lost.

All the while, we have grown dangerously reliant on foreign sources of energy. And some of those foreign sources do not have our best interests at heart.

In the 1960s and early 1970s, the U.S. produced almost as much oil as we consumed. Imports were relatively small. But since then, U.S. oil production has been on the decline, while consumption has steadily increased. As a result, we have become more and more dependent on imported oil.

Twenty years ago, 75 percent of crude oil used in American refineries came from American sources. Only 25 percent came from abroad.

Today, that equation is nearly reversed. We have become dangerously dependent on foreign sources of oil and natural gas. As a result, America is more vulnerable than ever to the use of energy as a political weapon.

Many nondemocratic and corrupt governments maintain their hold on power by spending the oil profits they earn from selling to us.

We see this happening in Venezuela, We currently import over 1 million barrels of oil a day from Venezuela. Meanwhile, its dictatorial President, Hugo Chavez, actively opposes the Umted States, supports rogue states such as Cuba, and is destabilizing Latin America.

Many of these same dynamics are also at work in the Middle East. Nondemocratic regimes in the Middle East are using their oil revenues to tighten their grip on the reins of power.

As a result, the conditions that breed hatred, violence, and terror have been allowed to fester and spread terror all over the world. London, Madrid, Russia, Bali, Iraq, and, of course, the United States have all suffered terribly at the hands of the terrorists.

Passing the energy bill today will be a major step forward in addressing these serious national security challenges by putting us on a path to energy independence.

It will also be a major step forward for our economic productivity and prosperity.

The energy bill promises to deliver exciting new technologies to increase our efficiency and lessen our dependence, Hydrogen fuel cells are one example.

If just 20 percent of cars used fuel cell technology, we could cut oil imports by 1.5 million barrels every day.

The energy bill authorizes $3.7 billion to support hydrogen and fuel cell research and the infrastructure we need to move toward this goal.

Last month, Senator HATCH and I had the opportunity to attend a hydrogen car demonstration here at the Capitol. The cars were stylish. They drove well. The technology was very promising.

Hybrid cars are already gaining in popularity. Nissan recently announced that its first hybrvehicle will be built at their plant in Smyrna, TN.

This is one example of how technology can simultaneously promote conservation and efficiency, and boost the manufacturing sector.

In addition, the energy bill's conservation and energy efficiency provisions far exceed those of other energy bills considered by the Congress in recent years.

According to the American Council for an Energy Efficient Economy, the Energy bill will save $1.1 trillion cubic feet of natural gas by 2020, equivalent to the current annual consumption of the whole State of New York.

It will reduce peak electric demand by 50,000 megawatts by 2020, the equivalent of 170 new power plants.

This bill encourages the use of homegrown renewable fuels such as ethanol and biodiesel, as well as wind and solar and geothermal energy.

The ethanol mandate will require fuel manufacturers to use 7.5 billion gallons of ethanol in gasoline by 2012. This provision alone will reduce oil consumption by 80,000 barrels of oil a day by 2012; create over a quarter of a million new jobs; increase U.S. household income by $43 billion; all adding $200 billion to the GDP between 2005 and 2012.

It provides incentives to facilitate the development of cutting-edge technologies like coal gasification and advanced nuclear plants, which will produce clean, low-carbon energy to help address the issue of global climate change.

And it will modernize and expand our Nation's electricity grid to enhance reliability and help prevent future blackouts.

This change in particular is long overdue. We are once again seeing the strain on our aging electrical grid as people turn up the AC to deal with the current heat wave.

In fact, the Tennessee Valley Authority reported that yesterday's demand for electricity reached an all-time record level of almost 32,000 megawatts, breaking a record that had been set just the day before.

The Energy bill will help us both conserve more energy, and produce more energy. It will also help produce more jobs.

It is estimated that the Energy bill will save over 2 million jobs and create hundreds of thousands more.

As I mentioned, the ethanol provision is expected to generate over 230,000 new jobs.

Incentives for wind-generated energy are expected to create another 100,000 jobs.

The investment in clean coal technology will create 62,000 jobs. And 40,000 new jobs in the solar industry will come on line These are good jobs, well paying, and right here at home.

The Energy bill is good for America. It will move our country toward a more reliable supply of clean, affordable energy.

I thank my colleagues for the hard work and leadership. Special recognition goes to the Energy Committee chairman, Senator DOMENICI, and his ranking member, Senator BINGAMAN.

Senator DOMENICI's expertise on energy issues is unparalleled in the U.S. Senate, as he has demonstrated for a number of years on both the Energy Committee and the Energy and Water Appropriations Subcommittee.

His determination to produce a comprehensive national energy policy, and his hard work with Senator BINGAMAN, as well as members of the Energy Committee, is the reason why we stand here, today, on the cusp of final passage of a balanced, bipartisan Energy bill.

And finally, special recognition goes to President Bush for his unwavering commitment to delivering an energy plan for the 21st century.

He came into office determined to deliver an energy plan that makes America safer and more secure. And soon he will have a bill to sign into law that does just that.

Every day we are working hard to deliver meaningful solutions to the American people. The Energy bill promises to keep America moving forward.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, with regard to this bill, I want to acknowledge, of course, all of the very complimentary statements many colleagues have made about the good work Senator DOMENICI and I did on this bill. Clearly, I have myself complimented Senator DOMENICI for his leadership in this regard many times. The fact is this bill is the result of much good work by many Members, much good work by the staffs of our committee and the staffs of many Members individually, and work that has occurred over a very long period of time. So I think some of the relief some of us are feeling as a result of seeing this finally come to completion is because of the multiple years that have gone into this effort to get a bill we could agree upon.

Every time a bill, particularly a bill of this size and comprehensiveness, comes to the Senate floor, it requires a balancing of those provisions which are positive and constructive with those that are less so, and in some cases are negative. I feel very strongly that the positive outweighs the negative in this bill. There are many provisions that will move us in the right direction.

My colleagues have been alluding to those this morning in many of their statements and there are things we need to come back and try to correct in the future, and we will have that opportunity. There are issues we were unable to address in this bill that we will hopefully be able to address in the coming months that I think also need to be mentioned. All of the discussion has been useful. All of the good work, particularly of the Energy and Natural Resources Committee members, has been appreciated.

I again appreciate very much the process that has been followed in getting us to this point. I compliment all colleagues, and I yield the floor. I know Senator DOMENICI wishes to make a final statement.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I ask unanimous consent that a list of staff men and women who helped put this conference together be printed in the RECORD. I commend them.

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

Judy Pensabene, Karen Billups, Dick Bouts, Kathryn Clay, Kellie Donnelly, Lisa Epifani, Marnie Funk, Frank Gladics, Angela Harper, Colin Hayes, Frank Macchiarola, John Peschke, and Clint Williamson.

Mr. DOMENICI. Mr. President, this bill will produce more jobs for our country, more secure jobs, and we will be using cleaner energy in the future. This will happen across America, and it will happen in the State of Wisconsin.

Also, I would like to say to everyone here, our electrical system will be safer and more sound. We may very well have nuclear powerplants built anew for the first time in years. Renewable energy will be advanced and enhanced dramatically. Some do not believe ethanol will be a significant contributor to less dependence on foreign oil. They are mistaken. We will, within the next 7 or 8 years, make a major contribution to jobs, stability of the agricultural community, and the production of ethanol as a substitute for gasoline.

In addition, we will enhance our supply of natural gas, thus stabilizing the price, which is one of the most significant things for America's future. If we cannot do that and the reverse happens, we will export hundreds of thousands of jobs. While everyone thinks that the only problem is gasoline, the problem is far bigger than gasoline prices tomorrow morning; it is what will be the state of energy 5 and 10 years from now in the United States.

I can tell my colleagues, we will be safer, we will have more jobs, we will have an electric system that is safe and sound. We will have diversity of energy sources and supplies built in our country, spending our money, creating jobs, and much more.

Frankly, it is very easy to criticize a bill of this magnitude, and it is very easy to say we did not solve everything.

I close by saying there is criticism that we did not do anything to alleviate our great dependence on crude oil. I think we did. Hybrid cars are accentuated and pushed ahead by tax credits. I just explained ethanol. But if anybody thinks right now we can pass in the Congress a bill to substantially change the American way of using automobiles, I ask them to stand up, and we will put it on the Senate floor next week and see if they can do it. We cannot order Americans to buy smaller cars, little tiny cars, and we cannot order them to stop buying cars. That will happen. It is going to happen, and we are going to have more efficient ones clearly in short order in this country, but we cannot do everything in this bill. We have done a great deal.

My compliments to Senator BINGAMAN. I am glad this was a totally bipartisan bill, totally open in every respect. I think we have proved that on a major, contentious bill, we can have open, above-board, total participation by any Senator who wants to participate. In conference, the same with the press of having all of the amendments and everything we do so they can do what they would like with the American people and yet get an agreed-upon bill.

That is a pretty good accomplishment on the part of Senator BINGAMAN, myself, as the leaders in the Senate, and Congressman BARTON and Congressman DINGELL in the House.

I yield the floor and thank the Senate for permitting me to produce this bill.

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006—Continued

The PRESIDING OFFICER. Under the previous order, there is 2 minutes equally divided on the conference report accompanying H.R. 2361.

Mr. OBAMA. Mr. President, I rise in support of the Interior appropriations conference report and to speak about two key provisions: one to protect our veterans and one to protect our kids.

First, the conference report includes a much needed $1.5 billion supplemental spending package for veterans health care. This $1.5 billion will cover the massive budgetary shortfall that Congress only recently discovered, and I hope this will prevent the loss of some important veterans health care services.

Earlier this year, I, along with my Democratic colleagues on the Senate Veterans' Affairs Committee, repeatedly asked the Department of Veterans Affairs if the President's budget provided sufficient funds for veterans health care. The response we received was yes, the funds are sufficient.

Unfortunately, that response was not consistent with what folks on the ground were saying about VA health care services. They complained of long waiting periods for doctor's appointments, reduced office hours at veterans clinics, an increased demand for services, and reduced access. These voices were too loud to ignore, so I joined my colleagues Senator MURRAY and Senator AKAKA here on the floor of the Senate to ask for additional funding for VA health care. Those efforts were

defeated, but we knew that a possible crisis was on its way.

That crisis became a reality when it was discovered that the VA was more than $1.5 billion in the hole on its health care funding. Like many of my colleagues in the Senate, I was shocked by that admission.

I was pleased to join Senator MURRAY in cosponsoring both a stand-alone bill and an amendment to the Interior appropriations bill to get veterans the funding they need so they can get the health care that they have earned and deserve.

The $1.5 billion appropriated by today's Interior appropriations conference report will help ensure that our Nation's veterans get that health care. With this funding, our veterans facilities also will get the maintenance they need, and I hope the VA will be able to keep its hands out of its rainy day fund.

I don't think there is sone person in this Senate who would want to tell a returning soldier who fought and bled for our country: Sorry, but when it comes to getting health care, you are on your own.

I was right. The inclusion of this provision in the conference report proves that we can work together to do what is necessary for our Nation's veterans.

I thank Senator MURRAY, Senator CRAIG, and Senator AKAKA for their leadership on this issue. I hope we can work together—as we do today—to ensure that veterans are not shortchanged next year. They deserve better.

Second, I want to thank my colleagues for including an amendment in the conference report that is important to parents of small children all over the country but particularly in my hometown of Chicago. I am referring to my amendment prohibiting EPA from spending tax dollars to delay the promulgation of regulations that are now 9 years overdue. These regulations, when promulgated, would require contractors to reduce lead paint exposure during home renovation and remodeling.

I have raised this issue with EPA on numerous occasions and reminded them of the serious health dangers that high blood lead levels pose for children. Now, reluctantly, EPA officials have promised me these rules will be issued by the end of the year. I intend to use this amendment to hold them to their word. So today when we pass this funding bill, I can tell the youngest, poorest citizens of Illinois that Congress is doing its part to keep them safe from lead paint exposure.

I ask unanimous consent that my letter to EPA Administrator Johnson regarding this issue be printed into the RECORD.

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

U.S. SENATE,
Washington, DC, July 25, 2005.

Hon. STEPHEN L. JOHNSON,
Administrator, U.S. Environmental Protection Agency, Washington, DC.

DEAR ADMINISTRATOR JOHNSON: As you may know, I have been concerned about the failure of the Environmental Protection Agency (EPA) to promulgate regulations pursuant to 15 U.S.C. §2682(c)(3). This provision requires EPA to issue rules for contractors to reduce lead exposure during home renovation and remodeling by October 1996. Almost nine years later, these rules still have not been issued, and I have spent the past few months trying to understand why.

When your nomination was considered by the Senate Environment and Public Works (EPW) Committee in April, I asked you when EPA was going to issue these rules. You stated that EPA was focusing on a voluntary education and outreach program and ''will evaluate the effectiveness of this effort and will determine what additional steps may be necessary, including regulation.'' Of course, 15 U.S.C. §2682(c)(3) does not give EPA the option of whether to promulgate regulations.

In May, Sen. Boxer, Rep. Waxman, and I wrote a follow-up letter to you, asking once again when EPA would issue these rules on lead. We received no response for two months.

In June, I included an amendment in the EPA appropriations bill that would prohibit the agency from spending any funds to delay the implementation of 15 U.S.C. §2682(c)(3). That bill passed the Senate unanimously.

When Deputy Administrator-designate Marcus Peacock appeared before the EPW Committee two weeks ago, I asked him about the status of these lead rules. Responding to written questions that I submitted to him after the hearing, Mr. Peacock stated: ''As I understand it, the Agency will announce by the end of this year a comprehensive program, which will include a proposed regulation, as well as an extensive education and outreach campaign aimed at the renovation, repair, and painting industry and the consumer.''

I am pleased by Mr. Peacock's statement, which is a significant departure from your response in April. I am also encouraged by a letter I received last week from Susan Hazen, Principal Deputy Assistant Administrator, responding to my May letter. Ms. Hazen reiterated that ''the Agency plans to announce by the end of this year, a comprehensive program that will include a proposed rule.''

In light of the commitments I received from Mr. Peacock and Ms. Hazen, I voted last Wednesday to confirm Mr. Peacock for the deputy administrator position. However, I want you to know that I will be closely monitoring EPA's actions regarding lead paint and will expect you to honor your commitment to issue these proposed rules by December 31, 2005.

I look forward to working with you on this important issue.

Sincerely,

BARACK OBAMA,
United States Senator.

Mr. MCCAIN. Mr. President, the Interior appropriations conference report before us today is a very important piece of legislation. This conference report contains over $26.2 billion to fund the Department of the Interior, the National Park Service, the Forest Service, the Environmental Protection Agency, and the Indian Health Service, among many others. This represents an increase of approximately $500 million over the administration's budget request. While I appreciate the importance of funding the programs in this legislation, I am disappointed that we have once again exceeded the requested level of spending.

One bright note of this bill is the correction of the funding shortfall for the Department of Veterans Affairs' health care programs that was only recently brought to the attention of Congress. I am pleased that we have all acted quickly to provide an additional $1.5 billion in emergency funding for the VA.

This bill contains several accounts which are designated as ''Congressional Priorities.'' I fully recognize that Congress has a responsibility to fund important projects, but we need to follow the proper process in doing so. To put it simply, if there is a congressional priority that is not included in the administration's request, we should get it authorized through the appropriate committee and then set aside the necessary funds.

It has become standard practice around here to forgo the authorizing process and simply do everything on appropriations. That is wrong and it needs to stop. Congressional priorities should be subjected to the scrutiny of public hearings and debate—they should not be held up as some type of sacred cows that are not to be questioned. We can no longer afford to fund every pet project simply because a Member of Congress considers it to be imperative.

Let me highlight a few of the projects that are contained in this bill: $1.2 million for eider and sea otter recovery at the Alaska Sea Life Center; $200,000 for landscaping at the Gettysburg Military Park in Pennsylvania; $200,000 for the George Washington Memorial Parkway right here in the Washington, DC, area; $450,000 for the Automobile National Heritage area in Detroit, MI; $150,000 for the Actors Theatre in Kentucky; $150,000 for the Black Horse Tavern in Pennsylvania; over $6 million to rehabilitate bathhouses at the Hot Springs National Park in Arkansas; $2.5 million for the Southwest Pennsylvania Heritage Commission; $11.1 million for the Old Faithful Inn at Yellowstone National Park; $5.3 million for Sleeping Bear Dunes in Michigan; $200,000 for a diamondback terrapin study. That's one expensive turtle; $400,000 to survey and monitor the ivory-billed woodpecker in Arkansas; $150,000 for the Alaska Whaling Commission; $98,000 for the Alaska Sea Otter Commission; $200,000 for maple research in Vermont; $1.8 million for restoration of the Long Island Sound; $4 million for water system technology in Kentucky, New Hampshire, Alaska, Pennsylvania, Missouri, Montana, Illinois, and Mississippi. Interesting—what is it that all of these States have in common? The answer is that they are all represented by a member of the Appropriations Committee; $350,000 for a tree planting program in Milwaukee, WI; $500,000 for the Hinkle Creek watershed study in Oregon; $500,000 for a

hardwood scanning center at Purdue University in Indiana; and $400,000 for a wood technology center in Ketchikan, AK.

Another troubling aspect of the appropriations process is the way in which we have become complacent with the routine violations of the rules of both the Senate and the House that occur on these bills. The rules of both bodies clearly state that it is not in order to legislate on an appropriations bill. Senate rule XVI states, ''The Committee on Appropriations shall not report an appropriation bill containing amendments to such bill proposing new or general legislation . . .'' And House rule XXI states, ''A provision changing existing law may not be reported in a general appropriation bill.'' Sadly, these directives are routinely ignored in this process by the inclusion of legislative language and policy changes on appropriations bills.

Let me point out just a few examples of these violations that are contained in this conference report: Language prohibiting the closure of the underground lunchroom at Carlsbad Caverns National Park in New Mexico. Language prohibiting the demolition of a bridge between New Jersey and Ellis Island. Language authorizing the Secretary of the Interior to acquire lands for the operation of Ellis, Governors, and Liberty Islands. Language prohibiting the demolition of structures on the Zephyr Shoals property in Lake Tahoe, NV.

So as not to be viewed as unappreciative, I would like to comment on one aspect of this measure with which I was pleased. In this bill, there is over $3.2 billion for the State and Tribal Assistance Grant Program. These funds are earmarked for 257 various projects around the country. Last year, this same account contained 667 earmarks. I have long been critical of the number of earmarks contained in this section, and I commend the subcommittee chairman and ranking member for their restraint in this area.

I am, however, still concerned with the number of earmarks contained in this and many of the other annual appropriations bills. Mr. President, the process of earmarking funds in appropriations bills has simply lurched out of control. According to a report issued by the Congressional Research Service, in fiscal year 1994 there were 4,126 earmarks in the then 13 annual appropriations bills. That number grew to 14,040 earmarks in fiscal year 2004. That is an increase of 240 percent in just 10 years.

It is clear that, with our ever-growing mandatory entitlement spending coupled with our shrinking discretionary accounts, we are on the road to fiscal disaster. At a conference in February 2005, David Walker, the Comptroller General of the United States, said this:

If we continue on our present path, we'll see pressure for deep spending cuts or dramatic tax increases. GAO's long-term budget simulations paint a chilling picture. If we do nothing, by 2040 we may have to cut federal spending by more than half or raise federal taxes by more than two and a half times to balance the budget. Clearly, the status quo is both unsustainable and difficult choices are unavoidable. And the longer we wait, the more onerous our options will become and the less transition time we will have.

Is that really the kind of legacy we should leave to future generations of Americans?

Referring to our economic outlook, Federal Reserve Chairman Alan Greenspan testified before Congress that:

(T)he dimension of the challenge is enormous. The one certainty is that the resolution of this situation will require difficult choices and that the future performance of the economy will depend on those choices. No changes will be easy, as they all will involve lowering claims on resources or raising financial obligations. It falls on the Congress to determine how best to address the competing claims.

It falls on the Congress, my friends. The head of the Government's chief watch-dog agency and the Nation's chief economist agree—we are in real trouble.

The time has come to stop the practice of earmarking unauthorized funds and let the cabinet officials responsible for the various agencies of our government determine where and how our dwindling discretionary funds are to be spent. If we in the Congress are not willing to do our jobs and authorize our spending priorities, we should at least be willing to trust the President's Cabinet, who we voted to confirm to their positions, to do their jobs and appropriately fund their respective agencies' needs without our interference.

Mr. JEFFORDS. Mr. President, exactly 1 month ago I praised the Appropriations Committee's efforts to fund the State Revolving Fund for Wastewater Treatment and for Drinking Water at the highest possible levels. Today, however, I am gravely concerned about the overall cut in environmental spending contained in the bill before us today and specifically with a large cut in the clean water program.

First, let me say that I intend to vote for this conference report, as it contains a $1.5 billion supplemental spending package to cover a shortfall in veterans health care funding.

I was highly disappointed to learn last month of the shortfall in funding for veterans health care. It was particularly outrageous that this announcement followed on the heels of assurances from the Veterans' Administration and President Bush that the additional funding we attempted to add in the emergency supplemental funding bill was not needed. Clearly, this was not the case. I am pleased that the Senate moved immediately to rectify this problem and dealt with this problem while we still had a chance.

I am frustrated, however, that the funding to combat this shortfall was not attached to the more appropriate vehicle. At a time when our soldiers are returning from war and veterans are coming into the VA in record numbers, our veterans and our local VA hospitals need and deserve this funding. I only hope that we have learned our lesson from this unfortunate sequence of events and that we will do what is necessary in the future to ensure that the essential funds are provided for our veterans in a timely manner and following appropriate procedures. Our veterans deserve no less.

A clean and healthy environment may be our most important legacy for our children. It saddens me to think that under the guise of fiscal responsibility, the bill before us today cuts spending at the Environmental Protection Agency, EPA, to levels not seen since fiscal year 2001. This bill funds the EPA at about $7.7 billion. As recently as fiscal year 2004, the EPA received $8.365 billion. This is a cut of over $600 million in just 2 years.

Because of the administration's fiscal policies and priorities, which have led to record deficits, we are now going to underfund many programs that are important to the protection of public health and the environment. There are many programs I could touch on, but let me focus my remarks on the sad state of the clean water State revolving fund, CWSRF.

The CWSRF offers long-term, low-interest loans to State and local governments to help them meet Federal water quality standards by fixing old, decaying sewer pipelines, building and repairing wastewater treatment plants, and controlling other sources of water pollution. The conference report before us today funds the CWSRF at about $900 million, down from almost $1.1 billion last year and over $1.3 billion in FY 2004. This huge drop in spending is occurring at a time when nearly half of America's rivers and lakes do not meet basic Clean Water Act standards.

Furthermore, municipalities are currently struggling to fix old water and sewage pipes. The EPA estimates that clean water infrastructure needs nationwide will cost $390 billion over the next 15 years. The aging of the Nation's sewage treatment infrastructure has a direct effect on our waters and the people who come into contact with them. Many systems have exceeded their effective lives and are decaying because they were designed and built decades ago when urban areas were more compact and had much smaller populations.

I intend to carry on this fight for increased spending on water infrastructure and other important environmental programs. I hope that we can come to our senses before it is too late.

EXPANDING THE OIL AND GAS LEASING PROGRAM

Mr. BENNETT. Mr. President, as we prepare to accept the conference report on the fiscal year 2006 Interior appropriations spending bill, I want to raise an issue regarding the implementation of a pilot project in the State of Utah to determine the feasibility of expanding the oil and gas leasing program to include online auctioning of leases.

There is a very active oil and gas lease trading market in the private

sector. Many of these leases are bought and sold online in an auction process quite similar to other auction processes on the Internet. Information about the individual lease sale is made available to the public with accompanying documentation, prices are set and bids are accepted, sales and transactions are completed all online. The system operates very efficiently and expands the opportunity to participate to potential bidders all across the country.

BLM is currently limited to conducting oil and gas lease auctions orally. However, under the Government Performances Result Act, or GPRA, Federal agencies are allowed to conduct pilot studies to identify opportunities to further improve the efficiency and effectiveness of their business processes. Under GPRA, a pilot program which tested the feasibility of both oral and online auctions might help BLM increase the efficiency of the auction process and increase the exposure of leases to a broader number of participants.

However, the BLM does not currently have the capability to implement a program like this. But were they to develop a partnership with the private sector to develop an online component of the oil and gas leasing program, the program becomes much more feasible.

With that in mind, I requested funds for the BLM State office in Utah to conduct a pilot program with a private sector partner to develop a potential online oil and gas leasing project and to conduct a series of tests to see if this idea is workable. The Senate included funding for this program in the State of Utah. However, the committee did not specify that BLM should try to identify a private sector partner that has experience in conducting online oil and gas lease auctions.

Would it be the opinion of the chairman that BLM should identify and work with a partner in the private sector to proceed forward quickly with the development of a pilot program in Utah?

Mr. BURNS. The Senator is correct. The Bureau of Land Management currently does not have the mechanism in place to implement a pilot project like this. However, there are entities in the private sector that have a well-established history of conducting oil and gas lease auctions online. I would encourage BLM in Utah to quickly identify a private sector partner and develop a pilot program in Utah for online oil and gas lease auctions and encourage the director of the BLM to make sure that the necessary resources are devoted to implementing this project in a timely manner.

Mr. BENNETT. I appreciate that clarification.

Mr. CRAIG. Mr. President, I would like to take just a moment to comment on the Interior appropriations conference report now before the Senate.

First, let me congratulate Senator BURNS, chairman of the Intenor Subcommittee and his ranking member, Senator DORGAN, for their work on finishing this important piece of legislation before we adjourn for the August recess. My home State of Idaho has great interest in the Interior appropriations bill every year. And timely completion of this legislation is welcome news to my constituents.

As odd as this may sound, though, I do not wish to speak about Interior matters in this bill. Rather, I want to say a few words about the $1.5 billion included in this legislation for fiscal year 2005 supplemental funding for the Department of Veterans Affairs health care system.

I know all of my colleagues are aware of the notice I received a little over 1 month ago that VA funding for this fiscal year was severely strained. And that, as a result, this Congress was going to need to move fast to provide an infusion of resources to ensure our veterans continued to receive high-quality, timely health care from VA.

Working with Senators HUTCHISON, COCHRAN, MURRAY, FEINSTEIN, AKAKA, and others, the Senate voted unanimously to add $1.5 billion for VA health care to this Interior appropriations bill. We did so because we were confident this legislation would be completed in time to get this bill to the President's desk—and more importantly get the money to VA for veterans' health care—before the August recess. As is evident with the expected passage of this bill today, we have accomplished that goal.

Certainly this victory has not come without some hard work and negotiations. It was extremely difficult to get the administration to provide us with accurate budget numbers in any timely fashion. I spoke several times with VA Secretary Jim Nicholson and with OMB about the need to get the information to the Committee on Veterans' Affairs and the Appropriations Committee fast and to get it right with respect to fiscal year 2005 and fiscal year 2006 so that we would not be back here again in 6 months talking about shortfalls.

I am cautiously optimistic that VA and OMB have gotten it right this time. Working with Congress, they submitted a fiscal year 2005 and 2006 budget amendment that identified the need for an additional $2.952 billion. This bill provides a $1.5 billion down payment that goes towards meeting that identified need.

In addition, Senators HUTCHISON and FEINSTEIN are working on VA's funding need for fiscal year 2006 in the military construction/VA appropriations bill that was recently sent to the Senate floor by the full Appropriations Committee. We will all have a chance to vote on that measure after the recess.

I also want to tell my colleagues that I was very unhappy with the way in which all of this information about VA's shortfalls came to my attention. As chairman of the Veterans Committee, I take very seriously my responsibility to provide oversight of the VA and its financial picture on behalf of the Senate. And I want each of you to know that I have received personal assurances from Secretary Nicholson that he will provide quarterly reports throughout the fiscal year on VA's financial picture so that Senators can be certain that VA is on track and on budget.

Working together with Members on both sides of the aisle, I believe we can conduct the proper oversight of VA's health care budget and make certain that adequate finances are provided for the health care needs of our Nation's veterans.

Again, Mr. President, I thank my colleagues for all of their support, especially Chairman COCHRAN and Ranking Member BYRD of the full Appropriations Committee. Their unwavering commitment in the face of VA's shortfalls made this substantial supplemental increase possible.

Mr. FEINGOLD. Mr. President, while I voted in favor of the fiscal year 2006 Interior appropriations conference report, which contains funding for a number of important programs, including vital funding for veterans health care, I am disappointed in the lack of adequate investment in the clean water State revolving fund. This program has been helpful to communities all over Wisconsin, and across the country, in their efforts to safeguard their water supplies and to comply with new standards for drinking water contaminants like arsenic and radium. I was concerned earlier this year when the President requested a 33 percent cut for the clean water State revolving fund for his fiscal year 2006 budget. Because of my concern, I joined a bipartisan group of Senators in asking the Interior Appropriations Subcommittee to ignore the requested cut in funds and instead provide $1.35 billion for this program. The Senate bill included $1.1 billion for the revolving fund, and I am disappointed that the conferees did not retain this more favorable funding level.

Mr. AKAKA. Mr. President, I rise today to address the conference report on the Interior appropriations bill. Indeed, our efforts in the Senate to add $1.5 billion in funding for VA this year have borne fruit. I again laud our bipartisan effort to address the funding crisis in VA health care.

I also wish to thank my colleague, the Democratic leader, Senator REID, for his determination to ensure that $1.5 billion was the final amount of fuhding for this year. Though some were willing to accept less, he and I understand that every last dollar of this amount is needed to provide the highest quality of care to all veterans—be they older veterans in VA nursing homes or younger service members just returning from Iraq and seeking VA care for the first time.

We all know that while many of us have been saying that VA needs more money since the early part of the year, the administration needed to be

pressed to own up to the shortfall. As I have said before, I hope in the future all Members reach out to VA nurses and doctors and reach out to the veterans service organizations. We need not wait for the administration to make an official pronouncement about something that is so obvious. I do believe that the administration has lost its credibility in forecasting demand and expected costs. I believe this is true for its estimates of this year's funding, as well as next year.

The battle for next year's funding will be upon on us shortly. During the budget resolution I debate in March, I offered an amendment to increase VA's funding by $2.8 billion for next year. I stood before this body and outlined the case for a significant increase for VA. But we were I rejected because the administration claimed VA needed far less.

The administration wants us to now believe that VA needs a certain amount for fiscal year 2005 and 2006. They now want to convince us that they have a handle on the numbers. I remain skeptical.

VA rightly admits the fiscal year 2006 budget was off-the-mark in its estimate of the number of returning service members who will come for VA care. We know from experience how much it costs to treat a returning service member. Yet, the administration wants to now convince us that, in fact, the cost of treating a patient is less than half of this amount.

My original estimate of a need for $3 billion in VA health care spending for next year remains correct. The VA appropriations bill must contain the full amount for VA health care next year. If not, our veterans will find this nightmare repeated once again.

Along those lines, I appreciate the work that Senators CRAIG and HUTCHISON and our other colleagues are doing to tackle this problem. I believe we can find a solution, together.

Mr. ROCKEFELLER. Mr. President, within the conference report on the interior appropriations bill is an essential provision to provide $1.5 billion to address the current shortfall in funding for VA health care. The Interior appropriations conference report was selected as the quickest legislative vehicle to address this immediate and compelling lack of funding for VA.

With our country in combat in various regions around the world, including Iraq and Afghanistan, it is greatly disturbing that the VA is facing such a severe shortfall. I am proud that the Senate prevailed in securing the $1.5 billion needed to respond to urgent health care needs of veterans now—both veterans returning from current conflicts and aging veterans needing long-term care. While we are addressing this compelling need today, this crisis could have—and should have—been averted. The administration should have proposed a better budget for VA in February of 2005. The administration could have supported Senator MURRAY's amendment to the Iraq supplemental in April of 2005 to add $1.97 billion for VA health care. Neither happened, and it is troubling that VA blames use of old models and early estimates on VA health care needs beginning in 2002. Our heroic service men and women have been serving in Iraq since 2003, and the VA budget officials should have known to rework and review the VA health care budgets. It is a sad excuse for VA officials to tell Congress in April that VA health care funding is adequate and fine, and then have VA officials come to Congress at the end of June of 2005 to suggest a shortfall of at least $1.5 billion in the VA health care programs. We simply must have a better budget process at the VA to measure and adjust any estimates over time so that our veterans get the health care they have earned with their brave service.

Military personnel—Active Duty members and especially members of the National Guard and Reserves—respond to the call of duty. They risk their lives in service to our Nation, and they, and their families, endure enormous sacrifices due to their service. A new survey from the Army suggest that as many as 30 percent of those military personnel serving in Iraq and Afghanistan will face mental health concerns, like post traumatic stress disorder, PTSD, at the time of their return due to the violence and experiences they face. I have hosted private roundtables throughout West Virginia to meet with returning veterans from Iraq and Afghanistan, and I believe that they have compelling needs for mental health care due to the overwhelming stress of serving in such a challenging combat situation. Even service personnel who are supposedly not in combat zones face attacks from car bombs and suicide bombers. It is sad and tragic, and of course it affects our troops. The stories from West Virginia veterans about their service have convinced me that we must invest in more resources for mental health care, counseling, and our vet centers.

Knowing this, and knowing this for several years, we simply must ensure that VA health care get the funding it needs to serve all our veterans, Active Duty as well as National Guard and Reserves. But caring for our new veterans returning from Iraq and Afghanistan cannot be at the expense of serving veterans of other eras, Vietnam, Korea, and World War II and all the times in between.

Our aging veterans have huge long-term care concerns, and VA has an obligation to serve them. Part of our current shortfall was a lack of long-term care funding. While we did not know about the Iraq war in 2002, surely we should have been aware of the demographics of the VA population and the looming need for health care. This issue will not go away, and VA must serve all of our veterans.

Since coming to the Senate in 1985, I have been proud to serve on the Senate Veterans' Affairs Committee and I treasure this opportunity to work on behalf of veterans in West Virginia and throughout our country. Today's passage of the $1.5 billion provision for VA health care in the Interior appropriations package is an important step to address the VA health care shortfall. But honestly, this is merely a down-payment, and much more must be done to strengthen the process and the funding for VA health care. This Senator is fully committed to finding a real solution to the chronic problems of insufficient funding for VA health care. Our dedicated veterans deserve no less.

Mr. BYRD. Mr. President, I commend Chairman CONRAD BURNS and the ranking member, Senator BYRON DORGAN, on their work on this legislation. I am pleased that this conference report includes the full $1.5 billion proposed by the Senate to make up the current 2005 fiscal year shortfall in funding for veterans health care. The Interior bill may seem a strange vehicle for this funding, but it was the first vehicle available once the administration confirmed the funding crisis in VA health care, and I thank the managers for preserving this provision in their conference report.

It is critically important that the President sign this conference report into law quickly so that this money can be used to replenish the coffers of the VA and make sure that there is no interruption in the VA's ability to provide medical services to our Nation's veterans.

Make no mistake about it, this money is needed now—now. We know the VA anticipates an even greater shortfall in fiscal year 2006, and the Senate Appropriations Committee has addressed that problem in the 2006 Military Construction and VA appropriations bill by providing $1.977 billion in emergency funding for VA health care in 2006.

The $1.5 billion that is provided in this conference report is specifically intended to address the current—the current—2005 crisis in VA health care funding. The precise amount of the current shortfall remains somewhat murky. The administration, after months and months of denying that a shortfall even existed, first pegged it as $975 million, and then upped—upped—the estimate to $1.275 billion.

The Senate, however, fully mindful of the VA's dismal track record in estimating shortfalls, and wisely skeptical of the administration's fluctuating estimates, voted to include a total of $1.5 billion in this bill, with the proviso—get this—with the proviso that the funds would be available both this year and next. This was in sharp contrast to the House, which provided only $975 million in a separate bill to cover the fiscal year 2005 shortfall in VA funding.

It is a victory for our Nation's veterans. Hallelujah. It is a victory for our Nation's veterans that the conferees agreed on the Senate level of $1.5 billion, but it will be merely a Pyrrhic

victory if the White House tries to balance the books by shortchanging veterans in 2005 to make up some of the anticipated shortfall in 2006. Do not let it happen.

It is worth repeating: The Senate Appropriations Committee has addressed the 2006 shortfall by adding $1.977 billion in emergency funding to the 2006 Military Construction and Veterans Affairs appropriations bill. The entire amount of the VA funding included in the Interior bill—$1.5 billion—is available for 2005—for 2005—and I strongly urge the administration, I strongly urge the White House, to spend up to that amount to meet the current health care needs of our veterans.

The Senate voted twice, both unanimous votes, to provide $1.5 billion to make up the 2005 shortfall in veterans health care. I think the Senate made its position crystal clear. We did not vote to bank the money for some future rainy day. We voted to provide adequate funding to address an exiting crisis in the veterans health care system, and I, for one, fully expect—I fully expect—the administration to use this funding for the current crisis, and not attempt to horde it—horde it—horde it—for the future.

America's veterans have given much for their country. We have an obligation to give back to them something and to provide for their health care needs. This conference report is a good first step in shoring up the VA's health care budget and, hopefully, leading the way toward more realistic and adequate budgeting for the needs of our veterans in the future.

Now, Mr. President, there is another part of this conference report for which the Senate can be very proud. Just a few weeks ago, this body voted unanimously—unanimously—to approve an amendment that I offered, along with Senator THAD COCHRAN of Mississippi and Senator JOHN WARNER of Virginia, to provide $10 million—$10 million—to the national memorial to the Reverend Dr. Martin Luther King, Jr. That funding remains part of this final conference report before the Senate.

There are many in this country who, during his life, did not appreciate the passion that Dr. King stirred in people. There are many who believed his goals could be achieved through different means. And I was one of those people, ROBERT C. BYRD. I was one of them. And I was wrong. I was wrong. I have come to admire Dr. King. I have come to recognize that his dream—his dream—truly is the American dream.

Dr. King spoke of a day when children, regardless of color, regardless of creed, regardless of religious belief, would walk together in peace. Oh, how we need that message today, how we need that spirit today, as religious beliefs are used to divide our people, not to unite us, and as terrorist attacks breed distrust for people who come from different lands. Oh, how we need to recall the lessons that the late Dr. King taught some 40 years ago.

During the conference negotiations on this legislation, Mr. President, there was a great discussion on how the Congress could encourage more Americans to contribute to the construction of the King Memorial. This legislation will help. This legislation says that every dollar raised in the private sector will be matched with a dollar from the U.S. Government, up to $10 million. That is why I urge those who believe in the message of Dr. King to take just a few minutes and contribute to this national memorial.

Now, Mr. President, I thank the chairman of the Appropriations Committee, the gracious Senator from Mississippi, Mr. THAD COCHRAN, for his support and for his work on behalf of this memorial. Without his support we would not have had this in the bill. We would not be at this moment without his strong efforts.

I also thank the senior Senator from Virginia, the chairman of the Armed Services Committee, Mr. JOHN WARNER, for his work, too. Right from the start, Senator WARNER stood up and cosponsored this amendment. His influence and his support were vital to this effort.

I also thank Senator PETE DOMENICI for his support of this effort.

Finally, let me thank the tens of millions of Americans who continue to build the dream—the dream; ah, how great the dream—that Dr. Martin Luther King, Jr., voiced some 40 years ago. Achieving that dream is not easy. Despite efforts to put the past behind us and move forward together, there remain those who are determined to look backward. There remain those who would rather promote fear and division than build unity and common purpose. I hope this memorial to the legacy of the Reverend Dr. Martin Luther King, Jr., will remind all of us—all of us—that there is far more strength in unity, far more strength in resolve, far more strength in love of one's fellow man than there ever can be in division, in discord, and in disunity.

And so, Mr. President, I thank those who have been so helpful. And I hope that one of Dr. King's favorite Bible passages, which is also one of mine, comes to be a reality. And I have seen it coming to be a reality. It comes from the Book of Isaiah.

Prepare ye the way of the Lord, make straight in the desert a highway for our God.

Every valley shall be exalted, and every mountain and hill shall be made low: and the crooked shall be made straight, and the rough places plain:

And the glory of the Lord shall be revealed, and all flesh shall see it together:. . . .

That was one of Dr. Martin Luther King's favorite Scriptures. And so I look forward to that day, Mr. President. That day was the hope of Dr. King. And that day is my hope as well.

Mr. President, I thank the Chair and thank all Senators.

Mr. President, before I yield the floor, I ask unanimous consent to have printed in the RECORD a list of the Senate cosponsors of the Martin Luther King, Jr., Memorial amendment.

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

COSPONSORS LIST

Amendment Number: SP1053.

Cosponsors: Cochran, Warner, Kennedy, Mikulski, Landrieu, Johnson, Stabenow, Murray, Bingaman, Jeffords, Rockefeller, Obama, Feinstein, Schumer, Sarbanes, Boxer, Harkin, Corzine, Brownback, DeWine, Levin, McConnell, McCain, Biden, Nelson of FL, Clinton, Bayh, Kerry, Roberts, Leahy, Allen, Pryor, Durbin, Martinez, Lieberman, Feingold, Hutchison.

Total Cosponsors: 37.

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

Mr. DOMENICI. Mr. President, I yield back any remaining time on the Interior conference report.

The PRESIDING OFFICER. The Senator yields back all remaining time on the Interior conference report.

Mr. DOMENICI. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on the Interior conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the conference report. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—99

Akaka	Dole	Martinez
Alexander	Domenici	McCain
Allard	Dorgan	McConnell
Allen	Durbin	Mikulski
Baucus	Ensign	Murkowski
Bayh	Enzi	Murray
Bennett	Feingold	Nelson (FL)
Biden	Feinstein	Nelson (NE)
Bingaman	Frist	Obama
Bond	Graham	Pryor
Boxer	Grassley	Reed
Brownback	Gregg	Reid
Bunning	Hagel	Roberts
Burns	Harkin	Rockefeller
Burr	Hatch	Salazar
Byrd	Hutchison	Santorum
Cantwell	Inhofe	Sarbanes
Carper	Inouye	Schumer
Chafee	Isakson	Sessions
Chambliss	Jeffords	Shelby
Clinton	Johnson	Smith
Cochran	Kennedy	Snowe
Coleman	Kerry	Specter
Collins	Kohl	Stabenow
Conrad	Kyl	Stevens
Cornyn	Landrieu	Sununu
Corzine	Lautenberg	Talent
Craig	Leahy	Thomas
Crapo	Levin	Thune
Dayton	Lieberman	Vitter
DeMint	Lincoln	Voinovich
DeWine	Lott	Warner
Dodd	Lugar	Wyden

NAYS—1

Coburn

The conference report was agreed to.

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, when I came to work this morning, as I pulled into the Capitol, there were dogs under Capitol police control, sniffing to find out if there were explosives in the cars coming into the Capitol. There was an officer with a semiautomatic shotgun. As I proceeded, there was an officer on the Capitol steps with an assault rifle. As I came into the Capitol, there were police officers at the door. These are the same type of officers as the two who were gunned down, Chestnut and Gibson, a few years ago. These were police officers protecting us.

In this Chamber today, there are plain clothes Capitol police officers here for our protection. All of these police officers are trained to put our lives ahead of theirs.

When we, in recent days, have been directed to leave the Capitol, taken from the Capitol, there are police officers who wait behind to make sure everyone is out before whatever wrong is supposed to happen happens. They are the last here before the doors are closed.

I was a Capitol policeman. I was not trained to do any of the things these men and women are trained to do today. We are in an extremely vulnerable situation here in the United States Capitol complex. In every one of the office buildings, every place we go in the Capitol complex, there are evil people who are trying to do harm to us and the millions of visitors who come here every year.

That is why, as I read this morning the language in the Legislative Branch appropriation bill, I was offended. I was offended by the language in that bill, the insulting language about our Capitol Police. They are our Capitol Police.

This legislation is going forward. As a member of the Appropriations Committee—I was chairman of the Legislative Branch Appropriations Subcommittee for a number of years, and I enjoyed the service greatly—I feel that the Capitol Police have been wronged in this appropriations bill. The Capitol Police is an imperfect organization, similar to every organization. It is a big organization. I am sure the administration makes mistakes and things happen that should not happen within the Capitol Police force. However, I repeat, the men and women who put their lives on the line for us every day, 24 hours a day—for each of us, for the staff here, as I said before, for the thousands of people who are visiting today in this Capitol—their support, their protection is consistent and strong.

I resent this libel, by vague generality, that is contained in this conference report. The language in the Senate version of the Legislative Branch bill contained a number of constructive clauses and areas of improvement for the police, written in a way that is completely appropriate in an appropriations bill. What is returned from the conference is an anti-Capitol Hill Police screed that is unacceptable.

I am pleased the Senate was largely able to prevail on fiscal issues in this conference report. The Capitol Police will have most of the resources they need to protect Members, staff, and the visitors who come here. However, it seems that our conferees were forced, obviously, to swallow nasty report language about the Chief of Police, his deputies, and other police administrators in order to get adequate funding for them. This is absurd. I am happy to have the funding, but the trade is ridiculous.

It is unwarranted. There are problems in all large organizations. Let's work to solve them together, but not have the nasty tone of this conference report. For whatever reason, we have had a succession of people in the House of Representatives who do not like the Capitol Police force. They have stated so publicly and privately. But it is not getting better; it is getting worse.

This is the last year I will accept it. Maybe others will, but I will not. Let me be very clear. I will never ever allow a Legislative Branch conference report that is as nasty and relentlessly negative toward our Capitol Police as this one that is going to become law. One will never become law again. I am going to reach out to my friends on the House side, Congressman LEWIS and the Speaker and others, to see what we can do to improve this.

I support Chief Gainer, his deputies, his staff, and all his officers. They have my support and my devotion because they protect my life every day. They risk their lives every day to protect this institution, and they deserve better than the pettiness that I have read in these pages.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I ask unanimous consent the next three rollcall votes be 10-minute votes.

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

Under the previous order, there will now be 2 minutes of debate equally divided on the conference report to accompany H.R. 2985, the Legislative Branch appropriations bill. The Chair recognizes the Senator from Colorado.

Mr. ALLARD. Mr. President, I yield to the minority to speak first. Are there any additional comments?

The PRESIDING OFFICER. The Senator from Illinois is recognized for 1 minute.

Mr. DURBIN. I thank the Chairman again for his hard work on the bill, and I agree with Senator REID in every word he has said. What is in this conference committee report about the Capitol Police is totally undeserved and unwarranted. It is a shame there are some people in this Capitol, not necessarily on this side of the Rotunda, who unfortunately put that language in here. Remember, we are here safely today because they are literally risking their lives as we do our work. For goodness sakes, they deserve our appreciation, and they do not deserve the condemnation that is part of this conference committee report.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I think we have a good bill for us. I ask everybody to vote ''aye'' on the conference report. We have been very generous with the police. We all recognize the hard work and sacrifice they have made on behalf of all of us, our staffs, and the many visitors who come to the Capitol.

We have taken a very strong position in support of the Capitol Police on this side of the Capitol. We worked closely with the minority side and appreciate their input as we move forward with this particular piece of legislation.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the conference report.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 96, nays 4, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—96

Akaka	Dole	McCain
Alexander	Domenici	McConnell
Allard	Dorgan	Mikulski
Allen	Durbin	Murkowski
Baucus	Enzi	Murray
Bayh	Feingold	Nelson (FL)
Bennett	Feinstein	Nelson (NE)
Biden	Frist	Obama
Bingaman	Graham	Pryor
Bond	Grassley	Reed
Boxer	Gregg	Reid
Brownback	Hagel	Roberts
Bunning	Harkin	Rockefeller
Burns	Hatch	Salazar
Burr	Hutchison	Santorum
Byrd	Inouye	Sarbanes
Cantwell	Isakson	Schumer
Carper	Jeffords	Sessions
Chafee	Johnson	Shelby
Chambliss	Kennedy	Smith
Clinton	Kerry	Snowe
Cochran	Kohl	Specter
Coleman	Kyl	Stabenow
Collins	Landrieu	Stevens
Cornyn	Lautenberg	Sununu
Corzine	Leahy	Talent
Craig	Levin	Thomas
Crapo	Lieberman	Thune
Dayton	Lincoln	Vitter
DeMint	Lott	Voinovich
DeWine	Lugar	Warner
Dodd	Martinez	Wyden

NAYS—4

Coburn	Ensign
Conrad	Inhofe

The conference report was agreed to.

Mr. ALLARD. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

ENERGY POLICY ACT OF 2005—CONFERENCE REPORT—Resumed

The PRESIDING OFFICER. There will now be 2 minutes of debate on the conference report accompanying H.R. 6, the Energy bill. Who yields time?

Mr. DOMENICI. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The senior Senator from New Mexico.

Mr. DOMENICI. What is the issue before the Senate?

The PRESIDING OFFICER. The issue before the Senate now is the conference report accompanying H.R. 6. There is 2 minutes equally divided.

Mr. DOMENICI. I understand the distinguished Senator from Wisconsin desires to make a point of order.

Mr. FEINGOLD. Mr. President, I have 1 minute; is that correct?

The PRESIDING OFFICER. That is correct.

The Senate will be in order.

The Senator is recognized.

Mr. FEINGOLD. I have four fundamental concerns with regard to the Energy conference report: it digs us deeper into a budget black hole, it fails to decrease our dependence on foreign oil, it rolls back important consumer protections, and it undermines some of the fundamental environmental laws our citizens rely upon.

The conference report includes direct spending of more than $2.2 billion over the 2006–2010 period, exceeding the amount allocated by the budget resolution, so I hope my colleagues will join me in sustaining a budget point of order.

Mr. President, I make a point of order that the pending conference report violates section 302(f) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Was the motion just made?

The PRESIDING OFFICER. A point of order was made.

Mr. DOMENICI. I move to waive the point of order subject to appropriate provisions of the Budget Act.

The PRESIDING OFFICER. The Senator from New Mexico moves to waive the budget point of order.

Mr. DOMENICI. Mr. President, I have 2 minutes; is that correct?

The PRESIDING OFFICER. One minute.

Mr. DOMENICI. One minute. First, this is almost not a point of order. It is $40 million a year. That is because we had $2 billion in direct spending, $2 billion in this whole bill. What we did, when we ended up doing all of the estimating, it was 2.2. So anybody who thinks this point of order is a real budget point of order, it is a nothing point of order. Many times the budget process takes $50 million and rolls it because they are trying to make things meet, and here we are having a point of order making it sound like a bunch—$40 million.

The last comment is this bill reduces the deficit because the tax writing committee came in $6 billion under. We are $200 million a year over. Do the arithmetic. The bill reduces the deficit; it doesn't raise it. I think this is the very reason the waiver provisions in the Budget Act were provided, for mistakes like these in estimating. That is why we have a waiver section. Members should vote in favor of the Domenici motion to waive.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico to waive the Budget Act.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 71, nays 29, as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—71

Akaka	Dodd	McConnell
Alexander	Dole	Mikulski
Allard	Domenici	Murkowski
Allen	Dorgan	Nelson (NE)
Baucus	Durbin	Obama
Bennett	Ensign	Pryor
Bingaman	Enzi	Roberts
Bond	Feinstein	Rockefeller
Brownback	Frist	Salazar
Bunning	Graham	Santorum
Burns	Grassley	Sessions
Burr	Hagel	Shelby
Byrd	Harkin	Smith
Cantwell	Hatch	Snowe
Coburn	Hutchison	Specter
Cochran	Inhofe	Stabenow
Coleman	Inouye	Stevens
Collins	Johnson	Talent
Conrad	Landrieu	Thomas
Craig	Levin	Thune
Crapo	Lieberman	Vitter
Dayton	Lincoln	Voinovich
DeMint	Lott	Warner
DeWine	Lugar	

NAYS—29

Bayh	Gregg	McCain
Biden	Isakson	Murray
Boxer	Jeffords	Nelson (FL)
Carper	Kennedy	Reed
Chafee	Kerry	Reid
Chambliss	Kohl	Sarbanes
Clinton	Kyl	Schumer
Cornyn	Lautenberg	Sununu
Corzine	Leahy	Wyden
Feingold	Martinez	

The PRESIDING OFFICER (Mr. THOMAS). On this vote, the yeas are 71, the nays are 29. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to and the point of order falls.

The question now is on agreeing to the conference report.

Mr. DOMENICI. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the conference report.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 74, nays 26, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—74

Akaka	Allen	Bennett
Alexander	Baucus	Bingaman
Allard	Bayh	Bond
Brownback	Ensign	Murkowski
Bunning	Enzi	Nelson (NE)
Burns	Frist	Obama
Burr	Graham	Pryor
Byrd	Grassley	Roberts
Cantwell	Hagel	Rockefeller
Chambliss	Harkin	Salazar
Coburn	Hatch	Santorum
Cochran	Hutchison	Sessions
Coleman	Inhofe	Shelby
Collins	Inouye	Smith
Conrad	Isakson	Snowe
Cornyn	Johnson	Specter
Craig	Kohl	Stabenow
Crapo	Landrieu	Stevens
Dayton	Levin	Talent
DeMint	Lieberman	Thomas
DeWine	Lincoln	Thune
Dole	Lott	Vitter
Domenici	Lugar	Voinovich
Dorgan	McConnell	Warner
Durbin	Mikulski	

NAYS—26

Biden	Gregg	Murray
Boxer	Jeffords	Nelson (FL)
Carper	Kennedy	Reed
Chafee	Kerry	Reid
Clinton	Kyl	Sarbanes
Corzine	Lautenberg	Schumer
Dodd	Leahy	Sununu
Feingold	Martinez	Wyden
Feinstein	McCain	

The conference report was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 397, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 397) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

Pending:

Frist (for Craig) modified amendment No. 1605, to make clear that the bill does not apply to actions commenced by the Attorney General to enforce the Gun Control Act.

Frist modified amendment No. 1606 (to amendment No. 1605), to make clear that the bill does not apply to actions commenced by the Attorney General to enforce the Gun Control Act and National Firearms Act.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we have now returned to S. 397. Under a unanimous consent agreement, there are four amendments to be debated, and three of the four will have relevant first degrees. My colleague from Kansas has asked to speak very briefly before we move to the first amendment.

I yield to Senator ROBERTS.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I thank the distinguished Senator for yielding.

There is not another thing, basically, on any of these amendments that has not already been said or that will change anybody's vote. I don't intend

to hold the Senate up, but I want to take a moment to comment on where we are in the legislative schedule and to make a personal request of my colleagues. I don't question the right of any Senator to be heard on the Senate floor. But I must say I do not understand the need to continue debating and discussing all of these amendments on the Friday afternoon before the start of a long month's recess. I ask, could we please cut down on the rhetoric so that we might be able to get along with the people's business and cast our votes. I know the manager wants that. I would probably determine that the minority would like that as well.

I make this request not only as a Senator from Kansas but as the father of a young lady that I will be walking down the aisle tomorrow. Very early this week I informed our leaders in the Senate that I had every intention of being at her rehearsal, and that rehearsal and dinner starts at 5 o'clock. I will be there. So if we must continue on making these statements this afternoon and offering these amendments, I ask that the RECORD reflect that any votes I miss will be the result of me performing my duties as a dad and being with my daughter on the most important evening and day of her life.

Thus, Mr. President, I ask unanimous consent that the RECORD reflect that should I miss votes in the afternoon, it would have been my intention to vote as follows on the Transportation bill, amendments to the gun liability bill, and the gun liability bill itself:

''Yea'' on the Transportation bill; ''nay'' on the Reed amendment No. 1642; ''yea'' on the Frist-Craig first-degree amendment to the Kennedy amendment No. 1615. Should the first-degree amendment not be accepted, I would vote ''nay'' on the Kennedy amendment. I would vote ''yea'' on the Frist-Craig first-degree amendment to the Corzine amendment No. 1619. Should the first-degree amendment not be accepted, it would have been my intention to vote ''nay'' on the Corzine amendment. It would be my intention to vote ''yea'' on the Frist-Craig first-degree amendment to the Lautenberg amendment No. 1620. Should the first-degree amendment not be accepted, it would be my intention to vote ''nay'' on the Lautenberg amendment. Finally, it would be my intention to vote ''yea'' on final passage of the gun liability bill.

I respect and love you all. I admire you all. But while charm and looks and levity may woo us in the start, in the end it is brevity that will win my colleagues' hearts.

I yield the floor.

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

The Senator from Idaho.

Mr. CRAIG. An interesting speech about not making speeches. I yield the floor for the offering of an amendment.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 1620

Mr. LAUTENBERG. Mr. President, I wonder if I might dare to offer my comments after that earlier admonition. But I will do it because we are here for reasons that are obvious to everybody. We are here because our friends on the other side wanted to stop us from offering amendments altogether and are trying to block any suggestion that might be added to make this bill more reasonable or more acceptable.

I call up my amendment and ask unanimous consent that Senator DODD be added as a cosponsor.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Mr. DODD, proposes an amendment numbered 1620.

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

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

The amendment is as follows:

(Purpose: To exempt lawsuits involving injuries to children from the definition of qualified civil liability action)

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case against a manufacturer or seller involving an injury to or the death of a person under 17 years of age.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term ''negligent entrustment'' means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi)

Mr. LAUTENBERG. Mr. President, I am offering this amendment that poses a question to the Senate. The question is fairly simple: What is more important in our life, in our society, to be on watch for: Is it to protect our Nation's children and to let those know who would assist in harming those children that they are going to be taken to court and be sued and punished, if they can be punished, or for criminal action as well? This refers only to the civil side of things. But what is more important? Is it most important for us to support the NRA, to make sure they are satisfied, to make sure that their dictates to this body—and it is obvious that it is all over the place. Ladies and gentlemen who can hear us in this debate, understand that the other side is willing to block your ability, your family's ability to sue someone who has been neglectful, careless, reckless with the way a gun is handled and to protect them.

Why? Frankly, I cannot figure it out. But apparently our friends on the other side have it all figured out. They just say no. We went through that exercise in our society, and it didn't work. It is not going to work here. Is it to protect our children? Special interests versus the children in America.

This bill—everyone knows—wants to protect the gun industry even, as I said, when they are grossly negligent, reckless, careless. What my amendment says is that there should not be a blanket grant of immunity in cases in which a child is the victim. We identify a child as those children under 17 years of age. How dare we look a mother in the eye and tell her that she cannot hold the people who caused the death or injury to her child accountable? We cannot do it. One has to look deeply into whether there is a constitutional question associated with this. The fifth amendment suggests that you have the right to seek damages—this is not precise language—for injuries.

What this bill says now is that the parents of children killed by gunfire, when someone else is at fault, even if they are careless, reckless, or negligent, cannot seek redress. It has been said before by colleagues that there are numerous industries that would like the same protection so they can go ahead perhaps and not be as careful in making sure their product meets safety standards. But, no, they didn't have the muscle to break their way into this place and ''at gunpoint''—if I may use the expression—jam something through this Senate. And they describe these shamelessly as junk lawsuits—that is hard to understand. The bill says, too bad, sorry about your kid, but we cannot let you harm these big campaign donors of ours. No, no, no. It is kind of sacrosanct. But it is prohibited for every other industry in this world of ours.

If they make a faulty product and if they are negligent in its handling, they can be taken to court and sued. I will provide an example. A criminal goes into a gunshop and asks to look at assault weapons. The dealer lays out deadly weapons on the counter and the dealer says: Just a minute. I have to go in the back. Here are these weapons on the counter. When the dealer returns from the back room, where he said he was going to check something in inventory, the criminal has taken the weapon and left the store.

Can you imagine that outrageous behavior? The lethal weapons were on the counter. The dealer could turn his back for a moment and have someone with criminal intent steal a gun and go out. The dealer cannot be punished for that

outrageous behavior. The next day, that criminal could use that weapon in a drive-by shooting and kill a 6-year-old boy.

If this bill passes in its current form, the parents of that child cannot go to court to sue against that negligent gun dealer. When the parents ask why they can't sue this dealer whose negligence caused their son's death or permanent disability, we can tell them to thank their Senator; get the phone number and office address of their Senator, and they can send their gratitude to that Senator—or their anger and their rage—which they have a right to do.

Mr. President, nearly 3,000 children die from gunshot wounds every year in our country. The Senate ought to try to reduce that statistic and not stand by and permit it to grow.

According to the CDC, the latest statistics show that in 2002, 2,867 children and teenagers died from gunshot incidents in the United States. The CDC also found that firearm-related deaths among children under the age of 15 were 12 times higher here than in 25 other industrialized countries combined. Let me repeat that. Firearm-related deaths among children under 15 in our country were 12 times higher than in 25 other industrialized countries combined. We are not talking about backwoods or primitive countries; we are talking about industrialized countries. They are much more conscious about protecting their population from random gunshots than we are. These are shameful statistics.

So why does it matter whether negligent gun dealers are held accountable? Because when we hold people accountable for their actions, we prevent wrongdoing that will hurt more people in the future. It sends a clear message—hey, if you are not careful with your inventory of guns, if you are not careful of whom you sell that gun to, if you are not careful with what kind of a retailer you distribute your guns to, you are going to pay a price, a stiff price. Maybe it will put you out of business. Maybe you deserve to go out of business. That is what I say. Why should we lock the courthouse doors to our children and the families of children killed or injured by guns?

Mr. President, earlier I used a hypothetical example, but there are thousands of real-life examples of children suffering because of gun industry negligence. There is the story of Tennille Jefferson, the mother of a young son who became another statistic of gun violence. On April 19, 1999, her son, Nafis, was shot and killed by a young man who found a gun on the street belonging to a gun trafficker named Perry Bruce.

Perry Bruce bought this deadly weapon from a gun dealer who had repeatedly sold him guns, despite many obvious signs that he was a gun trafficker. Mr. Bruce had shown a welfare card as his identification; yet, somehow nobody at this store bothered to question how he had thousands of dollars to purchase 10 guns at a time.

Mr. Bruce has stated that the gun dealer ''had to know what I was doing'' and that he was high on marijuana each time he bought guns from this gun dealer.

Gun dealers like this must be held accountable. This bill gives them a free pass to do any darn thing they want, except certain classes of negligence, or negligence per se; otherwise, it is a free pass.

The senior Senator from Virginia spoke so eloquently yesterday about this issue. He pointed out that the vast majority of licensed gun dealers followed the rules, but there are those rogue dealers that act negligently and cause death and injury. Senator WARNER explained it to us that this bill before us gives these rogue gun dealers a pass. This bill says—and I quote Warner—''Go ahead. Do whatever you want.''

Shamefully, the Senate leadership denied Senator WARNER—a distinguished, long-serving Senator, a veteran of World War II—from having a chance to have a vote on his amendment. I didn't think I would be here defending a Republican Senator's chance to offer an amendment, but they made sure that that wasn't going to happen. Even though there is purported respect, affection, and almost reverence for Senator John Warner, they denied him a chance to stand on this floor and offer an amendment. No, the NRA is more powerful than Senator WARNER. It is shameful. In my view, it was so disrespectful to a senior Member of this body.

My amendment takes on pretty much the same issue as Senator WARNER but with a narrower focus. Do those whose actions lead to the death or injury of a child get a free pass? To me, there is only one answer there. I would take my kid over anything that the NRA needs or wants any time.

I would fight like the devil for it. I once carried a gun for it when I served in World War II. So the question before the Senate on my amendment is: Whom do you want to please? Do you want to please mothers, fathers, grandparents, brothers, and sisters? Or do you want to protect the NRA, the gun manufacturers, the gun distributors—those who at times don't give a darn about how they handle these things?

We are going to hear the cry about how we are going to put these innocent people out of business. Out of business? No. We don't want to put them out of business. If they are going to be in the business, and they are legally licensed, they need to be careful and make sure they obey the rules. If they don't, they will pay a price—perhaps criminally, but surely civilly.

If we fail to adopt my amendment, gun dealers are not going to have any accountability, no incentive to behave responsibly, no matter the number of children who die from gun violence. Our criminal justice system brings about punishment—yes, they take the person who committed a violent act or a felony and make them pay. Purportedly, it registers with others who would conduct similar acts, and that is the way we operate.

But here, no. We are saying: Listen, you don't even have to be careful. You can be negligent and reckless. Do what you want. Come on. It is for the gun industry, for the NRA. Whom do we have to respect around here? It is obvious that they think it is the NRA. It is unjust, unfair, and immoral for us, as elected officials, to strip away the rights of children and families who are harmed or killed by gunfire.

Are Senators willing to look in the eye of Tennile Jefferson and tell her the door to the courthouse is barred for her?

I wish to talk about something we know will be pending, and that is the Republican alternative ostensibly to offer the protection these children's families might need from my amendment. To put it bluntly, the Republican sham protection is an insult. It is an insult to America's children. It is an insult to America's parents. It is an insult to this Senate. It is an insult to morality. That is the way it is going to come about.

You are going to say: No, that child's family can be protected by those conditions already laid out for penetrating the shield of protection that the gun industry and the NRA are demanding.

I urge my colleagues to read this so-called alternative, and I urge the public to get this language. Understand what is taking place. Compare my amendment to that which is going to be offered and see which one is serious about offering the opportunity for people to seek compensation in the event of injury.

The Republican language makes clear that children get no special treatment under this bill. It says that children are subject to the same limited exemptions that everyone else has under this bill, approximately three conditions. Negligence and negligence per se are exempt from the prohibition. In our amendment, negligent entrustment and negligence per se are still able to be adjudicated in a court in a civil action.

Our amendment says that the gun violence immunity bill should not apply to children. Please, look at your own families. See what you would do to someone who would harm your child, maybe render them totally disabled for life. How would you react to that? Would you say, Too bad, the courts in America will not allow us to seek redress, to get some measure of compensation? There is never enough money to bring back the health and well-being of a child who was killed or a child who is permanently injured.

This will block legal actions on the behalf of children and their families who are injured or killed. It is about as simple a decision as we get around here. Are there times when the courthouse doors ought to be locked, be shut to children or their families, or shouldn't they?

I urge my colleagues once again to think about the faces of their children. I have 10 grandchildren, and nothing in this world is more important to me than all 10 or any 1 of those 10 grandchildren. I think everybody else, even those who right now are supporting this hard-hearted legislation, even those people I know love their children. They don't want anything to happen to them. They want to protect them as much as they can. I bet whatever devices they can use to protect them they would use.

So come on, think about it when you cast your vote. Look in the mirror one time and challenge your conscience to see how you ought to be voting. Let that be your guide.

Mr. President, I believe we have more time for this amendment. What is the status of the time for our side?

The PRESIDING OFFICER (Mr. BURR). The Senator has 1 minute remaining.

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

The PRESIDING OFFICER. The Senator reserves the remainder of his time.

Who yields time? The Senator from Idaho.

AMENDMENT NO. 1644

Mr. CRAIG. Mr. President, under the order, I send a relevant first-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 1644.

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

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

The amendment is as follows:

(Purpose: To protect the rights of children who are victimized by crime to secure compensation from those who participate in the arming of criminals)

On page 11, between lines 6 and 7, insert the following:

(D) MINOR CHILD EXCEPTION.—Nothing in this Act shall be construed to limit the right of a person under 17 years of age to recover damages authorized under Federal or State law in a civil action that meets 1 of the requirements under clauses (i) through (v) of subparagraph (A).

Mr. CRAIG. Mr. President, we have just heard the arguments of Senator LAUTENBERG in relation to his amendment. I most assuredly in no way question the sincerity of the Senator and the environment in which this amendment has been offered. But if I can be as direct as I can be, if you want to drive a truck through the middle of the bill, then the Lautenberg amendment accomplishes just that. In the name of children, yes, and we should be sensitive to children. Of course we are. Children are as protected under this proposed law as anyone else because this law says go after the criminal, don't go after the law-abiding gun manufacturer or the law-abiding gun seller.

But if there is negligent entrustment, if that can be proven, certainly if that seller or if that gun dealer or manufacturer is negligent, then anyone can and should bring lawsuits. It is the same issue we faced on previous amendments trying to carve out a special class that gets favored treatment beyond another class, and with children, certainly that would sound like we would want to be more sensitive.

Most of us in the Senate are parents, but you don't have to be a parent to grieve over a child's injury or a child's death. We have many laws on the books at both the State and the Federal level, and some of them are placed by this very Senate to protect our Nation's most vulnerable—our children. We must insist on the enforcement of those laws instead of constantly trying to carve out something special that may not even be that enforceable. How do you protect children on the street? You go after the criminal who is packing the gun on the street. Every year we do that, those deaths go down in America, whether it is a child's death or whether it is an adult's death. The Lautenberg amendment speaks to those 17 years of age and younger.

If those laws are broken by the gun industry, then the bill we are considering today will not shield them from the lawsuits or from the kind of harm that is rendered. If this is the same issue—and it is—we have debated several times to carve out something special, then we should not do that. But what we are saying in the alternative that has just been offered is that the bill allows lawsuits against firearms industries by and for children to the same extent that it does for any other victim of the illegal misuse of a firearm in relation to a gun manufacturer and a gun dealer.

Under this, if a child is injured by some wrongdoing of the gun industry, the lawsuits are not barred. Again, remember yesterday we debated the question of negligence and reckless conduct, and it was very clearly established by a substantially large vote in the Senate that it does not take away the standards of law and the specifications within the Federal law today as it relates to the responsible and legal operation and performance of a gun manufacturer or a licensed Federal firearms dealer.

How do you solve the crisis or the problem so defined by Senator LAUTENBERG? You enforce the law. You go after the criminal. You go after the drug dealer. You go to the streets of America and you sweep them clean of those who would break the law and those who are stealing the guns and those who are misusing the guns, instead of going after a law-abiding legal citizen manufacturing a law-abiding and legal product.

I believe that is the issue, and I ask my colleagues to support us in voting for the alternative and opposing the Lautenberg amendment.

I now yield to Senator THUNE for any comments he would wish to make. What is the time remaining on our side?

The PRESIDING OFFICER. The Senator from Idaho has 15 minutes 10 seconds.

Mr. CRAIG. I yield 10 minutes to the Senator.

Mr. LAUTENBERG. Will the Senator yield for a question and clarification of terms?

Mr. CRAIG. I yield.

Mr. LAUTENBERG. On the question of gross negligence, does gross negligence pierce the prohibition suit?

Mr. CRAIG. If it is spelled out within the context of the Federal law today, it would. Under this bill, it would not unless it could be established as a violation of the current laws of our country and under the current standards. We are not creating a new category as the Levin amendment tried to do as it relates to gross negligence or reckless misconduct. But what was established was negligence, negligent entrustment is not exempt from this law.

Mr. LAUTENBERG. Didn't the Senator from Michigan offer the gross negligence exemption and had it denied because——

Mr. CRAIG. In the broadest sense, he did.

Reclaiming my time, I yield to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized for 10 minutes.

Mr. THUNE. Mr. President, I thank the Senator from Idaho for his leadership on this issue and for yielding time. I rise in strong support of the Protection of Lawful Commerce in Arms Act and in opposition to these amendments that will be offered this afternoon, all of which are designed to gut the underlying legislation.

It has been noted throughout the course of this debate that prosecutions are up, crime is down. That should be the fundamental focus of our efforts—protecting people from crimes committed by firearms.

I come from a State where we view these issues as a part of our personal freedoms, part of the rights that are guaranteed under the Constitution, the opportunity to possess and own firearms. It is a part of the culture of our State, a belief in personal freedom, also coupled with personal responsibility, which is why every year thousands of young South Dakotans take the firearm safety course and learn the responsible use of firearms and then go out and have the opportunity to hunt and recreate and enjoy the great outdoors in our great State.

That was the opportunity I had as a young 12-year-old. I have taught my teenage daughters responsible use of firearms. It is part of our history. It is part of our tradition. It is part of our culture.

The bill before us today would end many of the abusive lawsuits that are often filed, largely with the intent to bankrupt the firearms industry. Contrary to the assertions by some, this

bill is not about the NRA. This bill is about law-abiding gun owners, it is about law-abiding gun dealers, it is about law-abiding gun manufacturers who are having that second amendment right infringed upon by those who are trying to destroy an industry that, for a couple of centuries now, has provided quality workmanship in accordance with Federal and State laws.

This bill is about reestablishing some of the fairness and justice, getting it back into our judicial system. This bill attempts to remedy a system that allows innocent parties—in this case, gun manufacturers and gun dealers—who have abided by the law to become victims of predatory lawsuits.

Furthermore, we are protecting American workers who are in danger of losing their jobs due to the enormous amount of money that must be spent to defend against unfounded lawsuits.

I also support this legislation because it would take the first step in ending what has been now a decades-long trend of using the courts to effect social change. For far too long, the American judicial system has been used as a conduit around the legislative process in an attempt to make public policy or implement social change outside the democratic process.

The aim of this bill is clear: to allow legitimate lawsuits against a manufacturer when the legal principles to do so are present. The bill allows suits against manufacturers who breach a contract or a warranty, for negligent entrustment of a firearm, for violating a law in the production or sale of a firearm, or for harm caused by a defect in design or manufacture.

These are not arbitrary standards, nor are they an approved NRA wish list. They are established legal principles that apply across the board to all industries. People who misuse firearms should pay for their crimes and answer to those they injure. However tragic, a death or an injury caused by a firearm should not create a windfall at the expense of the manufacturer if the manufacturer followed the law.

The manufacturer should not be held responsible for intentional and unforeseen acts of unrelated third parties.

The firearms industry has spent over $200 million in lawsuits. Many of these cases are not filed by injured parties but by city and municipal governments and special interest groups simply looking for the deepest pockets and not the guilty party. This bill would not allow manufacturers in the firearms industry to act as recklessly as they please, as some have asserted.

The firearms industry is one of America's most regulated industries. For example, a firearm is one of the few consumer goods that requires a waiting period or a background check. Unfortunately, some ultimately hope to drive America's gun manufacturers into bankruptcy and eventually out of business. The firearms industry is not only part of our tradition of outdoor and hunting sports, it is an integral part of our military manufacturing base. We cannot allow this industry to be bankrupted by unfounded lawsuits and endless litigation.

S. 397, this underlying bill, is good policy. It is a bipartisan bill with over 60 cosponsors and it mirrors legislation that already exists in 33 States around this country. By supporting this bill we are sending a message that Congress is committed to protecting American jobs and providing further security against predatory lawsuits. I encourage my colleagues to support the underlying legislation and to resist these amendments—these are killer amendments, gutting amendments that would undermine the entire purpose behind this legislation—and allow this legislation to pass and be put in place so the gun manufacturers and dealers of this country can operate in a fair, sensible, and just environment with the goods they produce for American firearms owners.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Mr. President, may I inquire how much time remains on my side?

The PRESIDING OFFICER. The majority side has 7 minutes 45 seconds, and 53 seconds on the minority.

Mr. CRAIG. I yield 3 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Idaho for his leadership and his articulate explanation of why this is good legislation. We are following the historic principles of civil litigation in America. We had a group of activist, anti-gun litigators who sometimes buddy up with a city or mayor somewhere—usually a big city—and try to conjure up some way to make a legitimate manufacturer of a firearm liable for intervening acts of criminals and murderers.

That has never been the principle of American law, but it is a reality that is occurring today and it threatens an industry that supplies our military with weapons. The Department of Defense is concerned about it and they support this legislation. This industry supplies weapons for our policemen as they go about their duties every day. If we do not watch it, we will end up with no domestic manufacturing and have to import firearms to this country.

The Lautenberg amendment is unprincipled, unjustified, and inconsistent with the good policies of the bill. Why would we want to allow any group of people, whether age or sex or anything else, the nature of their job, be able to pursue a lawsuit that others would not be able to pursue?

Mr. REED. Would the Senator yield for a question?

Mr. SESSIONS. On the Senator's time. How much time do we have?

Mr. CRAIG. I yield time to respond if the Senator wishes.

Mr. SESSIONS. All right. I would be pleased to attempt to answer the question.

Mr. REED. The Senator from Alabama is a lawyer, a Federal attorney, and has made the statement that an intervening criminal act essentially absolves someone of negligence, which I think is a fair response, but yet the statement of torts, which is recognized generally by most lawyers as the statement of basic law in torts, says very clearly that an intervening criminal act does not absolve someone from their own negligence. Because of the standing of the Senator as an attorney, I suggest that his conclusion does not comport with what most people assume is the law of the country.

Mr. SESSIONS. All I know is I won a lawsuit on it. I defended the Veterans' Administration when a veteran went off the grounds and was murdered by a murderer. They tried to sue the VA. They said the VA was negligent in letting him get off the grounds of the VA. We alleged that one could foresee certain things and cited abundant authority to the fact that no one should be held liable and should expect criminality, an intervening criminal act, of that kind.

That is my view of it, but maybe somebody else would not have that view.

The PRESIDING OFFICER. The Senator's time has expired. Does the Senator from Idaho yield additional time?

Mr. CRAIG. I yield additional time.

Mr. SESSIONS. Just 1 minute. It is my view that this is the classic principle of law and we have gotten away from it. We have eroded these practical, realistic, historical principles of liability and, as such, insurance goes through the roof, huge verdicts are being filed against victims. The allegation has been that if somebody had their firearm stolen by a thief, they then become liable if that thief goes and murders somebody. What kind of principle of law is that? Maybe that is not the idea behind this amendment, but that is the way I see it. I do not think it is good.

This bill allows lawsuits for violation of contract, for negligence, in not following the rules and regulations and for violating any law or regulation that is part of the complex rules that control sellers and manufacturers of firearms.

I yield back my time.

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

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this Frist-Craig amendment ensures that nothing in the gun liability bill would limit the right of a person under 17 to recover damages authorized by law in a civil action.

A person suing on behalf of an injured person can sue under traditional tort law as always.

But the underlying Lautenberg amendment would allow lawsuits even

if no law is broken, no product is defective, and no person negligently sold a gun.

These are the types of suits we are trying to stop.

So I urge my colleagues to vote for the Frist-Craig amendment.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Mr. President, I will close out our side and then the Senator from New Jersey can close.

From 1992 to the year 2003—and this is only in the area of accidental deaths by firearms—dramatically down, 54 percent. From 2001 to 2003, down 13 percent. That category is not quite what the Senator talks about, but it is from 5 to 14 that makes up 1.6 percent of the total deaths by firearms, again dramatically down. Why? These are accidental. These are not on the streets of America. But out on the streets of America, those are also down because we are enforcing the law and going after the criminal.

That is what this is all about. It is not going after law-abiding citizens. I think the Senator from Alabama put it very clearly. All new law is being treaded upon instead of adhering to consistent, known, well-established tort law in America.

I would hope my colleagues will support my amendment, the alternative to the Lautenberg amendment. I oppose the Lautenberg amendment.

I yield back the remainder of my time and would hope that Senators could conclude their remarks as we move to a vote.

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

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, very quickly, not once in my comments did I talk about taking away guns from people. We are discussing this particular issue. There are three reasons that permit penetration of the veil of immunity: negligent entrustment, negligence per se, and defective products. Those who describe negligence as a cause are mistaken.

It was suggested that this would drive a truck through this bill. I want to drive that truck full of children alive and healthy.

I yield back.

The PRESIDING OFFICER. The Senator yields back his time. All time is expired.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from New Hampshire (Mr. SUNUNU).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

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

The result was announced—yeas 72, nays 26, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—72

Alexander	Dole	McConnell
Allard	Domenici	Murkowski
Allen	Dorgan	Murray
Baucus	Ensign	Nelson (FL)
Bayh	Enzi	Nelson (NE)
Bennett	Frist	Pryor
Bingaman	Graham	Reid
Bond	Grassley	Roberts
Brownback	Gregg	Rockefeller
Bunning	Hagel	Salazar
Burns	Hatch	Santorum
Burr	Hutchison	Sessions
Byrd	Inhofe	Shelby
Cantwell	Isakson	Smith
Chambliss	Johnson	Snowe
Coburn	Kohl	Specter
Cochran	Kyl	Stabenow
Coleman	Landrieu	Stevens
Collins	Lieberman	Talent
Conrad	Lincoln	Thomas
Cornyn	Lott	Thune
Craig	Lugar	Vitter
Crapo	Martinez	Voinovich
DeMint	McCain	Warner

NAYS—26

Akaka	Durbin	Leahy
Boxer	Feingold	Levin
Carper	Feinstein	Mikulski
Chafee	Harkin	Obama
Clinton	Inouye	Reed
Corzine	Jeffords	Sarbanes
Dayton	Kennedy	Schumer
DeWine	Kerry	Wyden
Dodd	Lautenberg	

NOT VOTING—2

Biden	Sununu

The amendment (No. 1644) was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote and to table the motion.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1620

Mr. CRAIG. Mr. President, the next vote is on the Lautenberg amendment. I ask unanimous consent that the time for voting be reduced to 10 minutes.

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

Mr. CRAIG. I also encourage my colleagues—Jack and I are trying to move these amendments as rapidly as we can. When we have people trying to take 20 minutes to these votes, that does not help us. We are debating them in less time than it is taking us to vote. So please stay around and we can move through these amendments very rapidly.

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

Mr. CRAIG. I ask for the yeas and nays on the Lautenberg amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. SUNUNU).

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

The result was announced—yeas 35, nays 64, as follows:

The result was announced—yeas 35, nays 64, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—35

Akaka	Dodd	Levin
Bayh	Durbin	Lieberman
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Harkin	Nelson (FL)
Cantwell	Inouye	Obama
Carper	Jeffords	Reed
Chafee	Kennedy	Sarbanes
Clinton	Kerry	Schumer
Corzine	Kohl	Stabenow
Dayton	Lautenberg	Wyden
DeWine	Leahy	

NAYS—64

Alexander	Domenici	Murkowski
Allard	Dorgan	Nelson (NE)
Allen	Ensign	Pryor
Baucus	Enzi	Reid
Bennett	Frist	Roberts
Bond	Graham	Rockefeller
Brownback	Grassley	Salazar
Bunning	Gregg	Santorum
Burns	Hagel	Sessions
Burr	Hatch	Shelby
Byrd	Hutchison	Smith
Chambliss	Inhofe	Snowe
Coburn	Isakson	Specter
Cochran	Johnson	Stevens
Coleman	Kyl	Talent
Collins	Landrieu	Thomas
Conrad	Lincoln	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Voinovich
Crapo	Martinez	Warner
DeMint	McCain	
Dole	McConnell	

NOT VOTING—1

Sununu

The amendment (No. 1620) was rejected.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1615

Mr. CRAIG. Mr. President, I understand the next amendment in order is the Kennedy amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I understand there is a time limitation. We have 20 minutes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I ask the Chair to remind me when I have 5 minutes remaining.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 1615.

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

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

The amendment is as follows:

(Purpose: To expand the definition of armor piercing ammunition and for other purposes)

On page 13, after line 4, insert the following:

SEC. 5. ARMOR PIERCING AMMUNITION.

(a) EXPANSION OF DEFINITION OF ARMOR PIERCING AMMUNITION.—Section 921(a)(17)(B) of title 18, United States Code, is amended—

(1) in clause (i), by striking ''or'' at the end;

(2) in clause (ii), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(iii) a projectile that may be used in a handgun and that the Attorney General determines, under section 926(d), to be capable or penetrating body armor; or

''(iv) a projectile ror a center-fire rifle, designed or marketed as having armor piercing capability, that the Attorney General determines, under section 926(d), to be more likely to penetrate body armor than standard ammunition or the same caliber.''.

(b) DETERMINATION OF THE CAPABILITY OF PROJECTILES TO PENETRATE BODY ARMOR.—Section 926 or title 18, United States Code, is amended by adding at the end the rollowing:

''(d)(1) Not later than 1 year after the date or enactment or this subsection, the Attorney General shall promulgate standards for the uniform testing of projectiles against Body Armor Exemplar.

''(2) The standards promulgated under paragraph (1) shall take into account, among other factors, variations in perrormance that are related to the length of the barrel or the handgun or center-fire rifle rrom which the projectile is fired and the amount and kind or powder used to propel the projectile.

''(3) As used in paragraph (1), the term 'Body Armor Exemplar' means body armor that the Attorney General determines meets minimum standards for the protection of law enforcement officers.''.

Mr. KENNEDY. Mr. President, I express my strong appreciation to the Senator from Rhode Island, Mr. REED, for his leadership in opposition to this legislation. It has been enormously impressive. Many of us who share his views are grateful for his steadfastness, his hard work, and his perseverance and commitment.

It is preposterous to call this bill the Protection of Lawful Commerce in Arms Act. If we were honest, we would call it the ''Protection of Unlawful Commerce in Arms Act.'' It is a blatant special interest bill to protect gun manufacturers and sellers, even if they recklessly make guns available to criminals and terrorists. This aids and abets the perpetuation of these crimes. With all the urgent challenges facing our country, it is difficult to believe that the Bush administration and the Republican leadership are willing to spend any time at all on this flagrant anti-victim, anti-law-enforcement legislation, let alone push aside the major Defense authorization bill to make room for this debate.

President Bush called for clean passage of the bill without extending the Federal ban on assault weapons, without closing the gun show loophole, and without any other needed reforms in our Nation's laws.

Instead of this special interest legislation, Congress should be considering important bills, such as Senator FEINSTEIN's proposal to regulate .50 caliber weapons. These weapons are particularly dangerous because of their appeal to terrorists. These rifles can shoot down airplanes and destroy armored vehicles. These bullets can even penetrate several inches of steel. They have been called the ideal tools for terrorists. Who are we kidding?

In 1995, a RAND Corporation report identified these weapons as a serious threat to the security of U.S. Air Force bases. In 2003, a U.S. Army intelligence training handbook called this rifle a weapon ''attractive to terrorists for use in assassinations.'' Snipers love them. A study funded by the Department of Homeland Security identified these rifles as an imminent threat to civilian aviation. The report noted that these weapons have been acquired by al-Qaida and even been used to attack our own troops in Iraq.

Barrett Firearms Manufacturing and E.D.M. Arms advertise these assault weapons as capable of destroying multimillion-dollar aircraft with a single hit. Every bullet sold for these weapons puts our troops at risk. But are we working to stop that? No. Instead we are, once again, debating a bill that threatens the safety of the American people in a way that undermines law enforcement and our national security. Instead we are guaranteeing that people who sell these rifles and ammunition will never be held liable for their crimes.

With its raw special interest power, the National Rifle Association has demonstrated that this bill is a top priority for Senate action. They could care less that they are interrupting the important business of protecting our men and women fighting in Iraq and Afghanistan. They are willing to let unsavory gun dealers and gun manufacturers put powerful killing machines in the hands of criminals and terrorists without any regulation or liability. It is a national disgrace that America does more to regulate the safety of toy guns than real guns.

The Republican leadership and the Bush administration will do whatever it takes to give the industry all it wants. The NRA wants gun dealers and manufacturers to be protected from lawsuits. The NRA expects and demands that the Senate take away the courts as the last resort for victims of gun violence. For years the courts have been the only place where negligent and often conspiring gun dealers and manufacturers can be challenged.

The Senate majority leader says this bill is of urgent importance, taking precedence over the Defense bill because the Department of Defense ''faces the real prospect of having to outsource sidearms for our soldiers to foreign manufacturers.'' Guess what. The bulk of contracts to arm our country's military and law enforcement is already held by foreign manufacturers based in Austria, Italy, Germany, Sweden, Jordan, and Belgium. Lawsuits have nothing to do with that.

Furthermore, we have not heard one single company filing for bankruptcy in the absence of this legislation. The truth is that gun industry profits are on the rise. The only two publicly held gun companies in this country have filed recent statements with the Securities and Exchange Commission specifically and emphatically contradicting the claim that they are threatened by lawsuits.

Smith & Wesson filed a statement with the SEC, June 29, 2005, 1 month ago, stating: We expect net product sales for fiscal 2005 to be approximately $124 million, a 5-percent increase over the $117 million reported for fiscal 2004. Firearms sales for fiscal 2005 are expected to increase by 11 percent over the fiscal 2004 level.

In another filing, dated March 10, 2005, Smith & Wesson wrote: In the 9 months ended January 31, 2005, we incurred $4,500 in legal defense costs.

Legal defense costs of $4,500 are supposed to be bankrupting the company? Let's get real.

At the same time, gun manufacturer Sturm, Rugr told the SEC in a March 1, 2005, filing: It is not probable and it is unlikely that litigation, including punitive damage claims, will have a material adverse effect on the financial position of the company.

We have to wonder what the real agenda is here. The level of litigation against gun manufacturers and dealers is miniscule. In a 10-year period, only 57 suits were filed against gun industry defendants out of an estimated 10 million tort suits in America. We are supposed to buy the claim that these lawsuits are unduly burdening the gun industry. No. This legislation is another in a long line of congressional paybacks to the NRA, to the severe detriment of the safety of the American people. The gun lobby has systematically made it more difficult and, in some cases, even impossible for the government to police negligent gun dealers and manufacturers, while making it easier for criminals to buy guns.

Under the Brady bill, a licensed seller of firearms must run a background check through the Federal Bureau of Investigation's National Instant Criminal Background Check System. But at the NRA's demand, Congress drastically narrowed the definition of gun dealer. Reckless and unlicensed dealers are now selling millions of guns to people, including criminals and terrorists, without background checks. All of that is legal because the U.S. Congress kowtowed to the National Rifle Association.

We have a shameless proposal before the Senate today that shields even the most reckless sales in the gun industry. This bill will even protect manufacturers that promote military-style weapons for use in battle in urban scenarios against any foe at any range. It protects manufacturers who brag about their weapons of war and spread them to our streets.

Look at this advertisement from Vulcan. ''Vulcan Armament, the weapons of the special forces. From Afghanistan to Iraq, the guns of the special forces are now on sale in America.''

All you need is a credit card. Call that company and you get that weapon. It is being used by special forces in Iraq. Do you think this bill has anything to do with protecting Americans from that? Absolutely not.

The gun dealer claims: ''From Afghanistan to Iraq, the guns of the special forces are now on sale . . . '' How outrageous can dealers get? But the NRA demands that these sales continue to be unregulated. Credit card, computer, you get your sniper rifle used by the special forces. And are we doing anything about that? Absolutely not.

Congress continues to do their bidding as it has done for years. At the insistence of the NRA, Congress has already tied the hands of law enforcement by cutting Federal funding for the agency that overseas gun dealers and manufacturers. According to the GAO, at the current level of underfunding, the ATF would take 22 years to inspect every gun dealer just once. What kind of enforcement is that? The GAO also tells us that people on the terrorist watch list are routinely buying guns in this country. Under current law, terrorists are not prohibited buyers. At the urging of the NRA, Congress is doing nothing about it. If that weren't enough, under this bill, gun manufacturers and sellers will be exempt from lawsuits even if they sell weapons to terrorists.

I have a GAO report that shows that there were 45 instances where the GAO found firearms-related background checks handled by the FBI resulted in valid matches with terrorist watch list records. Of this total, 35 transactions were allowed to proceed. If they get on the list, they are supposed to notify Homeland Security. But in this case, 35 transactions were allowed to proceed because the background checks found no prohibiting information. What does that mean? The prohibiting information are the categories that would deny them the ability to sell these weapons. For example, if you have had a felony conviction, you can't sell them; illegal immigration, you can't sell them; domestic violence, you can't sell them.

Member of a terrorist organization? You can sell them. Do you think this bill is doing anything about that? Do you think we are doing anything about that? No. It is disgraceful. Absolutely disgraceful.

We already know the terrorists are exploiting the weaknesses and loopholes in the Nation's gun laws. In the caves of Afghanistan our troops found an al-Qaida manual that instructed terrorists on how to buy guns legally in the United States without having to undergo a background check. Al-Qaida understands that we have created a mess that allows, even encourages, criminals and terrorists to traffic in guns.

Why do we in this body continue to ignore it? We are not talking about some hypothetical situation. In 2000, a member of a terrorist group in the Middle East was convicted in Detroit on weapons charges and conspiracy to ship weapons and ammunition to Lebanon. He had bought many of these weapons at gun shows in Michigan. In 1999, only a lack of cash prevented two persons from purchasing a grenade launcher at a gun show in a plot to blow up two large propane tanks in suburban Sacramento. But instead of addressing these real and serious problems, the Senate is considering this outrageous immunity bill that even gives the gun industry protection from administrative proceedings to revoke licenses of dealers who sell to illegal buyers.

This bill will bar State attorneys general from bringing civil actions against gun sellers, even those engaged in so-called straw sales to middlemen who buy guns from prohibited buyers. Why should the industry stop there? At the demand of the NRA, Congress has already exempted the gun industry from Federal consumer safety regulation. But the NRA wants more. It is a disgrace.

The NRA has also persuaded our Government to destroy gun purchasing background records within 24 hours. Our Justice Department refused to examine the gun records of any of the 19 hijackers or 1,200 suspected terrorists rounded up after 9/11. We can know everything about law-abiding citizens in this country, but we can't know about the terrorists purchasing these weapons. Within days of 9/11, we knew who the hijackers were, where they sat on the planes. We saw some of their faces on surveillance videos. We knew what they had charged on their credit cards. We knew where they had gone to school. We knew where they lived, where they traveled. We knew they had tried to get pilot's licenses. We knew they had looked for a way to transport hazardous chemicals. But we didn't know whether our terrorist friends had purchased firearms because we were worried about their privacy rights and their right to bear arms.

Give me a break. Give me a break. Make no mistake, Mr. President, the National Rifle Association clearly comes first in this Senate Republican agenda. This is not just about the immunity bill on the floor today. If this bill passes, it will open the floodgates for NRA's other priorities. None of these priorities will protect our citizens or make this country safer. Designed by the NRA, it promotes the sale of guns by manufacturers if they are sold to criminals. The NRA is lavishly rewarded for lobbying victories, and so are the Members of Congress who do their bidding.

This is an unholy alliance, Mr. President. This bill gives greater protection to the gun industry than Congress has given to any industry, and it is a dangerous precedent. At a minimum, we owe a duty to the police officers who are more in jeopardy because of the increasing number of dangerous weapons and ammunition in the hands of criminals. The Treasury Department already has regulations containing some prohibitions on armor-piercing ammunition. My amendment would expand the ban on that. It can easily be sold over the Internet, no questions asked. That is a disgrace and danger to police officers throughout the Nation.

The NRA would have us believe cop-killer bullets are a myth, they don't exist. Try to tell that to some of the sellers on eBay. Here you go, Mr. President. This chart represents what is on eBay. All you need is one click of the computer, and you can buy these bullets on eBay—armor-piercing bullets. They are $15 on eBay, armor-piercing bullets.

Now let's look at what has happened in the last year, in 2004. The number of police officers killed was 54, and 32 of these officers were wearing body armor. The only bullet that can pierce the armor is the cop-killer bullet. That is what this amendment addresses, the cop-killer bullet. It will stop the sale of the cop-killer bullet. These are the types of armor-piercing ammunition. All you have to do is look at these words, ''hardened steel or tungsten carbide.'' Any terrorist knows what that means. Put those words together, and it goes right through a police officer's armored vest. We have had 54 police officers killed in the line of duty; 32 were wearing body armor.

This is the FBI report of May 16, 2005. I ask unanimous consent that it be printed in the RECORD.

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

FBI PRELIMINARY STATISTICS SHOW 54 LAW ENFORCEMENT OFFICERS FELONIOUSLY KILLED IN 2004

WASHINGTON, D.C.—Fifty-four law enforcement officers were feloniously killed in the line of duty in 2004, according to preliminary statistics released today by the FBI's Uniform Crime Reporting (UCR) Program. Nearly half of the officers killed, 26, were in the South; 9 officers were in the Midwest; 9 were in the West; and 7 were in the Northeast. Two were in Puerto Rico, and 1 was in the U.S. Virgin Islands. The number of officers killed was up 2 from the 52 officers killed in 2003.

The 54 officer deaths occurred during 47 different incidents. Police cleared 46 out of the 47 incidents by arrest or exceptional means. One offender is still at large. Of the officers killed, 16 died in arrest situations, 12 died responding to disturbance calls, 7 died investigating suspicious persons or circumstances, 6 were ambushed, and 6 more were killed in traffic pursuits or stops. Two officers were killed while handling mentally deranged persons, 2 died while involved in investigative activities, 2 died in tactical situations, and 1 died handling and transporting a prisoner.

As in previous years, most offenders used firearms to kill police officers in 2004. Of the 52 officers who died from gunshot wounds, 36 were fatally injured with handguns, 12 were shot with rifles, and 4 were killed with shotguns. Offenders used vehicles to kill 2 officers. Thirty-two officers were wearing body armor, 11 fired their own weapons, and 9 attempted to fire their own weapons. Seven of the officers had their service weapons stolen, and 6 were killed with their own weapons.

In addition to the officers feloniously killed, 82 law enforcement officers died accidentally in the performance of their duties in 2004. This is an increase of 1 over the 2003 total of 81 officers killed accidentally.

The UCR Program's publication, Law Enforcement Officers Killed and Assaulted, 2004, is scheduled to be released in the fall. The publication, produced annually, includes final statistics and complete details.

Mr. KENNEDY. That is what this amendment does. Nobody can deny that our policemen and policewomen face a greater threat every day from these armor-piercing weapons and bullets that remain in our community. It is outrageous and unconscionable that such ammunition continues to be sold in the United States.

Mr. President, victims of gun violence and their families oppose this underlying legislation. I wish to mention the organizations that support my amendment. The International Brotherhood of Police Officers, the National Black Police Association, the Hispanic American Police Command Officers, the National Latino Police Officers, and the Major City Chiefs Association representing the Nation's largest police departments all support this amendment.

If you are interested in the security of those who are protecting us on the streets and in our communities and in our homes across this Nation, support my amendment, not a phony amendment that will be put on by the other side.

I withhold my time.

Ms CANTWELL. Mr. President, today I rise to cast another vote in favor of strict control on armor-piercing, cop-killer bullets. I am proud to stand to strengthen the penalties against those who use this ammunition. I also would like to set the record straight on my position on the same amendment last year. Last year, like this year, several Senators offered versions of this measure. I support both strengthening the penalties and the other provisions of the Craig/Frist amendment, as well as the broader definition of banned cop-killer ammunition in the Kennedy amendment, which I believe provides even stronger protection for America's law enforcement officers. That is why I am voting for both of these amendments and why I wish I had been recorded supporting both of these amendments last year.

In preparation for today's vote, it was discovered that my position was inaccurately recorded last year. While Senate rules do not allow for a formal correction of an error from a previous Congress, I today submit for the record that I supported the Frist/Craig amendment last year, just as I do today.

And I particularly thank both the Senator from Idaho and the Senator from Massachusetts for their work on this important issue.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, how much time does Senator KENNEDY have remaining?

The PRESIDING OFFICER. He has 1 minute 39 seconds.

AMENDMENT NO. 1645

Mr. CRAIG. Mr. President, I send a relevant first-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 1645.

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

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

The amendment is as follows:

(Purpose: To regulate the sale and possession of armor piercing ammunition, and for other purposes)

On page 13, after line 4, insert the following:

SEC. 5. ARMOR PIERCING AMMUNITION.

(a) UNLAWFUL ACTS.—Section 922(a) of title 18, United States Code, is amended by striking paragraphs (7) and (8) and inserting the following:

''(7) for any person to manufacture or import armor piercing ammunition, unless—

''(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

''(B) the manufacture of such ammunition is for the purpose of exportation; or

''(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;

''(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—

''(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

''(B) is for the purpose of exportation; or

''(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General;''.

(b) PENALTIES.—Section 924(c) of title 18, United States Code, is amended by adding at the end the following:

''(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction under this section—

''(A) be sentenced to a term of imprisonment of not less than 15 years; and

''(B) if death results from the use of such ammunition—

''(i) if the killing is murder (as defined in section 1111), be punished by death or sentenced to a term of imprisonment for any term of years or for life; and

''(ii) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.''.

(c) STUDY AND REPORT.—

(1) STUDY.—The Attorney General shall conduct a study to determine whether a uniform standard for the testing of projectiles against Body Armor is feasible.

(2) ISSUES TO BE STUDIED.—The study conducted under paragraph (1) shall include—

(A) variations in performance that are related to the length of the barrel of the handgun or center-fire rifle from which the projectile is fired; and

(B) the amount of powder used to propel the projectile.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report containing the results of the study conducted under this subsection to—

(A) the chairman and ranking member of the Committee on the Judiciary of the Senate; and

(B) the chairman and ranking member of the Committee on the Judiciary of the House of Representatives.

Mr. CRAIG. Mr. President, I yield 10 minutes to the Senator from Utah.

Mr. HATCH. Mr. President, I have listened to the argument of the distinguished Senator from Massachusetts. To hear it, you would say the sky is truly falling, that this world is just falling apart and that everything being done in law enforcement just doesn't work, and that if we don't do what his amendment says, we are going to be for terrorism and everything else in this world.

I rise to speak against the Kennedy amendment and for the Frist-Craig first-degree amendment.

The first-degree amendment Senator CRAIG just filed would strengthen the penalties for violating the existing ban on armor-piercing ammunition for handguns. It would also create a study on the effects of adopting a performance-based standard for ammunition.

This exact same first-degree amendment passed overwhelmingly last year on the floor of the Senate, and I suspect it will again this year. Let me make clear why the Kennedy amendment, without this first-degree amendment, would be harmful.

The Kennedy amendment would ban nearly all hunting rifle ammunition. It is also opposed by law enforcement organizations such as the Fraternal Order of Police, the largest law enforcement agency or organization in the country.

The fact is that we have laws in this area that are working. The Bureau of Alcohol, Tobacco, Firearms and Explosives, the BATFE, reached the same conclusion in a recent study. The existing laws were adopted in 1986 and prohibit the manufacture and importation, for private use, of handgun bullets made of certain hard metals and specially jacketed bullets. The BATFE found that ''no additional legislation regarding such laws is necessary.''

My friend from Massachusetts believes all we have to do is just keep passing laws and that will solve every problem. The Departments of Justice and Treasury opposed legislation similar to this amendment back when it was first introduced in the 1980s. Congress rejected it then. We ought to reject it now.

Let me give a couple other facts that are important. The Frist-Craig amendment we are offering here today recognizes, as the Fraternal Order of Police points out, that the current law regarding armor-piercing ammunition is working; that is, it states that it is unlawful to manufacture and import, for private use, handgun bullets made of special hard metals and specially jacketed lead bullets. It also requires the

Attorney General to study and report on whether it is feasible to develop standards for the uniform testing of projectiles against body armor.

The difference that the alternative amendment—the Frist-Craig amendment—makes is in the law's message. It says that if armor-piercing ammunition is used to kill a law enforcement officer, then the maximum penalty available is the death penalty. It doesn't get any tougher than that. If armor-piercing ammunition is used in the commission of a crime that wounds but doesn't kill a law enforcement officer, there will be a mandatory minimum sentence of 15 years.

Let's talk about how this is different. It sends a message to criminals in this country that not only is this ammunition illegal, if they use it to kill law enforcement officers who put their lives on the line every day for our citizens, families, and communities, they will pay the ultimate price.

Mr. President, we should reject the Kennedy amendment. We should follow what law enforcement in this country says. It does not get any better than the FOP. Last year, the Senate rejected the Kennedy amendment 34 to 63 and instead adopted the Frist-Craig amendment by a vote of 85 to 12. We should do that again.

I compliment my colleague for the hard work he has done on this particular bill. I hope we will all vote for the alternative amendment of Senator CRAIG.

I yield the floor.

Mr. CRAIG. Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The Senator from Idaho has 15 minutes.

Mr. CRAIG. I will have a brief comment. Do any of my colleagues wish to comment?

I yield 5 minutes to the Senator from Alabama.

Mr. SESSIONS. Mr. President, I have some great friends in law enforcement. They have served their country and States and communities well over the years. We hunt and fish together at various times. I am not hearing them say this is what they would like to see. If you talk to law officers, what they are concerned about is repeat dangerous offenders getting released on the streets. A police officer never knows when he may face someone like that around the corner, at a traffic stop, or in a domestic violence situation. Those are things that concern them. They do feel sometimes that the criminal justice system is too slow, that the punishment and penalties that are imposed by law never get carried out. Those things frustrate them. That follows through and is consistent with the letters we have received regarding the Kennedy amendment.

I am looking at the Law Enforcement Alliance of America letter, which they wrote to Senator CRAIG. This is a very clear and strong message. They represent 75,000 members in support of law enforcement. They wanted to ''add our voice to the growing group of law enforcement representatives who strongly oppose efforts to gut or kill S. 397, the Protection of Lawful Commerce in Arms Act.''

They refer to this amendment as a ''poison pill'' and object to the term ''cop killer bullet'' as a ''thinly veiled fraud.'' They go on to say:

> This amendment, along with other amendments, should be identified for what they are: an outright attempt to kill S. 397.
>
> Please know that many in the law enforcement community encourage you to continue steadfastly in support of America's gun manufacturers who provide our officers the tools to return home safely at the end of their shift.

Also, the Fraternal Order of Police has written to Senator CRAIG in ''strong opposition'' to the amendment offered by Senator KENNEDY. They say that this will be presented as a ''officer safety issue'' to get dangerous ''cop killer bullets off the shelves.''

Then they add:

> Regardless of its presentation, the amendment's actual claim and effect would be to expand the definition of ''armor-piercing'' to include ammunition based, not on any threat to law enforcement officers, but on a manufacturer's marketing strategy.

Then they add this, which is interesting:

> The truth of the matter is that only one law officer has been killed by a round fired from a handgun which penetrated his soft body armor—and in that single instance, it was the body armor that failed to provide the expected ballistic protections, not because the round was ''armor-piercing.''

They say:

> It is our view that no expansion or revision of the current law is needed to protect law enforcement officers.

That letter is to Senator CRAIG. No additional legislation is needed to protect law officers.

> To put it simply, this is not a genuine [law enforcement] officer safety issue.

They noted that it had been rejected previously—last year, 63 to 34. They say it should be rejected again.

I thank the Chair.

Mr. CRAIG. Mr. President, I believe all that can be said about these two amendments has been said. I hope my colleagues join in voting for the first-degree relevant amendment I have offered that toughens up penalties and recognizes the reality that the law we have today is working to protect our law enforcement community from armor-piercing bullets.

I yield back the balance of my time. Senator KENNEDY can conclude and we can move to a vote.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I have in my hand the Federal Firearms Regulations Reference Guide that bans 14 different types of ammunition today. All we are trying to do is add a 15th. What will the 15th do? It will be limited to cop-killer bullets.

My friends, the Republican amendment says we should study the problem of cop-killer bullets. Our police officers are the ones that are in the line of fire, and we are going to protect them with a study?

If you care about fighting terrorism, you will reject the Republican amendment and vote for my amendment to take real action. If you care about protecting our brave police officers, you will support my amendment. They risk their lives for us every single day.

This is not about hunting. We know duck and geese and deer do not wear armor vests; police officers do. This can save their lives. I hope it will be accepted.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. It is my understanding, under the unanimous consent that the Craig first degree would be the first to be voted on; Kennedy would be the second to be voted on. I ask unanimous consent the second vote be a 10-minute vote. I urge my colleagues to come now, as quickly as we can, to move these votes.

I call for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered. The second vote will be 10 minutes.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 1645

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Hampshire (Mr. SUNUNU) and the Senator from Kansas (Mr. ROBERTS).

Further, if present and voting, the Senator from Kansas (Mr. ROBERTS) would have voted ''yea.''

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

The result was announced—yeas 87, nays 11, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—87

Alexander	Dayton	Landrieu
Allard	DeMint	Leahy
Allen	DeWine	Lincoln
Baucus	Dodd	Lott
Bayh	Dole	Lugar
Bennett	Domenici	Martinez
Biden	Dorgan	McCain
Bingaman	Durbin	McConnell
Bond	Ensign	Mikulski
Brownback	Enzi	Murkowski
Bunning	Feinstein	Murray
Burns	Frist	Nelson (FL)
Burr	Graham	Nelson (NE)
Byrd	Grassley	Obama
Cantwell	Gregg	Pryor
Carper	Hagel	Reid
Chafee	Harkin	Rockefeller
Chambliss	Hatch	Salazar
Clinton	Hutchison	Santorum
Coburn	Inhofe	Schumer
Cochran	Inouye	Sessions
Coleman	Isakson	Shelby
Collins	Jeffords	Smith
Conrad	Johnson	Snowe
Cornyn	Kerry	Specter
Craig	Kohl	Stabenow
Crapo	Kyl	Stevens

Talent	Thune	Voinovich
Thomas	Vitter	Warner

NAYS—11

Akaka	Kennedy	Reed
Boxer	Lautenberg	Sarbanes
Corzine	Levin	Wyden
Feingold	Lieberman	

NOT VOTING—2

Roberts	Sununu

The amendment (No. 1645) was agreed to.

Mr. CRAIG. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1615

Mr. CRAIG. Mr. President, the next vote is on the Kennedy amendment. It is a 10-minute vote. Please, everyone, stay here and vote so we can move very rapidly through the next amendments.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Texas (Mr. CORNYN), the Senator from Kansas (Mr. ROBERTS), the Senator from Oregon (Mt. SMITH), and the Senator from New Hampshire (Mr. SUNUNU).

Further, if present and voting, the Senator from Kansas (Mr. ROBERTS) would have voted ''nay.''

Mr. DURBIN. I announce that on this vote, the Senator from California (Mrs. FEINSTEIN) is paired with the Senator from Kansas (Mr. ROBERTS).

If present and voting, the Senator from California would have voted ''aye'' and the Senator from Kansas would have voted ''no.''

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

The yeas and nays resulted—yeas 41, nays 64, as follows:

The result was announced—yeas 31, nays 64, as follows:

[Rollcall Vote No. 217 Leg.]

YEAS—31

Akaka	Durbin	Murray
Bayh	Feingold	Nelson (FL)
Biden	Harkin	Obama
Boxer	Inouye	Reed
Cantwell	Kennedy	Rockefeller
Carper	Kerry	Sarbanes
Chafee	Kohl	Schumer
Clinton	Lautenberg	Stabenow
Corzine	Levin	Wyden
Dayton	Lieberman	
Dodd	Mikulski	

NAYS—64

Alexander	Brownback	Cochran
Allard	Bunning	Coleman
Allen	Burns	Collins
Baucus	Burr	Conrad
Bennett	Byrd	Craig
Bingaman	Chambliss	Crapo
Bond	Coburn	DeMint
DeWine	Jeffords	Salazar
Dole	Johnson	Santorum
Domenici	Kyl	Sessions
Dorgan	Landrieu	Shelby
Ensign	Leahy	Snowe
Enzi	Lincoln	Specter
Frist	Lott	Stevens
Graham	Lugar	Talent
Grassley	Martinez	Thomas
Gregg	McCain	Thune
Hagel	McConnell	Vitter
Hatch	Murkowski	Voinovich
Hutchison	Nelson (NE)	Warner
Inhofe	Pryor	
Isakson	Reid	

NOT VOTING—5

Cornyn	Roberts	Sununu
Feinstein	Smith	

The amendment was rejected.

Mr. CRAIG. Mr. President, I move to reconsider the vote and move to lay it on the table.

The motion to lay on the table was agreed to.

PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, I ask unanimous consent that we now proceed to the Corzine amendment as under the order and that there be 5 minutes for Senator CORZINE, 5 minutes for Senator SCHUMER, 5 minutes for Senator CRAIG, to be followed by a vote on the Corzine amendment, with the order for the first-degree alternative vitiated; provided that the Senate then proceed to the Reed substitute with Senator REED to speak for 15 minutes, Senator HUTCHISON for 10 minutes, to be followed by a vote in relation to the Reed amendment as under the order; that following that vote there be 10 minutes equally divided for closing remarks prior to the bill being read the third time and a vote on passage as the order provides.

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

UNANIMOUS-CONSENT AGREEMENT—H.R. 3

Mr. FRIST. Mr. President, I ask unanimous consent that following passage of S. 397, the Senate proceed to the immediate consideration of the conference report to accompany H.R. 3, the highway bill. I further ask unanimous consent there be 15 minutes equally divided between the majority and minority with 30 minutes under the control of Senator MCCAIN. I ask unanimous consent that following the use or yielding back of time, the Senate proceed to a vote on adoption of the conference report with no intervening action or debate.

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

Mr. FRIST. Mr. President, just a clarification. A lot of people will have questions. We had these time allotments and we have asked Senators not to use all of the time that has been allocated. That is the general understanding. With that we have an orderly way of very quickly completing our rollcall votes for the course of the day. But with that, we can explain it over to the side that we are in shape and have a plan in order to finish at a very reasonable hour.

AMENDMENT NO. 1619

The PRESIDING OFFICER. The Senator from New Jersey is recognized for his amendment.

Mr. CORZINE. Mr. President, I call up amendment No. 1619.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. CORZINE] for himself, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. KENNEDY, Mrs. CLINTON, and Mrs. BOXER, proposes an amendment numbered 1619.

Mr. CORZINE. I ask unanimous consent that further reading of the amendment be dispensed with.

PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To protect the rights of law enforcement officers who are victimized by crime to secure compensation from those who participate in arming criminals)

On page 13, after line 4, add the following:

SEC. 5. LAW ENFORCEMENT EXCEPTION.

Nothing in this Act shall be construed as limiting the right of an officer or employee of any Federal, State, or local law enforcement agency to recover damages authorized under Federal or State law.

Mr. CORZINE. I ask unanimous consent that Senator DURBIN be added as a cosponsor.

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

Mr. CORZINE. I thank the Chair.

I come to the floor today moved by an event that occurred in my life this week and more importantly the life of a family in New Jersey.

Sometimes there are events that move you to feel passionately. I went to a wake for an officer on Monday night. I actually missed a vote.

The reality is that an officer was gunned down a week before by a gang member, a Blood, on the streets of Newark. This police officer was a man with five children. He was 32 years old, the oldest child of 11.

Violence brought on by the illegal movement of guns in our society and the irresponsible dealing in guns is something that actually costs people's lives. I have an amendment which I have talked about previously. I am a realist and I know where this amendment is going, so we will deal with it on a practical basis.

But my amendment is an effort to protect the rights of law enforcement officers who are victimized by gun violence. I want to make certain that law enforcement officers can seek compensation from gun manufacturers and dealers who participate in arming criminals.

I am not a lawyer, so I can't define negligence with the perfection that maybe others can. I know this amendment is not going to pass, and I know this gun industry immunity bill will pass.

This is a picture of another officer from Orange, NJ. We have heard a lot about Detective Lemongello and his

partner, Officer McGuire. They were shot in 2001. They subsequently brought a case in court and reached a $1 million settlement with the gun dealer, because that gun dealer in West Virginia sold 12 guns to what we call a straw buyer. This straw buyer, by the way, was standing next to a second person who qualified as a potential purchaser of weapons and just handed them off, and then that individual walked out, put them in a car, drove off to New Jersey and sold them on the streets. I call that negligence. It was so negligent and so obviously negligent that the gun dealer, the day after being paid in cash for those 12 guns, called up the AFT and said: We think we made a mistake. We ought to do something about this. And so they called up the AFT. But it was too late, and nothing happened to stop the flow of the guns to New Jersey, but at least they recognized that they had done something wrong.

Detective Lemongello and Officer McGuire brought a lawsuit against this gun dealer. They went to court and received justice, although both cannot return to the streets as police officers. They got a $1 million settlement. One took three bullets, one took two, and the other 11 guns purchased that day in West Virginia were also resold and distributed. I wonder whether one of those guns was the used to murder Police Officer Reeves last week in Newark, NJ.

I think it is time we recognize there needs to be the ability to use both the criminal justice and the civil justice system to protect our citizens, particularly our law enforcement officers.

We have heard from Senator REED, who has done an enormous service to the country, in my view, to bring up so many of the flaws in the arguments that have been made by my colleagues who support this bill.

This bill is not right. We are taking people who protect us at their own risk every day and we are shutting the door to the courthouse in their face. So I believe strongly that we ought to be protecting our law enforcement officers. I passionately believe that because I see it and the distress it brings to families and communities and all who are involved.

My amendment is not a political desire to challenge the NRA or anybody else. And, frankly, I do not understand how anyone could not support this amendment. I do not get it from a commonsense point of view. It is a right and a responsibility that we protect those who protect us.

The PRESIDING OFFICER. The Senator's time has expired

Mr. CORZINE. Mr. President, I will not be asking for a rollcall but a voice vote on my amendment acknowledging the realities and the practical aspects of moving the floor, if that is appropriate.

Mr. CRAIG. Mr. President, no one questions Senator CORZINE's intention or his sincerity as we are all sincere and concerned about making sure that the law enforcement community of this country has the best tools available, has the greatest protection available. We want the laws with them, and we believe the laws are with them. And the Fraternal Order of Police, the world's largest organization, believes the same thing.

Last year, this amendment was opposed by them strongly and they expressed that very clearly. The reason was they do not believe a special category is necessary in that relationship. What is happening here is an attempt to carve out that unique category because we think the law enforcement community is well protected under the current law.

Mr. CORZINE. Will the Senator yield?

Mr. CRAIG. I am happy to yield.

Mr. CORZINE. I point out this year, by decision, the FOP is not taking a position with regard to my amendment.

Mr. CRAIG. That is true, they are not taking a position this year, but I did get permission from Tim Richardson, if there is any question of verifying what I said, that as the executive he would be happy to accept a call.

The point is quite simple. This is an amendment that destroys the underlying intent of the legislation involved. I hope my colleagues would oppose the amendment as they did last year by a substantial vote, 56 in opposition, 38 for it.

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

Mr. SCHUMER. Mr. President, I will not speak on the amendment of the Senator from New Jersey, which I support, but on the underlying provision. It is hard for me to accept the fact that we are taking a special interest, we are taking an industry that deals with something that admittedly can be dangerous, and exempting them from liability and giving them greater exemption than just about anybody else.

We talk about special interests. That is exactly what ''special interests'' means. Giving it to one small group because they have influence rather than for a whole larger group who may also deserve it. Even when somebody is grossly negligent, even when an organization does not abide by the rules, they will still get an exemption. How can we say that to people who are injured, perhaps, as a result of that negligence and carelessness?

I want people to remember the terror brought upon ordinary Americans with the Washington snipers. These terrorists acquired their assault rifle to shoot 13 people. They got the rifle at the Bull's Eye Shooter Supply. Bull's Eye could not account for the sale. Bull's Eye could not account for 230 of its guns. Yet Bull's Eye would be protected when these families sought recompense by this legislation. Who in America would exempt a gun dealer who repeatedly violated the law and put them above those who had lost loved ones?

That says enough. I know my colleagues are eager to move on so I will not speak for much longer. If Members want to know why the American people get fed up with this body, it is legislation such as this that caters to a small, powerful group.

The right to guns is a good thing. I support the second amendment. But no amendment is absolute. Not the first, not the fourth, not any of them, including the second. There are some here who believe only the second amendment should be exalted above all the others. I disagree.

This is an awful piece of legislation, despite my respect for its sponsor. I urge we defeat it.

To reiterate, I rise in opposition to this bill, which will give a free pass to gun dealers and gun manufacturers, even when their products wreak havoc on innocent people.

With all of the important business before the Senate right now, it is shocking that we would spend our time giving unwarranted and unprecedented immunity to an industry whose products, when allowed into the hands of the wrong people, do incredible harm to innocent Americans. We even put off working on a defense bill to do this favor to the gun lobby.

This bill, will literally endanger people's lives because it eliminates the last check we have, on bad gun dealers—the threat of lawsuits.

This bill will hurt victims of gun violence all across America—the innocent men, women and children who will end up being shot and killed if this bill passes because a gun dealer can't or won't keep track of his guns and there is no check on him.

We remember too well the terror that was brought upon ordinary Americans when the Washington snipers, John Allen Muhammad and Lee Boyd Malvo, went on their 23-day shooting spree.

These terrorists acquired the assault rifle that they used to shoot 13 people at Bull's Eye Shooter Supply, and Bull's Eye could not account for that sale.

In fact, Bull's Eye couldn't account for over 230 of its guns. This bill would protect gun dealers like Bull's Eye from lawsuits by the families of the sniper victims.

And this wasn't a dealer operating under the radar. In fact, Bull's Eye was inspected by the ATF not once, not twice, not even three, but four times in the 6 years prior to the sniper shootings. And what did those inspections reveal? They revealed that Bull's Eye could not account for over 160 guns missing from its inventory.

One of these guns was used by the DC snipers to kill ten innocent people and injure three others. It was only after people died that ATF did a real investigation and found that it was not 160, but 238 guns that were missing.

But it was still open and doing business.

What recourse did the sniper victims and their families have while they were

waiting for the government to act? These victims sued the gun dealer for negligence, and won a $2.5 million settlement.

That won't bring back the innocent people who were killed by the snipers. But it gives these victims what we are all entitled to when someone else's negligence does us harm—our day in court and the opportunity to achieve justice.

This bill would shield bad dealers like Bull's Eye from justice. It would say to people like the victims of the DC snipers—''I'm sorry but you have no right to your day in court because Congress has made a special exception for bad gun dealers.''

We don't do this for other industries, but due to pressure from the gun lobby we are being asked to carve out a special exception to an industry that makes and sells what are, in the hands of the wrong people, very deadly weapons.

In Philadelphia, a small child found a gun on the street and accidentally shot a 7-year-old boy. That boy's mother was able to recover a settlement from the gun dealer, who negligently sold multiple guns to a gun trafficker. One of those guns ultimately caused her son's death. This bill would deny that mother her day in court.

And it's not just about money. Gun dealers and manufacturers also agree to implement safer practices as a result of these negligence suits. This bill would give bad dealers and manufacturers no incentive to enact these safer practices.

Lawsuits against bad dealers, or dealers who are too lazy to adequately keep track of their inventories, do not affect the right of law-abiding Americans to safely use guns to hunt or collect.

But this bill does wipe away the right of American citizens to have their day in court. This bill destroys that right and slams the courthouse door in the faces of gun crime victims who are trying to make sure that gun dealers are responsible.

We have heard some of my colleagues talking here about the importance of responsibility. Well this bill says that everyone should be responsible—except the gun industry. You get a free pass. The rules that apply to every other industry in America don't apply to you.

Our court system works. And when a frivolous or baseless lawsuit is brought, there are rules to make sure that it doesn't go forward.

We should allow the system to continue to work. It worked for two New Jersey police officers who won a $1 million settlement from a dealer who negligently sold 12 guns to a straw buyer. It worked when the dealer agreed to implement safer sales practices to prevent criminals from getting guns.

That is why I also want to encourage my colleagues to support the amendment being offered by my friend from New Jersey, Senator CORZINE. This sensible amendment will allow law enforcement officers like those two New Jersey police officers to obtain justice when careless sellers allow guns to get into the wrong hands.

So the system needs to work for all Americans—and Congress shouldn't create special rules for special interest groups, especially when the lives of so many people are literally at stake.

I urge my colleagues to vote against this bill.

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

The amendment (No. 1619) was rejected.

AMENDMENT NO. 1642

Mr. CRAIG. Mr. President, we have one amendment remaining, the amendment of Senator REED. There is a time agreement on that amendment.

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

Mr. REED. Mr. President, I call up amendment numbered 1642.

I ask the Presiding Officer to let me know when I have reached 10 minutes.

My amendment has an overarching purpose, to preserve the right of an individual to sue for negligence when they have been harmed and when that negligence can be fairly attributed to a gun manufacturer, gun dealer, or a gun trade association. It does not depart from the principles of the law. In fact, it braces the fundamental principle of the law which says if someone owes you a duty of care and violates that duty and you have been harmed, you have a right to go into court.

The legislation before the Senate not only sweeps away the rights of individuals but sweeps away the rights of municipalities, counties, and other government entities. This is one of the major reasons the advocates have been talking about in this legislation. They have said there has been a rash of suits by municipalities, not about recovering damages, but about undercutting and undermining the gun industry.

I am reluctant to change what I think is well-settled law and well-settled practice, but if we are confronted with this legislation, I propose we step back and perhaps reluctantly eliminate suits by municipalities, but for goodness sakes, we can have and maintain suits by individuals.

The reason this legislation is before the Senate is because they claim there is a crisis. But if you look at the financial reports of these companies—of Smith & Wesson and Sturm, Ruger—there is no crisis. The financial report of Smith & Wesson indicates they are actually reducing the amount of their reserve to cover these types of suits, which is a strong indication, because it is real dollars, that this threat is dissipating. It is not becoming more enhanced. This crisis is manufactured. And it is, indeed, evaporating.

This suit will deny ordinary people, our constituents, their voice before the courts when they have been harmed. No one is going out and getting shot so they can bring a lawsuit. That is preposterous. They are being shot because people have been either criminal or negligent or both. We have criminal laws to deal with criminals, but we have a well-established body of civil practice which allowed an individual to go in and be compensated, receive damages for the harm they have suffered.

This legislation, the underlying legislation, would bar the door to courthouses for real people. Who are some of these real people? We all know about the most notorious incidents in the last several years, the Washington, DC snipers. If this legislation passed in the last Congress, and it was on the verge of passing, these people would have been denied their day in court.

Ted Franklin is the husband of Linda Franklin, a resident of Arlington, VA. On October 14, 2002, Linda Franklin was a 47-year-old analyst for the FBI. She had two children and a loving husband. She, like so many of us do, was in the parking lot of Home Depot loading up purchases for their new home when she was killed by the sniper.

How did the sniper get his weapon? Well, a teenaged boy walked into a gunshop in Washington State and apparently shoplifted a 3-foot-long assault weapon. The manager did not know about it and he did not know where over 200 weapons were. That is gross negligence, certainly, the kind of fact that would get you before a court. She was killed. A 47-year-old, dependable worker of the FBI.

Margaret Walekar is the wife of Premkumar, who was shot at the age of 54 while he was refueling his cab at a gas station. Tonight, as you fill up your automobile at a gas station, just think, someone else was doing that and innocently was killed and the heart of the causation of that tragic event was the negligence.

After this legislation passes, if it does, that negligent gun dealer and that negligent manufacturer who contributed the weapons would not be held liable for the death of this man.

Carlos Cruz is the husband of Sarah Ramos. They had one son, age 7. She was 34 and was sitting on a bench in front of a post office on October 3, 2003, waiting for a ride to take her to her baby-sitting job when she was shot and killed by the Bushmaster assault weapon shoplifted from that negligent gun dealer in Washington State.

I could go on and on and on. These are innocent victims. These are our neighbors. These are our constituents. These are the people we will tell, unless we adopt the Reed amendment, you have no value in the eyes of the court. You have no voice in that court. You are not important.

Who is important? The National Rifle Association. The gun lobby. The gun dealers. They are important. But these good people are not important.

At a minimum, we have to allow the tort law of the various States that has been worked out to be operative for these individuals. Certain States, very few, have restricted—again at the behest of the gun lobby—certain activities. I don't object to that. But that is

more the normal course of activity since tort law is the province typically of the State. But no State is going as far as this legislation. No State is going to the extent of practically barring all claims.

Now the proponents will stand up and say, no, no, wait, we have exceptions. These exceptions have been carefully crafted to prevent the very cases I have spoken about and we have spoken about from getting to court. These are the real cases. This is what happens. People buy guns through straw purchases. That activity is virtually totally immunized by this legislation. As a result, we are going to see, I think, more reckless behavior.

We have already identified through the reporting system of the ATF and other gun shops across this country that have records and are supplying hundreds of guns to crime scenes, some within a short period of time. A weapon is purchased and a few days later found at a crime scene. If they are behaving that way now under the cloud of potential litigation, what will they do when they feel totally immunized, free, uninhibited, to be grossly negligent? The result, of course, is not some academic statistics. The result is people such as Linda Franklin.

I note that a few moments ago, in Senatorial time, we took a vote on legislation that would at least have given children the ability to use the existing tort laws of their State without the conditions and encumbrances of this legislation. That provision by Senator LAUTENBERG was struck down. That amendment failed.

What about the case with respect to the Washington sniper where Iran Brown, a 13-year-old boy, was walking to class? All of us who were here vividly remember watching the television set, vividly remember seeing the reports of a young boy walking to the Benjamin Tasker Middle School in Lanham, MD, and being shot by a sniper. The fear that grasped everyone here, parents particularly, that their child could be the next victim, that their school could be the next target, was palpable. He was rushed to a nearby medical center. Thank goodness, after a month in critical condition he survived. What if he had been critically injured or paralyzed? Who was going to pay for that young child's life and recovery if he could not allege that the negligence of the gun dealer contributed to his injury?

That is the reality. This legislation is actually modeled on the legislation adopted by the State of Idaho. Certainly that is a State that is proud of its tradition of recreational shooting and hunting. This State adopted this legislation. They recognized the problem and they took exactly the same steps we have taken. If municipalities and public interest groups are going after the gun dealers or gun manufacturers because they want to make a political point, we are not going to allow victims in Idaho who have been shot to be able to raise their voice in court?

Texas has a similar statute. They put restrictions upon municipalities, they put restrictions upon groups that might take political suits, and we have heard about those suits, but they have let ordinary citizens have a much more expansive right to go to court than anything included in this legislation before the Senate.

So we are not even being consistent with the States of Idaho and Texas and many others and we are usurping the role of States which traditionally set the standards for tort actions in their own States'. That is an interesting position for people who I used to think were faithful to this notion of State rights, State practice, local control, and let the people of Rhode Island, Idaho, and Massachusetts, let those people decide.

We are deciding if this Reed amendment fails and we pass the underlying bill that these people—Linda Franklin and James Franklin, the husband of the victim, and Lisa Brown, the mother of Iran Brown—are not worth it.

They don't mean anything. You have heard people say these are junk lawsuits. Are these lives junk? They are not.

We have a chance at least to preserve the right of individuals who have been harmed by the alleged negligence of gun dealers, gun manufacturers, and gun trade associations to get their case before a judge, to ask 12 fellow Americans to decide: Was there a duty by that defendant of more care, more attention, more foresight? Was that duty violated? Was I injured as a result of that and, therefore, should I be compensated by that person?

If we fail to adopt this amendment, we are sending a very strong message.

The PRESIDING OFFICER. The Senator has consumed 10 minutes.

Mr. REED. That message is, these people don't matter. The only thing that matters is the gun lobby. That would be a terrible message to send. I urge passage of the amendment and retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise to speak against the substitute. This is a complete substitute for the bill. In effect, it guts the bill. It does exactly the opposite of what the bill is intended to do, and that is to stop abusive predatory lawsuits against law-abiding businesses for damages caused by the criminal misuse of their products by others.

Senator REED mentioned some terrible situations regarding the Washington serial killer and said that those victims would not be able to sue the gun seller who was presumed to be negligent. In fact, that gun seller was found to have violated the laws that are required to be met and his license was revoked. So I believe under our bill—and it would be our opinion under our bill—that those people would be able to sue that gun seller. The other side has a legal opinion to the contrary, but we disagree with that.

The bill says, what is not included in this bill is a lawsuit which is brought against a seller for negligent entrustment or negligence, per se. So I think you could have brought that lawsuit. In fact, those lawsuits were settled.

What we are talking about is a substitute that appears to bar lawsuits but, in fact, allows lawsuits by cities and counties against firearms manufacturers and sellers if there is a State legislature approving the lawsuit or the State Attorney General brings the suit. So everything that we have been voting on would be reversed. If a State legislature says: We are going to allow a city to sue, the city would be able to sue.

We are here not to bar legitimate lawsuits. We are not here to bar lawsuits if a gun malfunctions. What we are trying to do is stop gun manufacturers from having to answer lawsuit after lawsuit after lawsuit for the criminal misuse of that product. If this amendment is passed, the bill before us will be gutted and will be of no use. We are trying to stop frivolous lawsuits against law-abiding citizens and law-abiding gun manufacturers. It does not stop lawsuits for negligence of the gun itself or violations of the law by the gun seller.

I hope my colleagues will see through this substitute and stay with the intent of the bill—to stop the frivolous lawsuits against the gun manufacturer or the misuse of the product, not the defectiveness of the product itself.

I yield the floor.

Mr. HATCH. President, I rise to speak against this substitute amendment that we are now considering. This is yet another attempt to undermine the very purpose of the Protection of Lawful Commerce in Arms Act.

This amendment creates two loopholes so large that you could drive a truck through them. It would allow lawsuits for lawfully making or selling nondefective guns as long as either the State legislature approves, or a State attorney general brings a lawsuit on behalf of a government.

Unfortunately, some governmental entities are part of the problem here. Cash-strapped cities and counties across the country bring these junk lawsuits in an attempt to snare money from gun makers and sellers for their lawful activities. To suggest that State legislative approval will serve as a sufficient check on this problem makes no sense. These lawsuits already have the tacit approval of their state legislatures. And we already know well that some State attorneys general are not above pursuing political agendas. This would only encourage them to bring more of these types of suits.

So this amendment would not eliminate in any meaningful way the very lawsuits that the gun liability bill is designed to address. And furthermore, it would not even apply to any pending cases. So lawsuits brought against the gun industry by New York City and Washington, DC, to cite two examples,

would go forward under this substitute amendment.

This bill is about the integrity of our legal system. It is about protecting law-abiding small businesses from being overwhelmed by junk—yes, junk—lawsuits. And these are not just any small businesses—they also happen to be critical suppliers to our military. In my book, this alone makes them worthy of our protection.

We have acted before when we needed to protect others who were besieged or potentially besieged by unscrupulous trial lawyers. We did it for light aircraft manufacturers. We did it for food donors. We did it for medical implant manufacturers. We did it for charitable volunteers. We did it for makers of anti-terrorism technology. And we need to do it here.

We cannot continue to allow these lawsuits that turn traditional tort law on its head. We cannot continue to blame law-abiding citizens for the acts of criminals. We cannot continue to witness the corruption of our legal system and do nothing.

This substitute would do nothing, or at least it would do nothing good. I urge my colleagues to vote against the Reed amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, let me take a very few minutes because I do want to get on with the vote. First, the underlying legislation would deny the attorney general of Texas the right to defend the people of Texas in court with a suit, I believe. Second, the legislature in Texas could not authorize suits. They could under my amendment. But more importantly, going back to the Washington sniper, none of the carve-outs, none of the caveats would reach that. I don't think it is a matter of dispute. Negligent entrustment has been defined in the bill as supplying a qualified product by seller for use by another person where the seller knows or should know. There is no allegation that the seller knew that the young person came in and shoplifted the weapon. In fact, he could argue that there was no sale involved whatsoever. It was shoplifting. But that was negligence because I think we all agree that gun sellers have an obligation to keep their weapons under control.

With respect to negligence per se, that is an unexcused violation of some enactment or administrative law. There are many States in the country that don't recognize that as a theory of tort recovery. Again, you would have to show they violated the law, they violated an administrative rule. In the case of Bushmaster, the situation is such that I don't believe there is any relevant legislation that says that an owner has to do anything in a way that would give rise to this negligence, per se.

My point is that the legislation before us would effectively carve out all these suits. That is entirely correct.

We are faced with a choice. This amendment does not allow these so-called political suits by municipalities, by political subdivisions, by groups, but it should allow individuals who have been harmed to have their day in court.

I hope we can prevail.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Is the Senator ready to yield back the balance of his time?

Mr. REED. Is the Senator ready?

Mr. CRAIG. I would be so inclined to with this simple statement. There are 62 Senators who are cosponsors in a bipartisan way of the underlying bill. The Reed substitute, as the Senator from Texas has said, simply guts it, changes the whole intent of the bill very dramatically. I urge my colleagues to vote against the Reed substitute.

I yield back the balance of my time.

Mr. REED. I yield back my time.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to amendment No. 1642. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Kansas (Mr. ROBERTS), the Senator from Oregon (Mr. SMITH), and the Senator from New Hampshire (Mr. SUNUNU).

Further, if present and voting, the Senator from Kansas (Mr. ROBERTS), and the Senator from Oregon (Mr. SMITH) would have voted ''nay.''

Mr. DURBIN. I announce that on this vote, the Senator from California (Mrs. FEINSTEIN) is paired with the Senator from Kansas (Mr. ROBERTS).

If present and voting, the Senator from California would vote ''aye'' and the Senator from Kansas would vote ''no.''

The result was announced—yeas 33, nays 63, as follows:

[Rollcall Vote No. 218 Leg.]

YEAS—33

Akaka	DeWine	Leahy
Bayh	Dodd	Levin
Biden	Durbin	Mikulski
Bingaman	Feingold	Murray
Boxer	Harkin	Nelson (FL)
Cantwell	Inouye	Obama
Carper	Jeffords	Reed
Chafee	Kennedy	Sarbanes
Clinton	Kerry	Schumer
Corzine	Kohl	Stabenow
Dayton	Lautenberg	Wyden

NAYS—63

Alexander	Cochran	Frist
Allard	Coleman	Graham
Allen	Collins	Grassley
Baucus	Conrad	Gregg
Bennett	Cornyn	Hagel
Bond	Craig	Hatch
Brownback	Crapo	Hutchison
Bunning	DeMint	Inhofe
Burns	Dole	Isakson
Burr	Domenici	Johnson
Byrd	Dorgan	Kyl
Chambliss	Ensign	Landrieu
Coburn	Enzi	Lieberman
Lincoln	Pryor	Specter
Lott	Reid	Stevens
Lugar	Rockefeller	Talent
Martinez	Salazar	Thomas
McCain	Santorum	Thune
McConnell	Sessions	Vitter
Murkowski	Shelby	Voinovich
Nelson (NE)	Snowe	Warner

NOT VOTING—4

Feinstein	Smith
Roberts	Sununu

The amendment (No. 1642) was rejected.

Mr. CRAIG. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. At this point, there are 10 minutes of debate equally divided.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I yield to my colleague for his closing remarks.

Mr. REED. Mr. President, first, I thank Senator CRAIG for a very deliberate and civil debate. I thank my staff, Steve Eichenauer.

The legislation before us is not about the facts. There is no crisis in litigation affecting the gun manufacturers. These are the litigation trends of Smith & Wesson: In 2001, 32 cases by municipalities; 10 by product liability. It declined steadily, with four cases ending on appeal and two cases with respect to personal liability. That is not a graph showing a crisis in litigation. The slope is going the wrong way. There is no crisis. There is no threat to procurement of military weapons. That is also conjured up out of thin air.

This is not about legal principle. A fundamental legal principle in this country is if you are wronged by the negligence of another, you can go to court. This is not about legal principles. We have had talk about intervening criminal activities taking away the negligence of another. That is not what the statement of torts, which is the black letter law of the country, states. These exceptions in the bill have been carefully crafted to prevent lawsuits, not to enable appropriate lawsuits to go forward.

It is not a failure of State courts to act. They have been acting. These cases have been going down under current State law. They are being handled by the States. It is about power, sheer naked power by the National Rifle Association—the power to take us off the Defense bill, the power to take us from that bill which would consider the quality of life and the safety of our troops to go to this legislation, the power to take us away from debate on stem cells which will save people and help people, so we can protect people who deal in dangerous weapons. It is about power; it is not about principle.

But there is something else. If this legislation passes, what incentive will there be for a gun dealer or gun manufacturer to act reasonably? There is a rogues' gallery of gun dealers—Realco

Guns in Maryland, Southern Police Equipment in Richmond—all across the country—Atlantic Gun and Tackle in Bedford Heights, OH. Hundreds of guns are sold and are ending up at crime scenes. If they are this blatant and reckless now, what do they do when we say, ''Don't worry, no one can touch you''? It will create huge disincentives.

Finally, what we are doing today is silencing the voices of victims of gun violence, silencing people who have been wronged through the negligence of another. This is not about trying gun manufacturers for someone else's fault, this is about their own responsibility.

Think tonight about what happened in Washington with the snipers. An FBI employee loading material at a Home Depot parking lot—shot. Some of that was attributed to the negligence of a gun dealer. That lady's husband and family would be silenced. Think about the young boy walking to his school in Maryland—shot. His family would be silenced. Think about the cabdriver filling up his cab. Tonight when we fill up our cars, think for a second, what if you were struck down, caught up in that web of violence. What if your family knew part of that was the result of the negligence of a gun dealer, a gun manufacturer. Who will take care of your family? Who will take care of you if you are paralyzed? We are telling those good people, our constituents: You are not worth it; the NRA is more important. You will suffer. If you don't have the money, you will be on charity. That will take care of you.

This is wrong. It is wrong morally, it is wrongly legally. We should vote against this legislation. I passionately hope we do.

I yield back my time.

Mr. ALLEN. Mr. President, I rise today in strong support of the Protection of Lawful Commerce in Arms Act.

Contrary to the concept of individual responsibility—for the past decade, the U.S. firearms industry has been under assault by legal activists attempting to hold this industry somehow legally responsible for the criminal conduct of others. Some of these suits are intended to drive gunmakers out of business by holding manufacturers and dealers liable for the criminal acts of others. It has been reported to me that to date, the total cost for the firearms industry in defending themselves from these suits exceeds $200 million.

Moreover, these lawsuits seek a broad range of remedies relating to product design and marketing. Their demands, if granted, would create major impediments on interstate commerce in firearms and ammunition, including unwanted design changes, overly burdensome sales policies, and higher costs for purchasers.

S. 397, which we are in the midst of debating, is desirable legislation and I am proud to be a cosponsor of this bill. This legislation will help curb frivolous litigation against a lawful American industry and the thousands of the men and women it employs. Imagine if General Motors or an auto dealer were to be held liable for an accident caused by a reckless or drunk driver in one of their manufactured vehicles or sue Budweiser. Likewise, businesses legally engaged in manufacturing or selling firearms should not be liable for the harm caused by people who use that firearm in an unsafe or criminal manner. This legislation does carefully preserve the right of individuals to have their day in court with civil liability actions for injury or danger caused by negligence on the firearms dealer or manufacturer or defective product, a standard in product liability law.

Moreover, these frivolous lawsuits against honest, legal companies put our national security and our military at risk. Since the late 1960's, the U.S. military has relied on private industry to supply our soldiers, our sailors, our airmen, and our marines. In 2004–2005 alone, the military has contracted to buy more than 200,000 rifles, sidearms and machine guns. And these numbers do not include new purchases for our Federal law enforcement agencies, such as the Department of Homeland Security. In addition, the Army fires about 2 billion rounds of ammunition each year. While the Army does manufacture a portion of that ammunition, it purchases half of its ammunition from private companies.

The bottom line is, these frivolous lawsuits can shut down the very same companies that are supplying our armed forces, our Federal law enforcement agencies, and our local and State police. Even the Department of Defense understands the implications that these lawsuits have on the firearms. In a letter dated July 27, 2005, from the Department to my colleague, Senator SESSIONS, DoD states, ''We believe that passage of S. 397 would help safeguard our national security by limiting unnecessary lawsuits against an industry that plays a critical role in meeting the procurement needs of our men and women in uniform.'' That is from the Department of Defense, not something created by the NRA or the proponents of this legislation.

This legislation enjoys broad support. In addition to the NRA, business and insurance groups such as the National Association of Manufacturers, U.S. Chamber of Commerce, National Association of Wholesaler-Distributors, National Federation of Independent Business, and the American Insurance Association all support S. 397. These lawsuits pose a threat to any business that makes or sells any lawful, nondefective product that can be misused by third parties.

National and local unions such as the United Auto Workers, International Association of Machinists and Aerospace Workers, and United Mine Workers support this bill because the firearms and ammunition industry provides good jobs for working Americans.

National hunting and wildlife conservation groups support S. 397, because excise taxes on firearm and ammunition sales fund wildlife management projects in the States. If these lawsuits wipe out the industry, these funds will vanish.

This bill is not a gun control bill; we should save that debate for another time. We should not saddle this lawsuit abuse legislation with anti-gun amendments that seek to infringe upon the Second Amendment rights of Virginians and Americans ability to protect themselves and their families. If Senators need to look to gun control, the best gun control measures are to enforce existing gun laws, which do more to keep illegal guns out of the hands of criminals than passing new and additional burden on the sale of firearms to honest gun-owners. Criminals commit gun-related crimes and we should focus our attention on these criminals rather than further restricting the rights of law-abiding citizens.

S. 397 will stop lawsuits that are designed not to recover damages from criminal or culpable parties, but which are designed to financially damage the industry or force regulatory changes that would restrict their legal business and strangle second amendment rights across the Nation. We have a responsibility to protect those rights and to stop the use of the courts to usurp legislative prerogatives.

I respectfully urge my colleagues to support this legislation and to oppose extraneous amendments that would weaken or delay it from passing. Please protect the rights of our constituents and the legal business that is unjustly threatened by these reckless lawsuits; and let us preserve the balance between the legislative and judicial branches of government.

Mrs. BOXER. Mr. President, this bill is part of the special interest agenda being pushed by the NRA and the Republican leader. First they managed to stall the reauthorization of the assault weapon bank, even though the bill saved lives and kept out police officers safer. Now they are looking to grant sweeping protections to gun manufacturers and dealers who recklessly sell guns that cause thousands of deaths in this country each year.

Contrary to what supporters of this bill are saying, this is not ''tort reform'' and this will not, as the White House said, ''help curb the growing problem of frivolous lawsuits.''

They call this bill the ''Protection of Lawful Commerce in Arms Act.'' They give it a nice name to make it sound like they are protecting trade. What if we called it the ''Shield Gun Makers From Lawsuits When Their Defective Gun Blows Your Child's Arm Off Act?'' Or, ''You're Off the Hook if You Sell Guns to Criminals and They Use Those Guns to Murder People Act?'' I guess those names just don't have the same ring to them.

How about a little truth in advertising here—''Protect the Unlawful Commerce in Arms Act?'' I don't think so. Make no mistake, this bill is an

erosion of victims' rights. This bill puts the gun industry ahead of the rights of individuals. Ahead of the Dix family. These are real people, real victims. The doors of the courthouse would have been shut to the family of Kenzo Dix, who ultimately settled with Beretta.

This case was brought by the parents of Kenzo, a 15-year-old boy who was unintentionally shot and killed by a young friend with a defectively designed gun. Kenzo's friend Michael thought that he had unloaded his father's gun when he replaced the loaded magazine with an empty one. But the design of the gun failed to reveal the hidden bullet in the chamber, and this bullet killed Kenzo.

Beretta could have easily designed the gun with inexpensive, well-known features that would have prevented Kenzo's death. They could have included an internal lock to prevent Michael from firing the gun, or an effective loaded-chamber indicator to alert Michael that the gun was loaded. Although Beretta was long aware of the need for these features, it refused to include them.

Imported guns are subject to safety standards. But because domestic firearms are currently exempt from Federal consumer product safety oversight, the Consumer Product Safety Commission cannot compel gunmakers to include needed safety devices, as it routinely does with manufacturers of other products.

So court cases like Dix v. Beretta are the only way we can ensure gunmakers do the right thing. It is the only way. We know that just 1 percent of the gun dealers supply 57 percent of the guns used in crimes. None of us can ever forget the terror and horror wrought by the DC-area snipers. And no one here can forget the role that Bull's Eye Shooter Supply of Tacoma, W.A, played in that terror. Bull's Eye says it ''lost'' the assault rifle used by the DC area snipers to murder 12 people.

In just 3 years, Bull's Eye says it managed to ''lose'' 237 other guns as well. This is unbelievable. How did Bull's Eye ''lose'' all of those weapons? Clearly, the victims of Bull's Eye's gross negligence should have their day in court. In all it supplied guns traced to at least 52 crimes.

But if the Senate caves to the gun lobby and passes this bill, dealers like Bull's Eye will be able to continue business as usual. This bill eliminates any real incentives for the gun industry to act more responsibly. This can only result in more victims in the future like those killed by the DC area snipers.

This bill would bar cases including those brought by two New Jersey police officers, David Lemongello and Ken McGuire. They won a settlement from a pawn shop dealer who negligently sold twelve guns to a straw purchaser.

How does a straw purchaser work? This is one way: A criminal wants to buy several guns for his gang. He knows he can not buy it because he is a felon. So he gets his girlfriend who does not have a criminal record to go to the sales counter with him, and she buys the guns for him. The gun dealer knows something is wrong here, this young woman wanting to buy all these guns, but the dealer wants the money and goes ahead and sells the guns to the girl.

As a result of the police officers' suit, the West Virginia dealer changed its policies and now no longer engages in large-volume gun sales. Two other dealers in the same town also changed their policies. So the lawsuit brought about responsible behavior and our people are safer.

I want my colleagues to consider the outcome of this lawsuit. For two brave police officers, justice was done. The dealer was held accountable for its reckless sale to a straw purchaser, and now the dealer operates more responsibly. And no one declared bankruptcy.

This outcome was only possible because this special interest immunity bill had not yet become law.

Police and big city mayors oppose the bill before us. They say it will just make battling illegal guns more difficult and make police officers' lives more dangerous, more deadly. They oppose immunizing gun manufacturers against civil liability because it would remove much of their legal incentive to behave responsibly. It would just encourage bad manufacturers to remain bad, while giving good manufacturers the green light to become lax.

In my home state of California, we used to have a law that shielded gunmakers from liability, but the governor signed legislation repealing that law 2 years ago. Today in California, gun manufacturers like everyone else are responsible for making their products as safe as they can be.

We are safer today in California, but that margin of safety will disappear if Congress gives the gun industry special legal immunity.

In 1999, the late Senator John Chafee and I introduced the Firearms Rights, Responsibilities, and Remedies Act, which would have preserved the right of local governments and individuals to hold the gun industry accountable for avoidable gun violence.

Congress not only failed to pass our bill; the House and now many of my colleagues have charged off in the opposite direction to protect gunmakers while putting the rest of us at greater risk.

Who do we represent here? I ask my colleagues that we think about the 30,000 Americans killed every year by guns, and 12,000 children wounded each year by guns.

I urge my colleagues to listen to the police officers walking the beat, to Lynn Dix, the mother of Kenzo Dix, and to all the other mothers who have lost their children to gun violence, and to victims of the DC snipers' rampage. Listen to them and vote against this extremist bill.

Mr. FEINGOLD. Mr. President, I have already registered my disappointment at the majority leader's decision to cease work on an important defense authorization bill in order to move to the bill before us, S. 397. Today, I would like to speak about S. 397, the gun liability bill, and some of the amendments relating to firearms that have been offered to it.

Listening to the debate on this bill, the American people might get the impression that there are just two sides to this issue. On one side are those who view the right to bear arms as absolute and oppose any proposals that could remotely be considered as restrictions on that right. On the other side are those who view gun use as an evil in our society that must be limited in any way possible. Sometimes the rhetoric gets turned up so high that reasoned analysis and debate is obscured. That is unfortunate.

I have never accepted the proposition that the gun debate is a black and white issue, a matter of ''you're with us, or you're against us.'' Instead, I have followed what I believe is a moderate course, faithful to the Constitution and to the realities of modern society. I believe that the second amendment was not an afterthought, that it has meaning today and must be respected. I support the right to bear arms for lawful purposes—for hunting and sport and for self-protection. Millions of Americans own firearms legally and we should not take action that tells them that they are second-class citizens or that their constitutional rights are under attack. At the same time, there are actions we can and should take to protect public safety that do not infringe on constitutional rights. I supported the amendment offered by the senior Senator from Wisconsin regarding child safety locks and was pleased that the Senate approved this measure, which does not infringe on the rights of law-abiding citizens to own and use guns.

I do not believe that granting special liability protection to the gun industry is necessary to protect the right to bear arms, however. There is no evidence that liability lawsuits threaten the existence of the gun industry in America. I believe it would be a mistake to impose a nationwide standard of tort liability on this industry that is more lenient than the standard that applies to the manufacturers or suppliers of any other product. The gun industry, like other industries, owes a duty to consumers of reasonable care, and juries of citizens are best able to define that standard as they do in tort cases of every imaginable type every day in this country.

Giving sweeping liability protection will cut off the rights of those injured by negligence and set a very dangerous precedent for how Congress treats corporate wrongdoers. I will, therefore, vote against S. 397.

I realize that many have very strong feelings about gun issues. But I also believe that most Americans favor a

moderate approach. That is the approach I intend to follow. My approach may not satisfy those on the extremes of this debate, but I believe it reflects the commonsense views of reasonable Americans who regret that this issue has become the subject of such overheated rhetoric.

Mr. LEVIN. Mr. President, the misnamed Protection of Lawful Commerce in Arms Act would rewrite well-accepted principles of liability law, providing one industry, the gun industry, legal protections not enjoyed by other industries. In addition, this bill would set a dangerous precedent by giving a single industry broad immunity from civil liability and deprive many victims of gun violence with legitimate cases of their day in court.

Law enforcement and community groups oppose the gun industry immunity bill because they understand its negative impact on the legal rights of gun violence victims. The list of law enforcement groups opposing this bill includes the International Brotherhood of Police Officers, the Major Cities Chiefs Association, the National Black Police Association, and the Michigan Association of Chiefs of Police as well as police departments from around the country. The bill is also opposed by many organizations in Michigan including the League of Women Voters of Michigan, the Michigan Partnership to Prevent Gun Violence, and local chapters of the Million Mom March.

Tort law has been traditionally left to the States to define, and if changes have been necessary, Congress has usually deferred to State legislatures to make those changes. This bill seeks to impose a Federal tort regime that would significantly restrict the ability of State courts to hear and decide cases involving grossly negligent or reckless conduct by gun dealers and manufacturers, even where existing State law would permit such cases.

Some have argued that this legislation would protect the gun industry from frivolous lawsuits meant to bankrupt the entire industry. While most gun dealers and manufacturers conduct their business responsibly, this gun industry immunity legislation would provide broad protection from liability even in these cases where gross negligence or recklessness lead to someone being injured or killed. The issue here is not whether innocent manufacturers or gun dealers should be held accountable for the criminal actions of those who use their product. Manufacturers and dealers of guns have a right to make and sell guns. However, that right is not unlimited. It comes with some responsibility. Like every other business in this country, people who are in the gun business have a responsibility to conduct that business with reasonable care. If a member of the gun industry fails to do so, and their negligence or recklessness leads to someone being killed or injured, they should not be immune from suit.

As this bill is currently written, it is not sufficient that persons injured as a result of a gun manufacturer or dealer's negligence or reckless conduct prove their case; with a few exceptions, they would also have to show that the actions of the manufacturer or dealer were illegal to recover damages. This is a radical departure from not only common law but also from principles of fairness and the protection of victims' rights.

What if a gun dealer is not violating the law, but is reckless or grossly negligent in the way they maintain their inventory or secure the weapons they are selling? Tragically, we had such a situation in the 2002 DC area sniper shootings. Last year, the victims of the DC area sniper shootings won a multi-million-dollar settlement from Bulls Eye Shooter Supply for their negligence relative to the assault rifle used in the shootings. According to published reports, audits by the Bureau of Alcohol, Tobacco, Firearms and Explosives indicate that 238 guns had gone missing from Bull's Eye's inventory and over 50 had been traced to criminal acts since 1997. Had this gun industry immunity bill been enacted prior to the DC area sniper shootings, the victims would have been unable to even have their case against Bull's Eye Shooter Supply heard in court.

Another tragic example involving an innocent victim of gun violence is that of Danny Guzman. On Christmas Eve 1999, Danny Guzman was shot and killed in Worcester, MA. The gun used in the shooting was found nearly a week later by a 4-year-old child and was turned over to police. The gun had no serial number.

The investigation following the shooting revealed the gun was one of several stolen by employees of Kahr Arms. It was discovered that one of the employees in the Kahr manufacturing facility had stolen the gun used to kill Danny Guzman and sold it to buy crack cocaine. Publicly available records indicate this employee of the Kahr facility had been addicted to cocaine and was ''habitually stealing money to support his cocaine habit.''

In March of 2000, the police arrested the Kahr employee who later pled guilty to the gun thefts. The investigation also led to the arrest of a second Kahr employee who also pled guilty to stealing a gun.

According to a complaint that was filed by Danny Guzman's family, Kahr Arms not only apparently hired a drug addict with a record of criminal charges, but the company also chose not to utilize basic security measures that could have prevented the theft, or an inventory tracking system that could have determined that guns were missing. According to the family's complaint, Kahr Arms did not conduct background checks on employees. The company did not install metal detectors, security cameras, x-ray machines, or other devices to ensure that employees did not walk off with guns.

Despite the fact that Kahr Arms manufactures several types of ''ultra compact'' handguns, the company did not track its inventory in any meaningful way. And according to the complaint, from February 1998 to February 1999, approximately 16 shipments of handguns from Kahr Arms failed to arrive at their points of destination.

The lawsuit that was filed by Danny Guzman's surviving family members alleges the wrongful death based on Kahr Arms alleged negligence. While the defendants moved to dismiss this case on April 7, 2003, the Massachusetts Superior Court denied the motions. If the bill before us is enacted, the court would be required to dismiss the case against Kahr Arms.

Responsible gun dealers and manufacturers do not need immunity from liability, and we should not be protecting the reckless and negligent ones.

A letter to members of Congress from 75 law professors from universities around the country illustrates the extensive negative impact that this bill would have on the rights of innocent gun violence victims. Here's a few excerpts:

> It might appear from the face of the bill that S. 397 and H.R. 800 would leave open the possibility of tort liability for truly egregious misconduct, by virtue of several exceptions set forth in Section 4(5)(i). Those exceptions, however, are in fact quite narrow, and would give those in the firearm industry little incentive to attend to the risks of foreseeable third party misconduct.

One exception, for example would purport to permit certain actions for ''negligent entrustment.'' The bill goes on, however, to define ''negligent entrustment'' extremely narrowly. The exception applies only to sellers, for example, and would not apply to distributors or manufacturers, no matter how egregious their conduct. Even as to sellers, the exception would apply only where the particular person to whom a seller supplies a firearm is one whom the seller knows or ought to know will use it to cause harm. The ''negligent entrustment'' exception would, therefore, not permit any action based on reckless distribution practices, negligent sales to gun traffickers who supply criminals, as in the above example, careless handling of firearms, lack of security, or any of a myriad potentially negligent acts.

Another exception would leave open the possibility of liability for certain statutory violations, variously defined, including those described under the heading of negligence per se. Statutory violations, however, represent just a narrow special case of negligence liability. No jurisdiction attempts to legislate standards of care as to every detail of life, even in a regulated industry; and there is no need. Why is there no need? Because general principles of tort law make clear that the mere absence of a specific statutory prohibition is not carte blanche for unreasonable or dangerous behavior. S. 397 and H.R. 800 would turn this traditional framework on its head and free those in the firearms industry to behave as

carelessly as they would like, so long as the conduct has not been specifically prohibited. If there is no statute against leaving an open truckload of assault rifles on a street corner, or against selling hundreds of guns to the same individual, under this bill there could be no tort liability.''

I ask unanimous consent that a copy of this letter be printed in the RECORD.

I offered an amendment to help address this problem in the bill. Many recklessness and gross negligence suits are not based on a violation of the law, but on a violation of a standard. My amendment would have provided that reckless or grossly negligent conduct by gun dealers or manufacturers, in other words, those whose own actions are a proximate cause of someone's death or injury, may be held liable in civil court for the damages they caused. This approach would have preserved well-established principles of our tort law. No one proposes, and this amendment did not propose, to make members of the gun industry responsible for the actions of criminals. This amendment would have made sure members of the gun industry are still responsible for their own reckless or negligent conduct.

It is truly unfortunate that the majority in the Senate did not adopt my amendment to protect the rights of victims of gun violence and to hold members of the gun industry accountable for their own actions when they lead to the injury or death of another person. I am also disappointed that the Senate failed to adopt amendments that would have protected the rights of children and law enforcement officers to file suit against irresponsible gun dealers and manufacturers who continue to contribute to the gun violence problem in our country.

We should not infringe upon the rights of gun violence victims in order to provide a single industry with immunity from liability. If this bill is enacted, other industries will almost certainly line up for similar protections. This is unwise legislation and it should not be adopted.

THE UNIVERSITY OF MICHIGAN
LAW SCHOOL,
Ann Arbor, Michigan.

DEAR SENATORS AND REPRESENTATIVES: As a professor of law at the University of Michigan Law School, I write to alert you to the legal implications of S. 397 and H.R. 800, the ''Protection of Lawful Commerce in Arms Act.'' My colleagues, who join me in signing this letter, are professors at law schools around the country. This bill would represent a substantial and radical departure from traditional principles of American tort law. Though described as an effort to limit the unwarranted expansion of tort liability, the bill would in fact represent a dramatic narrowing of traditional tort principles by providing one industry with a literally unprecedented immunity from liability for the foreseeable consequences of negligent conduct.

S. 397 and H.R. 800, described as ''a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others,'' would largely immunize those in the firearms industry from liability for negligence. This would represent a sharp break with traditional principles of tort liability. No other industry enjoys or has ever enjoyed such a blanket freedom from responsibility for the foreseeable and preventable consequences of negligent conduct.

It might be suggested that the bill would merely preclude what traditional tort law ought to be understood to preclude in any event—lawsuits for damages resulting from third party misconduct, and in particular from the criminal misuse of firearms. This argument, however, rests on a fundamental misunderstanding of American tort law. American law has never embraced a rule freeing defendants from liability for the foreseeable consequences of their negligence merely because those consequences may include the criminal conduct of third parties. Numerous cases from every American jurisdiction could be cited here, but let the Restatement (Second) of Torts suffice:

§ 449. TORTIOUS OR CRIMINAL ACTS THE PROBABILITY OF WHICH MAKES ACTOR'S CONDUCT NEGLIGENT

If the likelihood that a third person may act in a particular manner is the hazard or one of the hazards which makes the actor negligent, such an act whether innocent, negligent, intentionally tortious, *or criminal* does not prevent the actor from being liable for harm caused thereby. (emphasis supplied)

Similarly, actors may be liable if their negligence enables or facilitates foreseeable third party criminal conduct.

Thus, car dealers who negligently leave vehicles unattended, railroads who negligently manage trains, hotel operators who negligently fail to secure rooms, and contractors who negligently leave dangerous equipment unguarded are all potentially liable if their conduct creates an unreasonable and foreseeable risk of third party misconduct, including illegal behavior, leading to harm. In keeping with these principles, cases have found that sellers of firearms and other products (whether manufacturers, distributors or dealers) may be liable for negligently supplying customers or downstream sellers whose negligence, in turn, results in injuries caused by third party criminal or negligent conduct. In other words, if the very reason one's conduct is negligent is because it creates a foreseeable risk of illegal third party conduct, that illegal conduct does not sever the causal connection between the negligence and the consequent harm. Of course, defendants are not automatically liable for illegal third party conduct, but are liable only if—given the foreseeable risk and the available precautions—they were unreasonable (negligent) in failing to guard against the danger. In most cases, moreover, the third party wrongdoer will also be liable. But, again, the bottom line is that under traditional tort principles a failure to take reasonable precautions against foreseeable dangerous illegal conduct by others is treated no differently from a failure to guard against any other risk.

S. 397 and H.R. 800 would abrogate this firmly established principle of tort law. Under this bill, the firearms industry would be the one and only business in which actors would be free utterly to disregard the risk, no matter how high or foreseeable, that their conduct might be creating or exacerbating a potentially preventable risk of third party misconduct. Gun and ammunition makers, distributors, importers, and sellers would, unlike any other business or individual, be free to take no precautions against even the most foreseeable and easily preventable harms resulting from the illegal actions of third parties. And they could engage in this negligent conduct persistently, even with the specific intent of profiting from sales of guns that are foreseeably headed to criminal hands. Under this bill, a firearms dealer, distributor, or manufacturer could park an unguarded open pickup truck full of loaded assault rifles on a city street corner, leave it there for a week, and yet be free from any negligence liability if and when the guns were stolen and used to do harm. A firearms dealer, in most states, could sell 100 guns to the same individual every day, even after the dealer is informed that these guns are being used in crime—even, say, by the same violent street gang.

It might appear from the face of the bill that S. 397 and H.R. 800 would leave open the possibility of tort liability for truly egregious misconduct, by virtue of several exceptions set forth in Section 4(5)(i). Those exceptions, however, are in fact quite narrow, and would give those in the firearm industry little incentive to attend to the risks of foreseeable third party misconduct.

One exception, for example would purport to permit certain actions for ''negligent entrustment.'' The bill goes on, however, to define ''negligent entrustment'' extremely narrowly. The exception applies only to sellers, for example, and would not apply to distributors or manufacturers, no matter how egregious their conduct. Even as to sellers, the exception would apply only where the particular person to whom a seller supplies a firearm is one whom the seller knows or ought to know will use it to cause harm. The ''negligent entrustment'' exception would, therefore, not permit any action based on reckless distribution practices, negligent sales to gun traffickers who supply criminals (as in the above example), careless handling of firearms, lack of security, or any of a myriad potentially negligent acts.

Another exception would leave open the possibility of liability for certain statutory violations, variously defined, including those described under the heading of negligence per se. Statutory violations, however, represent just a narrow special case of negligence liability. No jurisdiction attempts to legislate standards of care as to every detail of life, even in a regulated industry; and there is no need. Why is there no need? Because general principles of tort law make clear that the mere absence of a specific statutory prohibition is not carte blanche for unreasonable or dangerous behavior. S. 397 and H.R. 800 would turn this traditional framework on its head; and free those in the firearms industry to behave as carelessly as they would like, so long as the conduct has not been specifically prohibited. If there is no statute against leaving an open truckload of assault rifles on a street corner, or against selling 100s of guns to the same individual, under this bill there could be no tort liability. Again, this represents radical departure from traditional tort principles.

My aim here is simply to provide information, and insure that you are not inadvertently misled about the meaning and scope of S. 397 and H.R. 800. As currently drafted, this Bill would not simply protect against the expansion of tort liability, as has been suggested, but would in fact dramatically limit the application of longstanding and otherwise universally applicable tort principles. It provides to firearms makers and distributors a literally unprecedented form of tort immunity not enjoyed or even dreamed-of by any other industry.

Professor Sherman J. Clark, University of Michigan Law School; Professor Richard L. Abel, UCLA Law School;

Professor Barbara Bader Aldave, University of Oregon School of Law; Professor Mark F. Anderson, Temple University Beasley School of Law; Professor Emeritus James Francis Bailey, III Indiana University School of Law; Professor Elizabeth Bartholet, Harvard Law School; Professor Peter A Bell, Syracuse University College of Law; Professor Margaret Berger, Brooklyn Law School; Professor M. Gregg Bloche, Georgetown University Law Center; Professor Michael C. Blumm, Lewis and Clark Law School; Professor Carl T. Bogus, Roger Williams University School of Law; Professor Cynthia Grant Bowman, Northwestern University School of Law; Director of the MacArthur Justice Center and Lecturer in Law; Locke Bowman, University of Chicago Law School; Professor Scott Burris, Temple University Beasley School of Law; Professor Donna Byrne, William Mitchell College of Law; Professor Emily Calhoun, University of Colorado School of Law; Professor Erwin Chemerinsky, Duke Law School; Associate Clinical Professor Kenneth D. Chestek, Indiana University School of Law; Associate Professor Stephen Clark, Albany Law School; Professor Marsha N. Cohen, University of California Hastings College of the Law.

Professor Anthony D'Amato, Northwestern University School of Law; Professor John L. Diamond, University of California Hastings College of Law; Professor David R. Dow, University of Houston Law Center; Professor Jean M. Eggen, Widener University School of Law; Associate Professor Christine Haight Farley, American University, Washington College of Law; Associate Professor Ann E. Freedman, Rutgers Law School-Camden; Professor Gerald Frug, Harvard Law School; Professor Barry R. Furrow, Widener University School of Law; Associate Clinical Professor Craig Futterman, University of Chicago Law School; Professor David Gelfand, Tulane University Law School; Professor Phyllis Goldfarb, Boston College Law School; Professor Lawrence Gostin, Georgetown University Law Center; Professor Michael Gottesman, Georgetown University Law Center; Professor Stephen E. Gottlieb, Albany Law School; Professor Phoebe Haddon, Temple University Beasley School of Law; Professor Jon D. Hanson, Harvard Law School; Professor Douglas R. Heidenreich, William Mitchell College of Law; Professor Kathy Hessler, Case Western Reserve University School of Law; Professor Eric S. Janus, William Mitchell College of Law; Professor Sheri Lynn Johnson, Cornell Law School;

Professor David J. Jung, University of California Hastings College of Law; Associate Professor Ken Katkin, Salmon P. Chase College of Law, Northern Kentucky Univ.; Professor David Kairys, Temple University Beasley School of Law; Professor Kit Kinports, University of Illinois School of Law; Professor Martin A. Kotler, Widener University School of Law; Professor Baily Kuklin, Brooklyn Law School; Professor Arthur B. LaFrance, Lewis and Clark Law School; Professor Sylvia A. Law, NYU School of Law; Professor Ronald Lasing, Lewis and Clark Law School; Professor Robert Justin Lipkin, Widener University School of Law; Professor Hugh C. Macgill, University of Connecticut School of Law; Professor Mari J. Matsuda, Georgetown University Law Center; Associate Professor Finbarr McCarthy, University Beasley School of Law; Director (Retired Professor) Christine M. McDermott, Randolph County Family Crisis Center, North Carolina; Professor Joan S. Meier, George Washington University Law School; Professor Naomi Mezey, Georgetown University Law Center; Professor Eben Moglen, Columbia Law School; Professor Dawn C. Nunziato, George Washington University Law School; Professor Michael S. Perlin, New York Law School; Clinical Professor Mark A. Peterson, Northwestern School of Law, Lewis and Clark College.

Professor Mark C. Rahdert, Temple University Beasley School of Law; Professor Denise Roy, William Mitchell College of Law; Professor Joyce Saltalamachia, New York Law School; Clinical Assistant Professor David A. Santacroce, University of Michigan School of Law; Professor Niels Schaumanm, William Mitchell College of Law; Professor Margo Schlanger, Washington University School of Law; Professor Marjorie M. Shultz, University of California Boalt School of Law; Senior Lecturer Stephen E. Smith, Northwestern University School of Law; Professor Peter J. Smith, George Washington University Law School; Professor Norman Stein, University of Alabama School of Law; Professor Duncan Kennedy, Harvard Law School; Professor Frank J.Vandall, Emory University School of Law; Professor Kelly Weisberg, University of California Hastings College of the Law; Professor Robin L. West, Georgetown University Law Center; Professor Christina B. Whitman, University of Michigan School of Law; Professor William M. Wiecek, Syracuse University College of Law; Professor Bruce Winick, University of Miami School of Law; Professor Stephen Wizner, Yale Law School; Professor William Woodward, Temple University Beasley School of Law.

Mr. CRAIG. Mr. President, as the sponsor of this legislation, I rise to clear up any questions that might arise when tying to understand the intent of S. 397 and what its enactment would accomplish. The Protection of Lawful Commerce in Arms Act will eliminate predatory lawsuits that would otherwise cripple an entire industry.

First, let me make two points about what the bill will not do. Nothing in the bill is intended to allow ''leapfrogging'' over the gun dealer to the manufacturer. The negligent entrustment provision applies specifically to the situation where a dealer knows or reasonably should know that a dangerous person is purchasing a firearm with the intent to commit, and does commit a crime with that firearm. When the manufacturer has done nothing but sell a legal, nondefective product according to the law, the negligent entrustment provision would not allow bypass of the gun dealer to get to the deeper pockets of the manufacturer.

It is also important to make sure that it is clear that the ''administrative proceedings'' section will have no effect on the ability of the Department of Alcohol, Tobacco, and Firearms or any administrative agency to revoke licenses or otherwise engage in administrative proceedings to punish bad acting manufacturers, distributors, or dealers, or otherwise enforce the laws and regulations that apply to them.

The bill's definition section describes abusive suits in which a party is seeking relief resulting from the criminal or unlawful misuse of a qualified product by the person or a third party.'' This definition clearly does not describe ATF enforcement proceedings. ATF is authorized to begin enforcement proceedings when a violation of our Nation's Federal gun laws has occurred. The use or misuse of the product is irrelevant to whether ATF may begin an administrative proceeding.

In fact, ATF does not use administrative enforcement proceedings to seek ''relief'' for the ''misuse'' of a product. The law does not require there be a ''use''—let alone a ''misuse'' of the product—in order for ATF to act. ATF can begin a license revocation proceeding against a dealer for even a single violation of Federal firearms laws, regardless of whether the gun is ever ''used'' or ''misused'' by anyone. ATF can begin proceedings based on record-keeping violations, for instance, even if no firearm ever leaves the dealer's place of business.

Some have tried to suggest that a dealer selling a gun without doing the proper paperwork or meeting other legal requirements might count as ''misuse.'' This stretches the term ''use'' beyond all rational meaning, and I believe the courts of our Nation would agree. For instance, the Supreme Court has held that firearms ''use'' in a violent or drug-trafficking crime requires ''active employment.'' *Bailey* v. *U.S.*, 516 U.S. 137 (1995). If there is no ''use'' of the gun—only a sale—then there can be no ''misuse.''

But even if we were to consider an illegal sale to be ''misuse,'' we must look at the last part of the definition: A ''qualified civil liability action'' involves the ''criminal or unlawful misuse of a qualified product by the person or a third party.'' If we were talking about an ATF action, then ''the person'' would be ATF itself. Obviously, that is not what ATF claims in an administrative proceeding. So we could only be speaking of a misuse by ''a third party''—and in an enforcement proceeding, neither the dealer nor the ATF is a ''third party.''

For all of these reasons, I think it is very clear that the language in this bill about ''administrative proceedings'' should in no way prevent any action by ATF to enforce the firearms laws of the United States. It is only intended to prevent—and, I believe, only does prevent—abuse of the courts and of various administrative processes that could be manipulated unfairly at the State or local level. Furthermore, it is worth noting that since the term ''administrative preceeding'' is part of the definition of a ''qualified civil action,'' then all of the exemptions of the bill permitting an action to proceed would

equally apply to an administrative proceeding.

However, to make this intent absolutely clear, Senator FRIST and I have offered an amendment to the exemptions section of the bill that would add ''an action or proceeding commenced by the Attorney General to enforce the provisions of chapter 44 of title 18, United States Code, or chapter 53 of the Internal Revenue Code of 1986.'' The sections of the US Code I just referenced are also known as the Gun Control Act and the National Firearms Act. Again, this would underscore what is the plain intent of the bill—to allow enforcement of our Nation's firearms laws through administrative proceedings.

Second, I want to give some examples of exactly the type of predatory lawsuits this bill will eliminate. I think it is important that we all understand the current abuse of the legal system to implement radical policies that could not be accomplished through the democratic process and understand that after passing S. 397, we will finally put an end to that abuse.

One key element of the legislation is to provide for the dismissal of pending litigation. Dismissals should be immediate—not after trial. Courts should dismiss on their own motion, instead of forcing defendants to incur the additional costs and delay of filing motions and arguing. Let me emphasize that S. 397 recognizes these lawsuits are an abuse of courts and law-abiding businesses and individuals, and I would respectfully submit that it should be the goal of our Nation's courts to eliminate those abuses as swiftly as possible, when enactment of S. 397 gives them the authority to do so.

In City of New York v. Beretta USA Corp. et al. currently set for trial on September 7 in Federal court in Brooklyn, NY, the plaintiff has asserted that industry members have created a ''public nuisance.'' The lawful sale of a highly regulated product later misused by criminals is not a public nuisance;and has never been considered a public nuisance in American jurisprudence.

Another suit expected to be affected by S. 397 is the District of Columbia and nine individual plaintiffs, Lawson, et al. that have sued members of the firearms industry, under a statute that unbelievably imposes automatic and absolute liability. The law in question says you are liable ''without regard to fault or proof of defect.'' There is also a case pending in Federal court in the District of Columbia in which a gun manufacturer is being sued under this very statute, Charlot v. Bushmaster. The companies being sued under the District ''automatic'' liability law have no defense.

Another example of a lawsuit captured by this bill is the case of Ileto v. Glock, pending in Federal court in Los Angeles, CA, against Glock and a distributor, RSR. The United States Ninth Circuit Court of Appeals said Glock and RSR could be sued for a criminal shooting when Glock sold the pistol to a Washington State police department and the distributor RSR never owned, nor sold, nor possessed the firearm.

Yet another example are the suits pending against members of the firearms industry by cities like Gary, IN and Cleveland, OH even though the States of Indiana and Ohio have themselves passed State laws similar in purpose and intent to S. 397.

In the past few days, lawyers from anti-gun interest groups have rushed to the courthouse to file at least three lawsuits, one in New York and two in Pennsylvania against manufacturers Sturm Ruger, Phoenix Arms, and Hi-Point, and I suspect there will be more suits filed in the days and weeks ahead. While we do not know all the facts yet, in one of these cases we do know that the sale by the dealer was of a single firearm made by an employee of that dealer who was an off-duty federal law enforcement agent and the firearm in that case was only transferred to the buyer after he or she filled out the required paperwork and after the background check by the FBI, as required under the Brady Act.

Congress is properly acting here under its Commerce Clause powers, as we have done many times in the past. We are also rightly concerned, as is the Department of Defense, that if these lawsuits succeed in driving gun manufacturers out of business, the national defense will be harmed. The same is true for our homeland security, as these same companies make the firearms used by law enforcement, including the Capitol Police, of which my distinguished colleague, the Democratic Leader Mr. REID was once a proud member.

The Constitution also, I believe, imposes upon Congress the duty to protect the liberties enshrined in the Bill of Rights which includes the second amendment. If the firearms manufacturers are driven out of business, that second amendment will be nothing more than an illusion.

Mr. President, I hope these comments will be helpful for anyone seeking additional information about the intent and—I believe—the impact of enacting S. 397, the Protection of Lawful Commerce in Arms Act.

Mr. WARNER. Mr. President, I rise today to share my views on the legislation before the Senate, S. 397, the gun liability bill.

From the outset, let me make clear: I am a strong supporter of measured, balanced, and fair tort reform. In my over 27 years in the Senate, I have consistently supported measures to reform our legal system when such measures benefit the American people as a whole, benefit our Nation's economy, and still remain fair to legitimate victims who have been wrongfully injured due to the wrongful actions of another.

Without a doubt, the gun , liability bill tries to address a very real problem in America. There is no question that the gun industry in this country is under legal siege from frivolous lawsuits. These lawsuits threaten the very vitality of the gun industry in America and, by extension, the ability of those of us who enjoy hunting, sport shooting, and the collecting of vintage guns, as I have done nearly all of my life. In my view, there is no question that law abiding gun manufacturers and law-abiding gun dealers deserve some measure of fair, balanced legal reform.

But equally true is that the gun liability bill before us today is an overly broad solution to a serious problem because it will immunize from legitimate lawsuits for negligence those very few, I repeat, very few irresponsible gun dealers and manufacturers in the industry whose actions, again and again, contribute to violent crime in this country.

This wide grant of immunity undoubtedly comes with unintended consequences.

For example, we know that under this bill, if it were law at the time, the victims of the DC area sniper shootings would have been unable to pursue their claim against an unbelievably negligent gun dealer who allowed the snipers to steal the weapon they used to kill so many innocent victims. This wasn't the first time this dealer had been negligent in accounting for its gun inventory. Indeed, it had previously lost over 200 weapons over a short period of time. This dealer had a track record of again and again losing firearms. That is why they were sued, and that is why the dealer ultimately settled the sniper victim's lawsuit for $2.5 million. The gun liability bill, though, would have rewarded this dealer's bad behavior by granting it immunity for these egregious acts.

I offered an amendment to correct this flaw. My amendment would have ensured that the 99 percent of law-abiding gun dealers in America would be protected from frivolous lawsuits, but ensured that those very few irresponsible gun dealers were not rewarded with immunity for their bad behavior. Unfortunately, procedural maneuvers made by others in accordance with Senate rules prevented me from obtaining an up-or-down vote on my germane amendment. So these defects in the bill remain uncorrected.

Over the course of the past week, these issues, both the pros and cons of this bill, have been extensively debated here in the Senate. The issues are clear. On the one hand, the need for tort reform for the gun industry is very real. On the other hand, I believe this is an overly broad measure that will likely treat some future victims of gun crimes unfairly.

These factors are not easy to weigh.

But as I went through the process of examining this legislation and listening to the debate, one particular point seemed to always stick out above all others. And that is the preeminent importance of America's national security.

As the chairman of the Senate Armed Services Committee, I recently requested that the Department of Defense review this legislation. In its reply, the Department's Office of General Counsel stated that the Department supports this gun liability legislation because it ''would help safeguard our national security by limiting unnecessary lawsuits against an industry that plays a critical role in meeting the procurement needs of our men and women in uniform.'' I ask unanimous consent to include a copy of this letter in the RECORD.

(See exhibit 1.)

The PRESIDING OFFICER. Without objection, so ordered.

Mr. WARNER. Indeed, the gun industry does play a crucial role in helping to equip the men and women of our Armed Forces. Companies like Beretta U.S.A., Colt Manufacturing, and others supply a host of weapons and small arms that are vital to our military.

This fact is significant because the truth of the matter is that, for a variety of complex reasons, America's military is increasingly being forced to turn to foreign sources for new technology. We simply cannot afford to lose more and more technical expertise if we want to ensure that our men and women in uniform will always have the best equipment and the best technology in the world. Our national security is dependent on having homegrown talent and expertise, and this legislation will help ensure that we do.

Ultimately, it is for these reasons that I have decided to cast my vote in support of this legislation.

EXHIBIT 1

DEPARTMENT OF DEFENSE,
OFFICE OF GENERAL COUNSEL,
Washington, DC, July 29, 2005.

Hon. JOHN WARNER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are pleased to provide you with the Department of Defense's view on S. 397, a bill to ''prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.''

The Department of Defense strongly supports this legislation.

We believe that passage of S. 397 would help safeguard our national security by limiting unnecessary lawsuits against an industry that plays a critical role in meeting the procurement needs of our men and women in uniform.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this letter for the consideration of the committee.

Sincerely,

DANIEL J. DELL'ORTO,
Acting.

Mr. CRAIG. Mr. President, last year, we promised the cosponsors of this legislation that we would return to this issue and seek a fair opportunity to consider a bill free of any poison pill amendments.

Thanks to the leadership of Senator FRIST and the cooperation of our colleagues on both sides of the aisle, that day has come.

This bill will end an outrageous abuse of our courts and law-abiding American businesses.

This bill will not prevent a single victim from obtaining relief for wrongs done to them by anyone in the gun industry.

S. 397 will only stop one narrowly-drawn kind of lawsuit: predatory lawsuits seeking to hold legitimate, law-abiding businesses responsible for harm done by the misdeeds of people over whom they had no control.

We called this bill the Protection of Lawful Commerce in Arms. That is precisely what it is designed to do—to protect lawful commerce in the firearms that supply our nation's military and peace officers, and the millions of law-abiding citizens who acquire guns as collectors, hunters, target shooters, or for self-defense.

I am pleased that the Senate will shortly be voting on this legislation, but before we do, let me express my thanks to a number of people who made this possible.

I would like to thank the 61 cosponsors of this legislation for their support and encouragement—and the colleagues who counseled with me on shaping the debate and who spoke on the floor, especially Senators SESSIONS, CORNYN, GRAHAM, KYL, COBURN, BURR, THUNE, CHAMBLISS, HUTCHISON, HATCH, BOND, and, of course, the lead Democrat sponsor of this legislation, Senator BAUCUS.

As I have said, special thanks to the Republican majority leader and whip for their leadership and the resources of their offices, including the help of their talented staff, in particular, Eric Ueland and Sharon Soderstrom, and Jim Hippe; Kyle Simmons, John Abegg, Laura Pemberton, Brian Lewis and Malloy McDaniel.

I would also like to thank the Democrat leader, Senator REID, for his constructive input in moving us to the end of this debate.

I am especially grateful to have had the help of the Judiciary Committee, and in particular Brett Tolman of Chairman SPECTER's staff, and James Suehr.

Let me also thank the staff who spent many early and late hours working on this legislation and the debate: William Henderson, William Smith, Mary Chesser, Bob Taylor, Don Dempsey and Andy Moskowitz, James Galyean, Chip Roy, Ajit Pai, and Wendy Fleming. I want you all to know you were all part of an historic effort, and your hard work is appreciated.

Finally, I would like to thank the distinguished gentleman from Rhode Island, Senator REED, for his courtesy as we worked together to manage a difficult debate. Although we disagree on the issue, he has never been disagreeable, and I appreciate the tone he brought to the debate.

And now, Mr. President, I urge my colleagues to pass this legislation, and I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, last year, I promised the cosponsors of this important legislation that we would return with a fair opportunity to work our will against the wrong kind of amendments and attempt to establish a clear record on what I think is a very important decision that the Senate is about to make.

I offer a very special thanks to Senator FRIST for his cooperation and all of my colleagues who have helped bring this bill to the Senate floor in the method we have and the success we have had.

This bill is intended to do one thing, and that is to end the abuse that is now going on in the court system of America against law-abiding American businesses when they violate no law. But because the product they sell in the marketplace may ultimately be misused in a criminal act, therefore someone, including some of my colleagues, would suggest that law-abiding business person is liable. I suggest and I think the Senate tonight will say they ought not be. But if that law-abiding citizen violates the law or produces a faulty product, then they are liable. That is the law today.

What we have crafted is a very narrow exemption from predatory lawsuits seeking to hold legitimate, law-abiding people responsible for the harm done by the misdeeds of people over whom they have no control. That is what S. 397 is all about. You can put all kinds of different explanations around it, but the reality is very clear and the legislation is really very simple. It is straightforward. It is intended to be. It is intended to stop those kinds of abusive lawsuits.

Mr. President, I think we have concluded. If my colleague does not have anything more to say, my colleague and I yield back the remainder of our time.

AMENDMENT NO. 1606, AS MODIFIED

The PRESIDING OFFICER. The Frist amendment No. 1606, as modified, to amendment No. 1605, as modified, is agreed to.

The amendment (No. 1606), as modified, was agreed to.

AMENDMENT NO. 1605, AS MODIFIED

The PRESIDING OFFICER. The Criag amendment No. 1605, as modified, as amended, is agreed to.

The amendment (No. 1606), as modified, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Kansas (Mr. ROBERTS), the Senator from Oregon (Mr. SMITH), and the Senator from New Hampshire (Mr. SUNUNU).

Further, if present and voting, the Senator from Oregon (Mr. SMITH) and the Senator from Kansas (Mr. ROBERTS) would have voted ''yea.''

Mr. DURBIN. I announce that on this vote, the Senator from California (Mrs. FEINSTEIN) is paired with the Senator from Kansas (Mr. ROBERTS).

If present and voting, the Senator from California would vote ''no'' and the Senator from Kansas would vote ''yes.''

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

The result was announced—yeas 65, nays 31, as follows:

[Rollcall Vote No. 219 Leg.]

YEAS—65

Alexander	Domenici	McCain
Allard	Dorgan	McConnell
Allen	Ensign	Murkowski
Baucus	Enzi	Nelson (FL)
Bennett	Frist	Nelson (NE)
Bond	Graham	Pryor
Brownback	Grassley	Reid
Bunning	Gregg	Rockefeller
Burns	Hagel	Salazar
Burr	Hatch	Santorum
Byrd	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Jeffords	Specter
Coleman	Johnson	Stevens
Collins	Kohl	Talent
Conrad	Kyl	Thomas
Cornyn	Landrieu	Thune
Craig	Lincoln	Vitter
Crapo	Lott	Voinovich
DeMint	Lugar	Warner
Dole	Martinez	

NAYS—31

Akaka	DeWine	Lieberman
Bayh	Dodd	Mikulski
Biden	Durbin	Murray
Bingaman	Feingold	Obama
Boxer	Harkin	Reed
Cantwell	Inouye	Sarbanes
Carper	Kennedy	Schumer
Chafee	Kerry	Stabenow
Clinton	Lautenberg	Wyden
Corzine	Leahy	
Dayton	Levin	

NOT VOTING—4

Feinstein	Smith
Roberts	Sununu

The bill (S. 397), as amended, was passed, as follows:

S. 397

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 ''Protection of Lawful Commerce in Arms Act''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Second Amendment to the United States Constitution provides that the right of the people to keep and bear arms shall not be infringed.

(2) The Second Amendment to the United States Constitution protects the rights of individuals, including those who are not members of a militia or engaged in military service or training, to keep and bear arms.

(3) Lawsuits have been commenced against manufacturers, distributors, dealers, and importers of firearms that operate as designed and intended, which seek money damages and other relief for the harm caused by the misuse of firearms by third parties, including criminals.

(4) The manufacture, importation, possession, sale, and use of firearms and ammunition in the United States are heavily regulated by Federal, State, and local laws. Such Federal laws include the Gun Control Act of 1968, the National Firearms Act, and the Arms Export Control Act.

(5) Businesses in the United States that are engaged in interstate and foreign commerce through the lawful design, manufacture, marketing, distribution, importation, or sale to the public of firearms or ammunition products that have been shipped or transported in interstate or foreign commerce are not, and should not, be liable for the harm caused by those who criminally or unlawfully misuse firearm products or ammunition products that function as designed and intended.

(6) The possibility of imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system, erodes public confidence in our Nation's laws, threatens the diminution of a basic constitutional right and civil liberty, invites the disassembly and destabilization of other industries and economic sectors lawfully competing in the free enterprise system of the United States, and constitutes an unreasonable burden on interstate and foreign commerce of the United States.

(7) The liability actions commenced or contemplated by the Federal Government, States, municipalities, and private interest groups and others are based on theories without foundation in hundreds of years of the common law and jurisprudence of the United States and do not represent a bona fide expansion of the common law. The possible sustaining of these actions by a maverick judicial officer or petit jury would expand civil liability in a manner never contemplated by the framers of the Constitution, by Congress, or by the legislatures of the several States. Such an expansion of liability would constitute a deprivation of the rights, privileges, and immunities guaranteed to a citizen of the United States under the Fourteenth Amendment to the United States Constitution.

(8) The liability actions commenced or contemplated by the Federal Government, States, municipalities, private interest groups and others attempt to use the judicial branch to circumvent the Legislative branch of government to regulate interstate and foreign commerce through judgments and judicial decrees thereby threatening the Separation of Powers doctrine and weakening and undermining important principles of federalism, State sovereignty and comity between the sister States.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products, and their trade associations, for the harm solely caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended.

(2) To preserve a citizen's access to a supply of firearms and ammunition for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(3) To guarantee a citizen's rights, privileges, and immunities, as applied to the States, under the Fourteenth Amendment to the United States Constitution, pursuant to section 5 of that Amendment.

(4) To prevent the use of such lawsuits to impose unreasonable burdens on interstate and foreign commerce.

(5) To protect the right, under the First Amendment to the Constitution, of manufacturers, distributors, dealers, and importers of firearms or ammunition products, and trade associations, to speak freely, to assemble peaceably, and to petition the Government for a redress of their grievances.

(6) To preserve and protect the Separation of Powers doctrine and important principles of federalism, State sovereignty and comity between sister States.

(7) To exercise congressional power under art. IV, section 1 (the Full Faith and Credit Clause) of the United States Constitution.

SEC. 3. PROHIBITION ON BRINGING OF QUALIFIED CIVIL LIABILITY ACTIONS IN FEDERAL OR STATE COURT.

(a) IN GENERAL.—A qualified civil liability action may not be brought in any Federal or State court.

(b) DISMISSAL OF PENDING ACTIONS.—A qualified civil liability action that is pending on the date of enactment of this Act shall be immediately dismissed by the court in which the action was brought or is currently pending.

SEC. 4. DEFINITIONS.

In this Act:

(1) ENGAGED IN THE BUSINESS.—The term ''engaged in the business'' has the meaning given that term in section 921(a)(21) of title 18, United States Code, and, as applied to a seller of ammunition, means a person who devotes, time, attention, and labor to the sale of ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of ammunition.

(2) MANUFACTURER.—The term ''manufacturer'' means, with respect to a qualified product, a person who is engaged in the business of manufacturing the product in interstate or foreign commerce and who is licensed to engage in business as such a manufacturer under chapter 44 of title 18, United States Code.

(3) PERSON.—The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(4) QUALIFIED PRODUCT.—The term ''qualified product'' means a firearm (as defined in subparagraph (A) or (B) of section 921(a)(3) of title 18, United States Code), including any antique firearm (as defined in section 921(a)(16) of such title), or ammunition (as defined in section 921(a)(17)(A) of such title), or a component part of a firearm or ammunition, that has been shipped or transported in interstate or foreign commerce.

(5) QUALIFIED CIVIL LIABILITY ACTION.—

(A) IN GENERAL.—The term ''qualified civil liability action'' means a civil action or proceeding or an administrative proceeding brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, or penalties, or other relief'' resulting from the criminal or unlawful misuse of a qualified product by the person or a third party, but shall not include—

(i) an action brought against a transferor convicted under section 924(h) of title 18, United States Code, or a comparable or identical State felony law, by a party directly harmed by the conduct of which the transferee is so convicted;

(ii) an action brought against a seller for negligent entrustment or negligence per se;

(iii) an action in which a manufacturer or seller of a qualified product knowingly violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought, including—

(I) any case in which the manufacturer or seller knowingly made any false entry in, or failed to make appropriate entry in, any record required to be kept under Federal or State law with respect to the qualified product, or aided, abetted, or conspired with any person in making any false or fictitious oral or written statement with respect to any fact material to the lawfulness of the sale or other disposition of a qualified product; or

(II) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing, or having reasonable cause to believe, that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or ammunition under subsection (g) or (n) of section 922 of title 18, United States Code;

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) and action or proceeding commenced by the Attorney General to enforce the provisions of chapter 44 of title 18 or chapter 53 of title 26, United States Code.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term 'negligent entrustment' means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (v) of subparagraph (A) shall be construed so as not to be in conflict, and no provision of this Act shall be construed to create a public or private cause of action or remedy.

(D) MINOR CHILD EXCEPTION.—Nothing in this Act shall be construed to limit the right of a person under 17 years of age to recover damages authorized under Federal or State law in a civil action that meets 1 of the requirements under clauses (i) through (v) of subparagraph (A).

(6) SELLER.—The term ''seller'' means, with respect to a qualified product—

(A) an importer (as defined in section 921(a)(9) of title 18, United States Code) who is engaged in the business as such an importer in interstate or foreign commerce and who is licensed to engage in business as such an importer under chapter 44 of title 18, United States Code;

(B) a dealer (as defined in section 921(a)(11) of title 18, United States Code) who is engaged in the business as such a dealer in interstate or foreign commerce and who is licensed to engage in business as such a dealer under chapter 44 of title 18, United States Code; or

(C) a person engaged in the business of selling ammunition (as defined in section 921(a)(17)(A) of title 18, United States Code) in interstate or foreign commerce at the wholesale or retail level.

(7) STATE.—The term ''State'' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(8) TRADE ASSOCIATION.—The term ''trade association'' means—

(A) any corporation, unincorporated association, federation, business league, professional or business organization not organized or operated for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(B) that is an organization described in section 501(c)(6) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; and

(C) 2 or more members of which are manufacturers or sellers of a qualified product.

(9) UNLAWFUL MISUSE.—The term ''unlawful misuse'' means conduct that violates a statute, ordinance, or regulation as it relates to the use of a qualified product.

SEC. 5. CHILD SAFETY LOCKS.

(a) SHORT TITLE.—This section may be cited as the ''Child Safety Lock Act of 2005''.

(b) PURPOSES.—The purposes of this section are—

(1) to promote the safe storage and use of handguns by consumers;

(2) to prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun; and

(3) to avoid hindering industry from supplying firearms to law abiding citizens for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(c) FIREARMS SAFETY.—

(1) MANDATORY TRANSFER OF SECURE GUN STORAGE OR SAFETY DEVICE.—Section 922 of title 18, United States Code, is amended by inserting at the end the following:

''(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

''(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

''(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

''(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

''(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

''(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

''(3) LIABILITY FOR USE.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

''(B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any Federal or State court.

''(C) DEFINED TERM.—As used in this paragraph, the term 'qualified civil liability action'—

''(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—

''(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

''(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

''(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.''.

(2) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(A) in subsection (a)(1), by striking ''or (f)'' and inserting ''(f), or (p)''; and

(B) by adding at the end the following:

''(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

''(1) IN GENERAL.—

''(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

''(i) suspend for not more than 6 months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

''(ii) subject the licensee to a civil penalty in an amount equal to not more than $2,500.

''(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided under section 923(f).

''(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) shall not preclude any administrative remedy that is otherwise available to the Secretary.''.

(3) LIABILITY; EVIDENCE.—

(A) LIABILITY.—Nothing in this section shall be construed to—

(i) create a cause of action against any Federal firearms licensee or any other person for any civil liability; or

(ii) establish any standard of care.

(B) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action relating to section 922(z) of title 18, United States Code, as added by this subsection.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 6. ARMOR PIERCING AMMUNITION.

(a) UNLAWFUL ACTS.—Section 922(a) of title 18, United States Code, is amended by striking paragraphs (7) and (8) and inserting the following:

''(7) for any person to manufacture or import armor piercing ammunition, unless—

''(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

''(B) the manufacture of such ammunition is for the purpose of exportation; or

''(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;

''(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—

''(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

''(B) is for the purpose of exportation; or

''(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General;''.

(b) PENALTIES.—Section 924(c) of title 18, United States Code, is amended by adding at the end the following:

''(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction under this section—

''(A) be sentenced to a term of imprisonment of not less than 15 years; and

''(B) if death results from the use of such ammunition—

''(i) if the killing is murder (as defined in section 1111), be punished by death or sentenced to a term of imprisonment for any term of years or for life; and

''(ii) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.''.

(c) STUDY AND REPORT.—

(1) STUDY.—The Attorney General shall conduct a study to determine whether a uniform standard for the testing of projectiles against Body Armor is feasible.

(2) ISSUES TO BE STUDIED.—The study conducted under paragraph (1) shall include—

(A) variations in performance that are related to the length of the barrel of the handgun or center-fire rifle from which the projectile is fired; and

(B) the amount of powder used to propel the projectile.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report containing the results of the study conducted under this subsection to—

(A) the chairman and ranking member of the Committee on the Judiciary of the Senate; and

(B) the chairman and ranking member of the Committee on the Judiciary of the House of Representatives.

SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. INHOFE. Mr. President, I submit a report of the committee of conference on the bill (H.R. 3), and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3), to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of July 28, 2005.)

Mr. INHOFE. I understand we have 15 minutes divided evenly between the majority and minority, and the Senator from Arizona has up to 30 minutes.

I ask now to recognize the Senator from Arizona for up to 30 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, this is a remarkable piece of work. I want to assure my colleagues that I will not take a half hour, but I will take a few minutes to talk about some of the interesting and egregious and remarkable aspects of this bill.

There is an old saying about evil, and that is, if you do not check it or reverse it, then it just continues to get worse. I have to say, I haven't seen anything quite like this, although I have seen some pretty bad things in the years that I have been here.

It is $286.4 billion, terrifying in its fiscal consequences and disappointing for the lack of fiscal discipline it represents. I wonder what it is going to take to make the case for fiscal sanity here. If you had asked me years ago, I would have said that the combination of war, record deficits, and the largest public debt in the country's history would constitute a sufficient perfect storm to break us out of this spending addiction—and I would have been wrong. I think we can weather almost any storm thrown at us. This week's expenditures, I think, are a pretty good example.

I mentioned before, we are all the beneficiaries of the foresight of President Eisenhower and the Congress that helped to shepherd the original highway bill legislation. I have carried it to the floor before. It is about that thick. It has two demonstration projects in it.

This is just a small example of some of the provisions in this bill, which are unnumbered pages. The conferees didn't even have time to number the pages. I have no idea how many billions are in here. Some, I am sure, are very good projects. Many of them are interesting. Some of them are entertaining. Just glance right here: Parking facility in Peoria, IL, $800,000. A parking facility in a highway bill.

The original bill as proposed by President Eisenhower and adopted by the Congress had two demonstration projects. Now we have a lot. No one has counted them yet. No one has counted these projects because we have not, of course, had time because they have been stuffed in late, in the middle of the night.

Not surprisingly, my colleagues have come to me and begged: Please make this short; I have a plane to catch. Please don't take too long; I have a plane to catch. I have to get out of here.

Of course, it is just a coincidence that we happen to be considering this legislation just before we leave.

How do we celebrate? Let me count the ways.

Section 1963, Apollo theater leases. The section would require the Economic Development Administration to lease and improve the Apollo Theater, in Harlem, New York.

The Apollo Theater in Harlem, NY.

Midway Airport, directs the Coast Guard, in consultation with the Department of Transportation, to make grants or other funding to provide for the operation of Midway Airport.

This is not an airport bill; this is a highway bill.

Expands the authority of the State of Oklahoma in environmental matters to extend over ''Indian country'' within that State.

Let me say that again.

Expands the authority of the State of Oklahoma in environmental matters to extend over ''Indian country'' within that State.

I don't know what that costs. But what in the world is it doing on a highway bill?

Requires for Treatment as a State under EPA regulations, an Indian Tribe in Oklahoma, and the State of Oklahoma, must enter a cooperative agreement to jointly plan and administer program requirements.

What is that all about? No one has ever brought it to my attention as chairman of the Indian Affairs Committee. I admit it is a long-neglected committee—at least until recently.

Eligibility to Participate in Western Alaska Community Development Quota Program. Designates a community to be eligible to participate in the Western Alaska Community Development Program established under the Magnuson-Stevens Act.

It may be worthwhile. I have no clue. What in the world does it have to do with a highway bill?

This is one of the most remarkable I have ever seen. I have been talking about these for years and years, but this is truly remarkable. This is a ''technical adjustment.''

This section would overturn a decision by the 9th Circuit Court of Appeals.

It overturns a court decision in a highway bill, and legislates a settlement between the parties that would authorize $4 million to be provided, tax free, to the Alaska Native fund. That $4 million is going to be spent to be provided tax free to the Alaska Native fund, in a highway bill.

This section was not in either the Senate-passed or the House-passed bill. Neither one. So right there it is in violation of the rules of the Senate and the Congress. It wasn't in either bill.

This ''technical adjustment'' is neither technical nor an adjustment, but it is a bailout for Hawaii and a blatant giveaway to the Alaska Native population. In 2000, the General Services Administration donated to Tanadgusix Corporation, called TDX, which is an Alaska Native corporation, a World War II decommissioned dry dock under the condition that it be transported from its holding area in Hawaii and placed in Alaska.

The TDX agreed to this condition. However, after receiving title, TDX began operating the dry dock in Hawaii. GSA attempted to enforce the contract. TDX sued the Government. A Federal district court and the Ninth Circuit Court of Appeals had both ordered TDX to tow the dry dock to Alaska. Additionally, the Department of Justice has filed a false claim suit against TDX for its illegal use of the dry dock.

None of this seems to matter to the conferees who require the dry dock to be sold, so long as the buyer agrees to operate the dry dock outside the United States to protect the ports in Hawaii and Alaska from competition.

The conferees also require the Government to compensate TDX with $4 million tax free.

Why? Again, what in the world does this have to do with highways? And why should we be bailing out corporations and overturning court decisions? It is only $4 million. We are talking about $280-some billion. But this is a bailout for Hawaii and a tax-free gift to Alaska.

Conferees also have tax cuts. Do you know in this bill we have tax cuts, repeal of special occupational taxes on producers and marketers of alcoholic beverages? We don't want people to drink and drive on highways, so I guess there is some connection to the highway bill, repeal their alcohol taxes.

There are income tax credits for distilled spirits wholesalers. Income tax credits for distilled spirits wholesalers in a highway bill.

Caps on excise tax on certain fishing equipment. I guess you have to drive on a highway to go fishing. Maybe that is it.

There are tax breaks for luxury transportation. We don't want to leave our big donors out of this bill. Tax breaks for luxury transportation, exemption from taxes on transportation provided by seaplanes and certain sightseeing flights. I guess you could land a seaplane on a highway—although that is hard, as an old pilot, I have to say. Exemption on taxes on transportation provided by seaplanes and certain sightseeing flights.

I might add to my colleagues, we have had a couple of hours to examine a 2,000-page bill.

Section 1114, Highway Bridge Program. The section contains bridge construction or improvement projects totaling $100 million for the fiscal year.

We are getting up there a little bit now.

These include $12,500,000 per fiscal year for the Golden Gate Bridge, $18,750,000 per fiscal year for the construction of a bridge joining the island of Gravina to the community of Ketchikan in Alaska.

Let me tell you that once again: $18,750,000 per fiscal year. We figure it is about $80 million. It could be a lot more than that. Guess how many people live on the Gravina Island? Fifty; five-zero. I don't know what that works out to per capita, but it is about a million-something per person at least.

. . . and $12,500,000 per fiscal year for the State of Missouri for construction of a structure over the Mississippi River to connect the City of St. Louis, MO, to the State of Illinois.

National Corridor Infrastructure Improvement Program. Directs the Department of Transportation to establish and implement a program for highway construction in corridors of National significance to promote economic growth and international or interregional trade pursuant to criteria in the section.

It lists 33 earmarks for 24 States totaling $1.95 billion—B—billion dollars.

Freight Intermodal Distribution Pilot Program.

It is always interesting when you see the words ''pilot program.''

Directs the Secretary of Transportation to establish a freight intermodal distribution pilot grant program authorized for a total of $24 million. A portion of the funding must be used for the following projects:

Short-haul intermodal projects, Oregon $5 million; the Georgia Port Authority, $5 million; the ports of Los Angeles and Long Beach, California, $5 million.

Ports—ports, my friends, not highways, ports.

Fairbanks, Alaska [of course] $5 million.

Just throw that in.

Charlotte Douglas International Airport Freight Intermodal Facility, North Carolina, $5 million.

South Piedmont Freight Intermodal Center, North Carolina, $5 million.

Development of Magnetic Levitation Transportation Systems. Authorizes a total of $40 million for MAGLEV deployment and earmarks 50 percent of the funding made available each year for a MAGLEV project between Las Vegas and Primm, Nevada, and 50 percent for a project east of the Mississippi River.

So we are going to have $40 million for MAGLEV deployment and half of it goes to Nevada and half of it goes for a project east of the Mississippi River.

''Project Authorizations,'' this section would fund 5,173 projects, totaling $14.8 billion.

Here is my favorite so far: $2,320,000 to add landscaping enhancements along—get this—the Ronald Reagan Freeway. I wonder what Ronald Reagan would say: $2,320,000.

In my youth, I have watched Ronald Reagan deride this kind of activity on the part of Congress. He used to get a pretty good response.

$480,000 to rehabilitate a historic warehouse on the Erie Canal in the town of Lyons, New York.

A historic warehouse. I hope we all have a chance to visit it sometime.

$600,000 for High Knob Horse Trails, construction of horse riding trails and associated facilities in High Knob area of the Jefferson National Forest in Virginia;

$2,560,000 for the Daniel Boone Wilderness Trail in Virginia. These funds would be used for acquiring the site; designing and constructing an interpretive center, and for the enhancement of the trail corridor;

$120,000 for the Town of St. Paul—restoration of Hillman House to serve as a trail information center;

$400,00 to rehabilitate and redesign Erie Canal Museum in Syracuse, New York;

$2,400,000 for the National Infantry Museum Transportation Network in Georgia;

$960,000 for transportation enhancements to the Children's Museum of Los Angeles;

$1,200,000 for the Rocky Knob Heritage Center in Virginia;

$1,600,000 for the Blue Ridge Music Center in Connecticut.

So we can listen to music as we are traveling on the highways.

$200,000 for the deer avoidance system to deter deer from milepost markers in Pennsylvania and New York;

$1,280,000 for the Cultural and Interpretive Center in Richland, WA;

$1,200,000 for the planning and engineering of the American Road, the Henry Ford Museum, Dearborn, MI;

$1 million for the Oswego, NY pedestrian waterfront walkway;

$400,000 for the Uptown Jogging, Bicycle, Trolley Trail in Columbus, GA;

$2 million for Ketchikan, AK, to improve marine drydock facilities;

$3 million for dust control mitigation on rural roads in Arkansas.

Dust control mitigation on rural roads. Good luck. And

$850,000 for the Red River National Wildlife Refuge Visitor Center in Louisiana;

$5 million for the Grant Tower reconfiguration in Salt Lake City, UT.

I guess we don't know what the problem with the present configuration of the Grant Tower is in Salt Lake City.

Construction of ferry boats and ferry terminal facilities, which would set aside $20 million for the construction or refurbishment of ferry boats and ferry terminal facilities and, guess what, of this amount $10 million would be earmarked for, guess where, Alaska. And $5 million would be earmarked for New Jersey. Way to go, New Jersey. And $5 million would be earmarked for Washington.

It authorizes such sums as may be necessary for 465 earmarked projects totalling $2,602,000,000, and the big winners are Alaska, Colorado, Georgia, Iowa, Michigan, Missouri, Montana, North Carolina, Oregon, Pennsylvania, and Vermont.

Going-To-The-Sun Road in Glacier National Park in Montana. Authorizes

$50 million for a project to be 100 percent federally funded to reconstruct a road in Glacier National Park. I am sure no one else with a national park in their State has need for roads that would outdo this one.

Bear Tooth Highway in Montana. Upon request by the State of Montana, the Secretary shall obligate such sums as necessary to reconstruct the Bear Tooth Highway. I think this might fit nicely into the $3 million we provided a few years ago on another appropriation bill to study the DNA of bears in Montana so they could use the Bear Tooth Highway.

The Great Lakes ITS implementation: $9 million to continue ITS activities in the Milwaukee, Chicago, and Gary, IN, area.

There is a lot more.

The Knik Arm Bridge funding clarification: Directs the DOT to provide all funds earmarked for the Knik Arm Bridge to provide the Knik Arm Bridge and Toll Authority, $229.45 million. The Knik Arm Bridge, a name that is hard to pronounce, I admit, will be renamed Don Young's Way.

Another section in the legislation: Traffic circle construction, Clarendon, VT—$1 million for the State of Vermont to plan and complete construction of a traffic circle at a specified location.

Three million dollars—$3 million—to fund the production of a documentary—get this: $3 million to fund the production of a documentary about infrastructure that demonstrates advancements in Alaska, the last frontier.

Statewide transportation funding. This section would fund ferry projects, including $25 million for projects in Alaska and Hawaii, and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals; $2.5 million for the San Francisco Water Transit Authority; $2.5 million for the Massachusetts Bay Transportation Authority Ferry System; $1 million for the Governor's Island New York ferry system, and $1 million for the Philadelphia Penn's Landing ferry terminal.

The Department of Transportation is going to provide grants to the Oklahoma Transportation Center to study motorcycle accident investigation methodology, $1,408,000. And then, of course, $1 million for fiscal years 2006 and 2007 for a wood composite products demonstration project at the University of Maine.

Well, anyway, that is how we are doing the grand plan, and I would point out to my colleagues there are, according to the information I have, 30 donor States that are losers and there are 20 States that are winners. Some States have as much as 526 percent return on every dollar that is sent to Washington, and others have as low as 92 percent. Some have 206 percent, 218 percent, 207 percent, 227 percent.

I ask unanimous consent that this chart be printed in the RECORD. I think my colleagues would be interested to see how they came out on this.

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

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

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

RATE OF RETURN AND 5 YEAR FUNDING COMPARED TO TEA-21 FY 2005-2009 APPORTIONMENTS FOR RTA-000-16

State	Average Annual Funding				Rate of Return						
	TEA 21	Scenario	Delta	% Change	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Alabama	558,328,105	727,629,138	169,301,033	30.32%	100.39%	100.67%	103.75%	105.26%	106.51%	106.91%	106.91%
Alaska	326,827,381	425,930,781	99,103,400	30.32%	567.34%	505.34%	524.12%	524.60%	526.30%	526.85%	526.85%
Arizona	463,157,671	651,471,647	188,313,975	40.66%	90.50%	90.50%	90.50%	90.50%	91.50%	92.00%	92.00%
Arkansas	365,575,583	476,428,545	110,852,962	30.32%	96.91%	95.47%	101.09%	103.06%	104.85%	105.44%	105.44%
California	2,553,243,954	3,429,117,834	875,873,879	34.30%	90.50%	90.50%	90.50%	90.50%	91.50%	92.00%	92.00%
Colorado	334,594,734	491,008,545	156,413,812	46.75%	90.50%	90.50%	90.50%	90.50%	91.50%	92.00%	92.00%
Connecticut	416,387,905	495,501,606	79,113,702	19.00%	142.72%	135.75%	134.45%	136.09%	131.65%	128.69%	128.49%
Delaware	121,404,732	158,218,115	36,813,383	30.32%	166.25%	159.24%	157.97%	161.05%	163.21%	163.92%	163.92%
Dist. of Col.	108,507,402	151,757,154	43,249,752	39.86%	335.54%	347.70%	423.13%	440.27%	429.70%	423.03%	425.03%
Florida	1,303,522,941	1,736,113,000	432,590,059	33.19%	90.50%	90.50%	90.50%	90.50%	91.50%	92.00%	92.00%
Georgia	985,048,097	1,271,268,095	286,219,998	29.06%	90.50%	90.50%	90.50%	90.50%	91.50%	92.00%	92.00%
Hawaii	141,958,070	168,930,103	26,972,033	19.00%	208.46%	194.61%	182.75%	185.54%	179.55%	175.54%	175.26%
Idaho	212,310,656	276,689,313	64,378,657	30.32%	134.84%	133.77%	137.97%	140.66%	143.01%	143.78%	143.78%
Illinois	927,169,304	1,236,321,679	309,152,375	33.34%	93.04%	96.97%	92.97%	90.50%	91.50%	92.00%	92.00%
Indiana	660,387,364	889,262,843	228,875,479	34.66%	91.32%	92.28%	90.50%	90.50%	91.50%	92.00%	92.00%
Iowa	329,554,208	412,463,273	82,909,065	25.16%	105.62%	105.43%	100.97%	96.79%	91.50%	92.00%	92.00%
Kansas	321,304,097	383,140,608	61,836,511	19.25%	106.97%	114.28%	103.44%	102.39%	97.53%	95.01%	95.53%
Kentucky	485,461,684	632,667,536	147,205,852	30.32%	90.50%	91.50%	94.56%	95.22%	95.92%	96.14%	96.14%
Louisiana	445,088,558	580,052,125	134,963,567	30.32%	90.50%	90.50%	95.16%	95.31%	95.44%	95.48%	95.48%
Maine	146,044,554	190,076,692	44,032,138	30.15%	94.74%	104.76%	94.42%	98.44%	96.54%	95.62%	96.47%
Maryland	443,219,686	583,166,623	139,946,938	31.58%	90.50%	90.50%	90.50%	90.50%	91.50%	92.00%	92.00%
Massachusetts	515,085,233	615,685,617	100,600,384	19.53%	96.71%	94.90%	94.74%	96.13%	93.12%	92.00%	92.00%
Michigan	884,266,420	1,123,338,695	239,072,275	27.04%	91.18%	90.50%	90.54%	90.50%	91.50%	92.00%	92.00%
Minnesota	410,879,135	600,384,311	189,505,176	46.12%	97.60%	102.45%	93.13%	90.50%	91.50%	92.00%	92.00%
Mississippi	344,740,210	449,275,291	104,535,081	30.32%	90.50%	90.50%	91.93%	93.73%	95.29%	95.80%	95.80%
Missouri	661,682,742	862,323,854	200,641,112	30.32%	91.55%	91.29%	99.09%	98.40%	97.95%	97.80%	97.80%
Montana	272,474,525	355,096,586	82,622,061	30.32%	218.42%	210.87%	219.23%	222.74%	226.03%	227.10%	227.10%
Nebraska	213,215,560	277,868,609	64,653,049	30.32%	102.33%	98.84%	102.98%	100.87%	99.54%	99.12%	99.12%
Nevada	198,883,564	259,190,743	60,307,179	30.32%	97.80%	94.35%	99.72%	96.53%	94.24%	93.53%	93.53%
New Hampshire	141,895,714	168,855,900	26,960,186	19.00%	110.05%	106.78%	104.39%	105.98%	102.72%	100.47%	100.31%
New Jersey	725,530,617	941,055,593	215,524,976	29.71%	90.50%	90.50%	90.50%	90.50%	91.50%	92.00%	92.00%
New Mexico	271,038,261	353,224,806	82,186,545	30.32%	107.79%	110.48%	111.45%	112.62%	113.83%	114.22%	114.22%
New York	1,415,097,862	1,683,966,455	268,868,594	19.00%	124.88%	123.77%	114.04%	115.68%	112.21%	109.79%	109.61%
North Carolina	778,064,319	1,018,845,341	240,781,022	30.95%	90.50%	90.50%	90.50%	90.50%	91.50%	92.00%	92.00%
North Dakota	179,831,478	234,361,520	54,530,042	30.32%	203.24%	208.21%	209.84%	208.33%	207.66%	207.44%	207.44%
Ohio	963,308,164	1,310,210,058	346,901,894	36.01%	90.50%	90.50%	90.50%	90.50%	91.50%	92.00%	92.00%
Oklahoma	424,770,200	558,612,851	133,842,650	31.51%	90.50%	90.50%	90.50%	90.50%	91.50%	92.00%	92.00%
Oregon	339,813,375	442,854,499	103,041,124	30.32%	98.78%	102.93%	103.99%	102.89%	102.12%	101.87%	101.87%
Pennsylvania	1,383,667,693	1,646,564,555	262,896,862	19.00%	120.84%	120.28%	117.75%	119.40%	115.83%	113.33%	113.15%
Rhode Island	164,327,250	202,264,020	37,936,770	23.09%	216.62%	209.63%	220.02%	227.27%	221.06%	217.23%	218.01%
South Carolina	457,541,146	583,642,436	126,101,291	27.56%	90.50%	90.50%	90.50%	90.50%	91.50%	92.00%	92.00%
South Dakota	199,986,896	260,628,637	60,641,741	30.32%	218.32%	212.56%	214.93%	205.67%	199.67%	197.75%	197.75%
Tennessee	629,386,744	797,520,703	168,133,960	26.71%	90.50%	90.50%	90.50%	90.50%	91.50%	92.00%	92.00%
Texas	2,106,157,841	2,894,214,879	788,057,038	37.42%	90.50%	90.50%	90.50%	90.50%	91.50%	92.00%	92.00%
Utah	216,012,661	282,073,713	66,061,053	30.58%	91.90%	90.50%	90.50%	90.81%	91.93%	92.30%	92.30%
Vermont	125,440,355	174,861,141	49,420,786	39.40%	183.40%	173.96%	203.03%	211.60%	207.18%	204.85%	206.43%
Virginia	711,343,995	938,639,666	226,795,671	31.86%	90.50%	90.50%	90.50%	90.50%	91.50%	92.00%	92.00%
Washington	491,825,367	622,357,460	130,732,093	26.59%	91.38%	94.18%	91.88%	92.33%	91.50%	92.00%	92.00%
West Virginia	309,975,967	403,969,537	93,993,570	30.32%	158.36%	156.49%	167.91%	168.48%	169.11%	169.31%	169.31%
Wisconsin	546,259,882	711,901,485	165,641,603	30.32%	102.88%	105.03%	113.18%	107.87%	104.10%	102.95%	102.95%
Wyoming	191,521,113	249,595,787	58,074,673	30.32%	133.51%	137.39%	144.92%	147.75%	150.86%	151.89%	151.89%
All States	27,923,720,971	36,390,600,000	8,467,179,030	30.32%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

Mr. MCCAIN. What is so harmful in this is, because I happen to represent, as do some other Senators, fast-growing States, it is the rapidly growing States that are penalized the most here: Arizona, California, Colorado, Florida, Georgia. The fastest growing States are the ones that are receiving the smallest amounts of money, and it is obviously very unfair. I think we all know what the answer is. Let the States keep the dollars they collect in the form of taxes and spend it within their own State. I think the answer is that simple.

This is how this Congress administers the money of the American people, Mr. President. In the 1950s when President Eisenhower's ''Grand Plan'' was being formulated, the country focused on building a unified transportation system to improve the safety, security, and economy of our Nation as a whole. Now, Congress circles transportation funds like sharks. Instead of serving the public good, this Congress slices and dices the Treasury's money to fill up the pork barrel. And we do so with grand speeches and lofty language, with no trace of shame or irony.

We live in the Era of the Earmark, Mr. President. In 1982, the transportation bill included 10 earmarks costing $386 million. In 1987, the bill included 152 earmarks, with a cost of $1.4 billion. By 1991, the bill included 538 earmarks—costing taxpayers over $6 billion. Our most recent transportation bill, TEA–21, included 1,850 earmarks with a price tag of more than $9 billion. The legislation that we are voting on today eclipses those numbers. I am told that SAFETEA–LU includes over 6,300 earmarked projects totaling over $20 billion.

Some Members of Congress may be happy to associate their names with this legislation—the chairman of the House Transportation and Infrastructure Committee for example has made sure that this legislation renames the Knick Ann Bridge in Alaska ''Don Young's Way.'' The bridge would also receive more than $229 million. I want no part of this, Mr. President. This legislation is not—I emphasize not—my way of legislating.

And I'm sure that if we had adequate time to review this conference report we would find more pork and more inappropriate provisions. But, of course, we will once again go through this process too quickly for a proper evaluation. This conference report is over 2,000 pages long—and over six and one-half inches high—and yet we've had less than a day to review it. And that doesn't even include the statement of managers, which sits in a box in the cloakroom—making it difficult for any member to read.

Fiscal prudence is crucial. But even if the conferees had excluded pork from this legislation, that alone would not make it adequate. Equity is also essential, and—unfortunately—the conference report that is before us still retains a grossly unfair feature of past legislation.

This conference report perpetuates the historical discrepancy between donor States and donee States. Remarkably, not only does the bill continue this disparity, it actually exacerbates it. Whereas the bill that was passed last year by the Senate would have increased, at least theoretically, every State's rate of return to 95 percent in the final year of the bill—2009—the substitute amendment before the Senate only promises a rate of return of 92 percent in 2008 for those States. Until then, many States will linger at a rate of return of 90.5 percent in the first year and less than 92 percent thereafter while others receive more—in some cases much more—than what they contribute to the Highway Trust Fund.

As if that weren't enough, this year's bill would actually propose to create further disparities between States. Though ''Equity'' is in the title of the legislation, the number of donor States would increase from 28 under current law to 30. In addition, 16 States would linger at the bottom of the barrel through 2009. Some may argue that these so-called super-donor States should be satisfied with the fact that they are scheduled to move from a rate of return of 90.5 percent to one of 92 percent in 2008. I would suggest that this is a meager improvement over current law and nothing to cheer about. After all, many other States are set to receive significantly higher rates of return. While a State like Ohio is expected to receive 92 percent in 2009, Alaska will receive a rate of return of almost 530 percent in the final year. 530 percent on top of the hundreds of earmarks and special provisions that are in this conference report.

Mr. President, I fully recognize that during the years when the Federal Government was building the Interstate system, a redistribution of funding between the States may have made sense. Clearly, it would have been very difficult for the State of Montana, for example, with fewer than a million people, to pay the full cost of building its share of the Intestate system. But, Mr. President, that era is over. Congress declared the construction of the Interstate system complete in 1991. Yet here we are, almost 15 years later, and donor States are still expected to agree to the redistribution of hundreds of millions—if not billions—of dollars to other States regardless of the already enormous transportation needs of donor States.

That's not where this story ends, though. The rate of return formula is based on the authorized funds that are ''below the line''—that is, that count towards the calculation of the rate of return. There is a significant amount of funds that is ''above the line.'' These funds are not counted in the rate of return calculation. It's above the line that more mischief takes place. For example, $100 million is earmarked for the Alaska Way Viaduct and Seawall Replacement project above the line. This means that Alaska's rate of return significantly understates the amount of Federal funding that Alaska receives under this legislation. The race for pork that takes place above the line also explains why some States that are nominally donor States might be happier with this legislation than one would expect. For example, California will receive over $1 billion in funding for earmarked projects above the line—that's well over the average annual funding that California receives below the line.

In closing, I note that the conference report exceeds the funding level requested by the President of $284 billion by over $2 billion.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Madam President, I would like to ask the Senator from Arizona, are you yielding back your time or just yielding the floor?

Mr. MCCAIN. I am sorry. I would like to yield 2 minutes of time and yield back the rest of my time after yielding 2 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I thank you, Madam President. I thank my colleague. I know that the chairman of the committee is anxious to conclude the legislation so I will be brief.

I simply reiterate the point that I hope colleagues sincerely consider the points made by the senior Senator from Arizona—not meant to embarrass but to get us to focus on how we could better fund our transportation needs in the country. We are all pretty bright and pretty good on identifying what is necessary, but far better it would be, as he pointed out, to let the States keep the money raised in the States and for them to decide how best to use the money in their own States. It would be much more fair than taxing some States and giving it to residents of other States. Even for the donor States such as ours, instead of getting close to 100 percent of the targeted amount that was provided in the bill in the first year, some are lucky if they get there at the very end of the period of time. There needs to be a fix to this problem sooner or later. I hope my colleagues again will sincerely consider the remarks of those who regrettably are required to vote against this legislation because of its unfairness and because of the way taxpayer dollars are used for projects, some of which do not even relate to highways or to transportation.

Madam President, I yield the floor.

STEELGRID REINFORCED CONCRETE DECKING

Mr. SANTORUM. Mr. President, I rise to engage my distinguished colleague from Oklahoma in a colloquy regarding steel grid reinforced concrete decking. First, I would like to congratulate my colleague on the successful completion of conference negotiations on this important legislation, and thank him for all he has done to assist me and my constituents through this bill.

It is my understanding that steel grid reinforced concrete decking has significant technological benefits and the ability to accomplish the goals of bridge and highway officials across the Nation. Among the many benefits of this technology are long service life, rapid and/or staged installation, and reduced maintenance costs and closures. Unfortunately, this type of bridge deck system is underused because of the larger initial costs incurred. It was my great hope that the benefits of this technology would be noted in the conference report of SAFETEA–LU. While it was my understanding that efforts were made by the distinguished chairman to incorporate language regarding this technology into this important piece of legislation, the issue of steel grid reinforced concrete decking was not directly addressed in the conference report. Accordingly, I would like to ask the, chairman whether he agrees with me on the many benefits of steel grid reinforced concrete decking.

Mr. INHOFE. Mr. President, I thank the Senator from Pennsylvania for his persistence in advocating on behalf of steel grid reinforced concrete decking as a way of modernizing and strengthening our Nation's bridges. Be assured that it was my intention to assist this technology gain greater prominence among transportation officials at the national, State, and local level. I understand my good friend from Pennsylvania's enthusiasm for this technology and desire to expand its use. I look forward to working with Senator SANTORUM to educate our colleagues and transportation officials about the vast benefits of this technology.

EXISE TAX ON HIGHWAY VEHICLES

Mr. CONRAD. Mr. President, I would like to engage my friend from Iowa, the chairman of the Finance Commitee, as well as my friend Senator BAUCUS, the ranking member of the committee in a brief colloquy.

The transportation reauthorization legislation that this body is considering includes a very important provision that is intended to provide clarity with respect to the excise tax on certain highway vehicles under Internal Revenue Code Section 4051. Can my colleagues confirm that it is the drafters' intent that this provision will allow vehicle dealers to rely on the gross combined weight rating established by the manufacturer?

Mr. GRASSLEY. That is our intent. Present law allows the seller to rely on the weight rating specified by the manufacturer when determining the applicability of vehicle excise taxes on trucks. The same rule should apply for tractors.

Mr. BAUCUS. I concur. A seller should be able to rely on the gross vehicle weight rating and the gross combined weight rating established by the manufacturer. Only in situations where the seller modifies the vehicle substantially will the seller be responsible for determining different weight ratings.

Mr. CONRAD. I thank my colleagues for this clarification.

Mr. SALAZAR. Mr. President, I rise in strong support of the transportation reauthorization bill. This bill is long overdue and will provide Colorado and our Nation with investments to improve our transportation infrastructure.

I regret that this bill could not do more to correct the fundamental injustice that States like Colorado—a donor State—suffer under our highway funding system.

Nonetheless, Colorado does get much needed relief in this bill. It will receive a 46.7 percent increase over the last time this bill was reauthorized. That's the largest percentage increase under this bill and more than any other State. That is $156 million more over the life of the bill than we received under the previous transportation bill, TEA–21.

This increase in transportation funding to Colorado will help ensure that the highest level of our transportation infrastructure is maintained. Having a first-class transportation system is critical to Colorado. Transportation infrastructure is critical to the health and vitality of our State, from the Eastern Plains to the West Slope, and from Weld County to Conejos County, Coloradans depend on safe and well-funded highways.

Recognizing our State's varied needs, I worked hard with the Colorado Department of Transportation and with counties and municipalities across the state to ensure these precious tax dollars will be well spent. I am especially happy with our efforts to secure authorizations for the following highway projects: I–70/Havana/Yosemite; Wadsworth and U.S. 36 Broomfield interchange; Wadsworth Bypass, Grandview Grade Separation; U.S. 287 Ports to Plains Corridor; I–70 and SH58 interchange; improvements to Powers Blvd. and Woodman Rd. interchange; improvements to I–25S, Douglas, Arapaho County line to EI Paso; improvements to U.S. 36; improvements to U.S. 24—Tennessee Pass; improvements to Bromley Lane and U.S. 85 Interchange; improvements to 104th and U.S. 85 Interchange; improvements to I–25 North, Denver to Ft. Collins; improvements to I–70 East multimodal corridor; improvements to Parker and Arapaho Rd. Interchange; improvements to I–225, Parker Road to I–70; improvements to I–70 West Mountain Corridor, Denver to Garfield; improvements to I–76—Northeast Gateway; improvements to C470 and U.S. 85 Interchange; improvements to Wadsworth and Bowles intersection; improvements to U.S. 160, Wolf Creek Pass; Fort Carson I–25 and Highway 16 interchange; U.S. 50 East Pueblo to Kansas border; Heartland Expressway improvements; I–25 Denver to Ft. Collins improvements; Pueblo Dillon Drive at I–25 overpass and ramp; Denver Union Station improvements; improvements to 56th and Quebec Street; U.S. 550 New Mexico State Line to Durango; SH 121 Bowles Ave. intersection and Ridgeway; improvements, Jefferson County, CO; construction of McCaslin Blvd., U.S. 36 interchange in Superior; I–70 East Multimodal Corridor to Denver; SH 83—SH 88 interchange reconstruction, Arapaho County; improve to SH44 from CO Boulevard; improvements to SH550 btw Grand Avenue, N/S of city; improvements on U.S. 36 corridor from I–25 to Boulder.

Earlier this month I met with community leaders in Colorado Springs to discuss their efforts to prepare for the influx of troops and their families associated with BRAC changes and the redeployment of the Army's 4th Infantry Division to Fort Carson. Community leaders were united in their desire to see improvements and upgrades of the interchange of I–25 and Highway 16 at Fort Carson. The upgrade of this interchange is of vital importance to ensure that traffic flows freely into Fort Carson and along I–25.

I am pleased that we were able to secure $5 million for that project, and that my Colorado colleague Senator ALLARD was able to secure an additional $3 million for that project. Unfortunately, the final report of the transportation bill being passed today did not include the correct highway number for this project. The report wrongly lists Highway 12, rather than rightly listing highway 16. I will seek a correction of this in the technical corrections bill later this year.

This is an important bill, and I am happy to support it.

Mr. OBAMA. Mr. President, I am pleased that the conference report on H.R. 3, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, protects an important program administered by the Department of Transportation the Disadvantaged Business Enterprise Program also known as the DBE Program.

The DBE Program ensures that small businesses owned and controlled by socially and economically disadvantaged individuals are able to compete on a level playing field for federally funded highway and transit contracts.

I strongly endorse the DBE Program and am pleased that this program continues to enjoy bipartisan support.

Since the DBE Program was started in 1982, the field of highway contractors has grown more racially diverse. The DBE Program was expanded to include women in 1987, and that improvement to the program has opened the doors for women contractors to join what has traditionally been an all-male field. Despite the increased fairness and greater opportunity for minority and women contractors since the inception of DBE, there continues to be a strong need for the DBE Program.

Unfortunately, studies have shown that when DBE Programs end, many contractors simply revert to their old practices, denying contracts to small companies owned by minorities or the economically disadvantaged. It is clear

that the DBE Program is still needed to secure the gains made and encourage even greater opportunity for these small businesses, and I am pleased that the conferees have recognized that continuing need and have retained this program.

Federally funded highway and transit contracts are big business, and it is imperative that we give everyone the big guys and the little guys a fair opportunity to take part. The DBE is vital to increasing participation in our federally funded highway projects.

Ms. MIKULSKI. Mr. President, I rise in support of final passage of the transportation reauthorization bill. The road to final passage has been long and brutal, but I am pleased that we have finally reached this point. This is a good bill for Maryland and a good bill for our Nation.

The State of Maryland is the fifth most densely populated State in the Nation. Our highways and byways serve almost 54 billion vehicle miles of travel annually. Maryland has the second largest urban interstate traffic density and the sixth largest percentage of roads in urban areas in the United States. As part of the Northeast corridor, Maryland experiences an extremely high volume of through traffic, especially on roadways such as 1–95. Maryland is also one of the few States in the Nation with two major metropolitan areas, Washington, DC, and Baltimore, and two major beltways with some of the highest traffic volumes in the country, within 30 miles of each other. In the Washington metropolitan area, we have the third longest average commute time in the Nation.

This bill will provide much needed relief to the stresses that our commuters experience every day by making critical investments to highway safety and expansion, improvements to our Metro system, and expansion of our transit systems.

Maryland will receive more funding for highways and mass transit under this bill than it does now. For highways, Maryland can expect to receive $140 million more per year in Federal highway formula money, more than $2.9 billion over the life of the bill. This funding will help make our roads safer, improve traffic conditions, and help promote economic development throughout the State. For our transit systems this bill provides more than $900 million. This means critical funding to improve the capacity of the Washington Metro and expand and build capacity for transit systems throughout Maryland.

In closing, I would like to thank my colleague, Senator SARBANES, for all of his hard work on this bill, particularly for his steadfast dedication to the transit needs of Maryland and our Nation. Thanks to his efforts, this bill provides essential support to State and local governments to ensure greater access to safe and reliable transit services.

Mr. PRYOR. Mr. President, I rise in support of the highway bill conference report. This legislation is 2 years overdue, and I am pleased that we are finally completing this very critical piece of legislation.

I would like to thank Senators INHOFE, BOND, JEFFORDS, BAUCUS, and their staffs for their very hard work on this bill and commend them for the bipartisan way in which they have proceeded.

I would also like to thank Senator LOTT and Senator INOUYE, the chairman and co chairman of the Commerce Subcommittee on Surface Transportation and Merchant Marine, for their work on the safety portions of this bill, as well as Senator STEVENS, the chair of the full Commerce Committee. I was proud to have worked on these very important motor carrier and passenger safety provisions.

I have addressed this body before with my concerns about the need for a highway bill.

In America over one-third of our major roads are both deteriorating and congested. In Arkansas, 47 percent of our roads are in poor or mediocre condition—almost half. Additionally, over one in four bridges are structurally deficient or functionally obsolete.

The U.S. Department of Transportation estimates that close to 42,800 persons died in car crashes in 2004. Over 2,000 Arkansans have died on our highways over the past several years. Too many families die on our highways—plain and simple.

The amount of freight expected to travel on our Nation's highways over the next 20 years is expected to double. Not only do we need to improve the existing system, we feed to increase the capacity of the system.

This bill would decrease congestion on American roads and enable businesses to transport their materials across the United States safely. It would also spur economic development and create many jobs for hard-working Americans.

The U.S. Department of Transportation estimates that for every $1 billion of investment in our highways, we create 47,500 jobs annually. This bill provides a record amount of investment in our Nation's highways and interstates, over $286 billion.

But we still have much work to do. We must continue to make investments in infrastructure, and we must work toward finding creative solutions to our transportation problems. After all, good schools, good health care, and good jobs don't mean much if you can't get there.

I am pleased this bill provides funding increases that could be used to make substantial progress on important economic development projects in my State and around the country. With passage of this bill, Arkansas would be able to make progress on many critical projects such as the Northeast Arkansas Connector, the Caraway Bridge Overpass, the Interstate 430/630 Interchange Modification, the Perry Road Overpass, and the Hot Springs East-West Arterial, just to name a few. These projects will greatly enhance the capacity and safety of Arkansas roadways.

This bill also enables Arkansas to make significant progress on our two large corridors, I–49 and I–69, that, if completed, would help generate economic expansion, add jobs, and provide isolated areas with transportation options. I am pleased this bill provides $75 million for the I–69 Corridor, including the Great River Bridge which serves as a ''Bridge Across the Delta.'' It provides $72 million for the I–69 Connector, which will enable the northern part of the State to access I–69. 1 am also pleased that this bill provides $37 million for the I–49 Bella Vista Bypass and several other projects that will reduce congestion and allow for further economic development in northwest Arkansas, one of the top 10 fastest growing areas in America.

This is a wise investment that will pay for itself by fostering interstate commerce, bolstering tourism, and creating jobs.

Mr. President, this is a good bill. It is a long overdue bill. It is a bipartisan bill. My constituents support it, I support it, and I urge my colleagues to support it.

Mr. President, I yield the floor.

Mrs. BOXER. Mr. President, today we are passing a significant bill for the people of this country. It will create hundreds of thousands of jobs. It will reduce congestion on our highways. It will move goods more efficiently. And it will improve local transit systems.

I was pleased to have been a part of putting this bill together as a member of the Environment and Public Works Committee and as a conferee on this legislation.

This is a good bill for the State of California. In total, California will receive $21.6 billion in highway and transit funding over the next 5 years. That is an average of $1.175 billion more per year for California than the last highway bill in 1998. And it will create an estimated 800,000 jobs in my State.

When I arrived in the Senate in 1993, California was getting about 83 cents on the dollar in highway funds. I am pleased to report that with this bill California's rate of return will reach 92 percent. Not what it should be—but a significant improvement.

This bill also includes over $1 billion in special projects for California, including over $130 million for the I–405 HOV lanes in the Los Angeles area and $58 million for the Golden Gate bridge seismic retrofit—an extremely important project in helping to preserve one of American's most notable landmarks.

Let me tell you why increased funding is so crucial for California.

According to the Texas Transportation Institute, Los Angeles and the San Francisco-Oakland region are ranked No. 1 and 2 for the worst roadway congestion in this country. California has two more cities in the top five, with San Jose ranked fourth and

San Diego ranked fifth. The inland empire of San Bernardino and Riverside Counties is ranked 12th and Sacramento is ranked 13th.

What does this congestion translate to? Delays—in the Los Angeles area, 136 hours per year, on average per driver, in peak hours. Drivers in the San Francisco and Oakland area experience 92 hours of delays, and San Jose drivers endure 74 hours of delays. Inland empire drivers are delayed 64 hours, and San Diego drivers are delayed 51 hours a year. This is time people could spend with their families, reading a book, or any number of other things; instead, they are stuck in traffic.

Congestion will not get better over time. California's population is expected to increase from 35 million people today to 50 million people by 2020. We need to make significant improvements in our transportation system. This bill will help fund the roads that will help ease congestion.

And it will also fund transit systems that will enable more people to get off the roads and onto buses, trains, and subways.

Transit ridership is up growing rapidly in California. The number of miles traveled annually by transit passengers grew by 20 percent between 1997 and 2001. The number of annual passenger trips was up 14 percent. In the San Francisco Bay Bridge corridor, 38 percent of all trips are on transit. And 30 percent of all trips into central Los Angeles are on transit.

This is why I am pleased that California will receive $4.6 billion in guaranteed transit funding over the next 5 years.

To mention a few specific examples of projects in California, this bill funds the Metro Gold Line eastside extension in Los Angeles, the Mission Valley east extension in San Diego, the Muni Third Street light rail in San Francisco, and the South Corridor light rail extension in Sacramento.

Another issue that I spent a lot of time working on involves grade crossings. Over 40 percent of all the Nation's imported goods come through California ports. The majority enter through the ports of LA and Long Beach. Many of the goods are then put on trams, leave Los Angeles, and travel through Riverside and San Bernardino Counties. This causes terrible local congestion.

To help that problem, this bill funds over $150 million for the Alameda corridor east for grade separations.

In addition to congestion, grade crossings create significant safety problems. This bill includes my provision for a study of grade crossing safety. The study would direct the Secretary of Transportation, in consultation with State and local government officials, to conduct a study of the impact of grade crossings both on accidents and on the ability of emergency responders to perform public safety and security duties. This would include the ability of police, fire, ambulances, and other emergency vehicles to cross the railroad tracks during emergencies.

Finally, this legislation recognizes that we can both improve our transportation system and improve our environment at the same time.

For example, I worked to ensure that fuel-efficient hybrid cars can be allowed on HOV lanes. This will provide incentives for people to purchase fuel-efficient vehicles, and will allow the State of California to implement a law passed last year.

In addition, this bill promotes bike and pedestrian paths. Funding is provided for the Virginia Corridor Rails to Trails plan, which will convert a Union Pacific railroad right of way into a bicycle and pedestrian trail in Modesto. Also, Marin County will receive $25 million to develop a network of bike and pedestrian paths.

This bill has been several years in the making. It has been the subject of intense—and sometimes tough—negotiations. But in the end, I am glad I had the opportunity to help craft a bill that will do so much to improve the lives of Californians, create so many jobs in California, and make such significant improvements to our transportation system.

I encourage all of my colleagues to support the bill.

Mrs. MURRAY. Mr. President. I would like to briefly explain the scope of the Transit New Start project listed as ''Seattle Monorail Project Post-Green Line Extensions.'' The project authorization does not authorize any Federal funding for the 14-mile Green Line approved by Seattle voters in November 2002. The 14-mile Green Line was approved by voters using entirely local funds. The authorization in this bill is for a possible second monorail line or an extension of the Green Line following construction of the 14-mile line.

Mr. KOHL. Mr. President, I proudly rise in support of the transportation bill that Congress passed today. It has been 3 years in the making, and I must admit there were times when I thought this moment would never come.

I could not be more pleased to vote for this transportation bill. When the Senate passed this legislation in May, I feared that Wisconsin would suffer under an unfair, 5-year bill. Today, Congress passed legislation that is significantly different. This legislation treats my State equitably. Over the next five years, Wisconsin will receive an average rate of return of $1.06. Wisconsin taxpayers are getting their fair share under this bill, and that deserves everyone's support.

The Wisconsin delegation has worked tirelessly on improving this legislation over the past 3 years. I would especially like to thank Congressman PETRI, whose efforts as chairman of the Subcommittee on Highways, Transit and Pipelines helped ensure the fair treatment of Wisconsin. Throughout the process, Congressman PETRI worked with others in the delegation, and this bill is truly the result of bipartisan cooperation. I would also like to thank the members of the Environment and Public Works Committee: Chairman INHOFE and Ranking Member Jeffords, along with Senators BOND and BAUCUS worked hard to ensure that the needs of all fifty States were met.

Three years in the making and this legislation is long overdue. This bill will mitigate the congestion that clogs our roadways, and it will enhance safety on highways throughout Wisconsin. It provides needed funding for such critical projects as the Marquette Interchange, the St. Croix River Crossing and the Sturgeon Bay Bridge. Commuters and visitors alike will see a direct benefit from this legislation, in addition to the thousands of jobs that the funding in this bill will create.

For 3 years, I have been consistent in my request for Congress to complete an equitable transportation authorization bill. I am proud to join my colleagues in supporting exactly that.

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

Mr. KERRY. Mr. President, I would like to take a moment to reiterate my support for the Department of Transportation's Disadvantaged Business Enterprise, DBE Program. This program is an effective tool used by the Department of Transportation to make real the promises of our Founding Fathers and the fundamental values of our Nation: economic opportunity, equal opportunity, a chance to be able to share in the remarkable assets of our Nation.

The DBE Program is a much needed program. It is an essential tool in combating the continuing effects of discrimination in the highway construction industry and in creating a level playing field for all businesses. It accomplishes these goals in a completely constitutional way without establishing quotas and, whenever possible, enhancing contracting opportunities in race and gender neutral ways.

Let me explain how the DBE program works. In past debates, my colleagues in the Senate have criticized the program for lacking flexibility. This is simply not true. Mr. President, this is not a quota it expressly prohibits quotas. This program offers a set-aside of a specific amount of money, but there is no specific direction as to who gets that amount of money. There is no quota of numbers of women, no quotas of numbers of particular races. It is open to any disadvantaged business enterprise. And, while we set aside a very specific sum of money, the money is not allocated with specificity.

This program is intended to help level the playing field for businesses owned by individuals who have historically suffered discrimination in Federal contracting based on their gender, race or ethnicity, and who continue to suffer as a result of that discrimination. To ensure that these firms receive their fair share of Federal contracts, Congress set a national goal. I reaffirm

that it is appropriate in this country to set national goals for what we will do to try to break down the walls of discrimination, the barriers against equal opportunity, in order to give people an opportunity to share in the full breadth of the upside of the economy of our Nation. The goal for each agency, including the Department of Transportation, is negotiated on an annual basis, allowing the flexibility that is so desired.

In addition, the DBE Program is very flexible. It allows each State to respond to local conditions. In the implementation of the DBE Program, the Secretary of Transportation has the authority to increase, decrease or even waive the DBE goal where it is not possible to achieve the goal in a particular contract or for a given year.

Many opponents to this and other programs aimed at offering assistance to disadvantaged business owners often argue that it is inconsistent with the Supreme Court's decision in Adarand v. Pena which required that affirmative actions programs, such as this one, be ''narrowly tailored'' to serve the Government's ''compelling interest.'' It is clear that rectifying past discrimination is a compelling Government interest. And, I believe that the flexibility I described above demonstrates that program is narrowly tailored to achieve that interest. In fact, it has been upheld by every court that has reviewed it.

It is the duty of Congress to use whatever means available to this body to enhance competition on federally funded projects by promoting equal opportunity and the full participation of all segments of the community in a marketplace environment that is free from the effects of past or present discrimination. The reality is that those effects, those inequalities and those injustices still exist. Justice Sandra day O'Conner, who penned the Supreme Court's majority opinion in the Adarand decision, stated, ''the unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country is an unfortunate reality, and government is not disqualified from acting in response to it.''

Many of the firms that have been able to use the program, the women-owned firms or minority-owned businesses, literally would have been excluded from doing so altogether were it not for the DBE Program. Arguments against these programs often point to the possibility of firms being excluded for other reasons such as size, experience or specific qualifications necessary. However, the reality in America's history is that the individuals running these disadvantaged firms often do not meet these standards because they were prevented from doing so by a lack of access to capital, training, or even blatant discriminatory Government policies. As the Congress, and this body in particular, has upheld in numerous debates, the Federal Government has an affirmative obligation, both a statutory one and a moral one, to make certain that we are going to do something very specific to respond to that kind of discrimination.

Mr. President, time has shown that the DBE Program works. It is a program that meets constitutional muster. It is a program that has a rational, national compelling interest. I am happy to reiterate my support for this essential program that has served an enormous benefit to countless minority- and women-owned businesses in the country. Thank you, Mr. President.

Mr. KYL. Mr. President, I understand the need for a good highway and transit bill.

As debate on this bill has dragged on over the last year and a half, I have heard from many Arizonans in industry, as well as users of our surface transportation system detailing the pressing needs in our state.

But throughout that time, I have expressed concern that the reauthorization legislation that has been brought before this Chamber has had certain fundamental deficiencies.

The conference report before us today preserves two of the most objectionable defects: a grossly unfair formula for apportioning highway funds among the States and a staggering quantity of pork-barrel earmarks.

It is simply impossible to explain to my constituents why more than 9.5 cents out of every dollar in gas taxes they pay at the pump goes to subsidize road construction in other States.

And while it is true that this conference report makes the barest progress toward equity by ensuring that rate of return to high-growth States like Arizona will inch up to 92 cents on the dollar, I believe that much more progress could have been attained given that this bill expends some 30 percent more than its predecessor.

This conference report preserves Arizona's rock-bottom standing in the donor/done sweepstakes.

And it does so in a way that adds insult to injury, for even as Arizona and other high-growth states continue to heavily subsidize the others, and are only moved up to the higher rate of return in the bill's fourth year, others are raised up immediately.

Even as the sponsors of this legislation suggested that we ignore the extent to which Arizona highway users will be compelled to subsidize those in other States, but they ensured that their own apportionments were promptly and generously supplemented.

I must also object to the out-of-control earmarking in this conference report.

Earmarking is, of course, the insertion into the bill of projects selected not through a merit-based process, but through the influence of Members.

Consider: The 1982 highway bill contained 10 such projects. The 1991 bill had 538. The 1998 bill had 1,800. This bill has somewhere in the neighborhood of 6,000. The list alone goes on for 250 pages.

Among those listed is the notorious ''Bridge to Nowhere,'' the 200 foot high $223 million bridge connecting Ketchikan, AK, to an island that is home to 50 people and is currently accessible to the mainland by a 10 minute ferry ride.

I hope that between now and the next time Congress takes up a highway bill, we will take a serious look at the flawed process that results in the diversion of funds from fast-growing States, as well as at the unsustainable rate at which earmarking has been proliferating.

But for now I can only note my disappointment in what we have produced, a bill the Wall Street Journal today describes as a monument to ''extravagance''—and vote against this conference report.

I ask unanimous consent that the article from the Wall Street Journal be printed in the RECORD.

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

[From the Wall Street Journal, July 29, 2005]

CAPITOL HILL BLOWOUT

HIGHWAYS, BIKE PATHS, ETHANOL, ''BIOMASS''—CONGRESS THROWS A SPENDING PARTY

President Bush had to twist a lot of arms to squeak his Central American Free Trade Agreement through Congress this week, but Republicans are about to make sure he pays for a whole lot more than their chiropractor bills. Having sacrificed to support free trade, the Members prepared for the August recess by throwing themselves a giant spending party.

Speaker Dennis Hastert had barely waited for dawn to break after the midnight Cafta vote before he directed the House to pass a $286.4 billion highway bill. He expects Mr. Bush to sign this because it is ''only'' $2.4 billion more than the President's 2005 veto limit, which is ''only'' $28 billion more than his 2004 veto limit of $256 billion, which was ''only'' a 17% increase over the previous six-year highway spending level. ''Only'' in Washington could spending so much money be considered an act of fiscal discipline.

The bill is all about ''jobs, jobs, jobs,'' declared Mr. Hastert, and he's right if he's referring to the Members' re-election prospects. The House version alone contained 3,700 special earmarks, doled out liberally across state and party lines.

Democrat Jim Clyburn retained another $25 million for his famous ''Bridge to Nowhere,'' a project in rural South Carolina that has already sucked up $34 million in federal funds. The California delegation secured $1.4 billion for more than 479 projects, including $2.5 million for freeway landscaping. And ranking Transportation Committee Democrat James Oberstar snatched more than $14 million for Duluth, Minnesota, including $3.2 million for an extension of the longest paved recreational path in the nation.

Next to this highway extravagance, the energy bill seems almost a bargain at an estimated $66 billion or so. Minor highlights here include the repeal of a Depression-era law (Puhca) that will open up electricity sector investment; new reliability standards for the national power grid; more federal authority to settle siting disputes over much-needed natural gas terminals; and an inventory of offshore oil and gas resources that may someday encourage more exploration.

We can also say this for the bill: It doesn't pick energy winners or losers. Everyone who produces so much as a kilowatt hour is a winner in this subsidy-fest of tax credits and new federal mandates. There's $550 million for forest biomass, $100 million for hydroelectric production, and $1.8 billion for ''clean coal.'' There are subsidies for wind, solar, nuclear and (despite $60 oil) even for oil and gas.

Most egregious is the gigantic transfer of wealth from car drivers to Midwest corn farmers (and Archer-Daniels-Midland) via a new 7.5-billion-gallon-a-year ethanol mandate, which will raise gas prices by as much as a dime a gallon on the East and West coasts. Oh, and don't forget the $15 billion (a 155% increase) in federal home heating subsidies, $100 million for ''fuel cell'' school buses, and $6 million for a government program to encourage people to ride their bikes—presumably along Mr. Oberstar's newly paved trail.

All of this points up the bill's underlying mortal failing, which is that it abandons the lesson of the 1980s that the best way to ensure abundant energy supplies is to let the price system work. At least the House-Senate conferees dropped a Senate provision that would have mandated that 10% of all electricity come from ''renewable'' sources by 2020, regardless of supply and demand. Although in return for killing this, the House had to drop its liability protection for producers of MTBE, a gas additive that Congress itself mandated in 1990 but now wants to feed to the trial bar.

It's too much to hope that Mr. Bush will target one of these fiascoes with his first veto; any chance of a highway veto vanished when Mr. Hastert scheduled the bill immediately after Cafta. At least the Members are leaving town for August; too bad they plan to come back.

Mr. REED. Mr. President, I rise in strong support of the conference report on H.R. 3, which will reauthorize our Nation's surface transportation laws and provided significant and needed resources to maintain and improve our nation's roads, bridges, and transit systems.

For Rhode Island, this legislation is welcome news and will bring tremendous resources to address a number of high-priority highway and transit projects.

This conference report is the product of hard work and bipartisan cooperation, and I was pleased and proud to be named as a conferee on the transit title of this conference report. I believe the transit title of this bill continues the trend of TEA–21 of investing more in transit systems to the benefit of our economy and our environment.

I want to thank Chairman SHELBY and Sherry Little, Rich Steinman, and John East of his staff for their hard work and bipartisan spirit. I also want to commend my ranking member, Senator SARBANES, who has fought for transit since the first day he took office, as well as his staff, Sarah Kline and Aaron Klein, for their tireless work in helping my office and others. Lastly, I want to thank my subcommittee chairman, Senator ALLARD, and his able staff, Tewana Wilkerson, for their work on balancing the needs of old and new transit systems.

Mr. LEVIN. Mr. President, for over 2 years Congress has been trying to reauthorize the Federal surface transportation and safety programs that to keep commerce and traffic flowing smoothly across our Nation. The reauthorization bill is long overdue and I am pleased Congress will finally complete this process today. Funding for transportation infrastructure such as roads, bridges and border crossings is an important investment that increases the mobility of people and goods, enhances economic competitiveness, reduces traffic congestion, and improves air quality.

Improvements in transportation infrastructure are critical to all of our States, and the Federal highway money that States receive is critical for funding them. In addition, few Federal investments have as large and immediate an impact on job creation and economic growth as transportation infrastructure. The Department of Transportation estimates that every $1 billion in new Federal investment creates more than 47,500 jobs.

Unfortunately, the formula that distributes Federal highway funds to States is antiquated and inequitable and has discriminated against Michigan and other states for 50 years since the interstate system was first legislated. Historically, about 20 states, including Michigan, have been ''donor'' States, sending more gas tax dollars to the Highway Trust Fund in Washington than are returned in transportation infrastructure spending. The remaining 30 States, known as ''donee'' States, have received more transportation funding than they paid into the Highway Trust Fund.

This unfair practice began in 1956 when small states and large Western states banded together to develop a formula for distributing Federal highway dollars that advantaged themselves to the disadvantage of the remaining States. Once that formula was in place, they have tenaciously defended it.

At the beginning, there was some legitimacy to the concept that large, low-population, and predominately Western states needed more funding than they contributed to the system. It was necessary in order to build a national interstate highway system. However, with the national interstate system completed, the formulas used to determine how much a state will receive from the Highway Trust are simply unfair.

Each time the highway bill has been reauthorized, I, along with my colleagues from other donor States, have fought to correct this inequity in highway funding. Over the years, through these battles, some progress has been made. For instance, in 1978, Michigan was getting around 75 cents back on our Federal gas tax dollar. The 1991 bill brought us up to approximately 80 cents per dollar, and the 1998 bill guaranteed a 90.5-cent minimum return for each State. This bill will bring us to 92 cents per dollar by fiscal year 2008.

During the past 2 years, in its effort to reauthorize TEA–21, the Senate has twice passed bills that would have been better for Michigan and other donor States in terms of rate of return than is today's Conference Report. The first Senate-passed bill died in conference due to President Bush's veto threat and his unwillingness to accept the funding levels in either the House or Senate bill. This year's Senate-passed bill was modified in the conference with the House of Representatives.

The bill before us has less overall funding than either of the previous Senate passed bills and does not go as far as it should go in closing the funding equity gap for donor States. Although I am disappointed we did not do as well as we proved could be done in the two Senate bills, this Conference Report still allows Michigan to make a little progress toward achieving equity. Michigan will go from a current 90.5 percent minimum rate of return on its gas-tax contributions to the Highway Trust Fund to 91.5 percent in fiscal year 2007 and to 92 percent in fiscal years 2008 and 2009.

This bill will provide more than $1.123 billion annually to fund transportation projects in Michigan, $239 million more per year than the prior 6 year highway bill, and will create 61,500 new jobs across the State.

Furthermore, the bill provides funding for a number of critical highway related projects in Michigan. I am delighted to have helped to secure significant additional funding for Michigan roads and highway related projects which will help make up for the fact that we are a donor State.

For example, the bill provides $40.8 million to reconstruct and widen I–94 in Kalamazoo. The bill also provides $29 million for the Detroit Riverfront Conservancy to establish a West Riverfront walkway and greenway along the Detroit River from Riverfront Towers to the Ambassador Bridge. It provides $12 million for the construction of a new at-grade crossing and I–75 interchange in Gaylord to reconnect Milbocker and McCoy Roads and a new overpass to reconnect Van Tyle to South Wisconsin Road. It also provides $13.28 million to repave a portion of H–53 in Alger County.

The legislation we will pass today represents some progress in the ongoing fight for equity for donor states. I will continue to fight in the future, as I have in the past, until we are able to achieve full equity for Michigan. I recognize, however, that we have succeeded in reducing the inequity a little more in each reauthorization bill, and we do so in this bill as well. I therefore will support this bill.

Mr. DURBIN. Mr. President, today the Senate will overwhelmingly approve the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users, SAFETEA–LU, H.R. 3. I support this important legislation as I have done when similar measures came before the Senate last year and again in May. I believe it is a

critical step toward funding our Nation's transportation infrastructure and creating much needed jobs.

This process was not perfect. It took 12 short term extensions and nearly 2 years to complete this bill. The Senate funding level began at $318 billion 18 months ago and shrunk to $295 billion in May. The House passed its version, TEA–LU, at $284 billion. The President unfortunately, supported the lower House number. In fact, he threatened to veto any transportation bill that exceeded the $284 billion funding level. I am glad he changed his mind.

Reauthorization of TEA–21 is one of the most important job and economic stimuli that the 109th Congress can pass. I am pleased that Congress has finally accomplished this elusive goal.

I would like to take this opportunity to discuss the benefits of this legislation for my home State of Illinois.

H.R. 3 would make the largest investment to date in our Nation's aging infrastructure, $286.45 billion over the life of the bill. In short, SAFETEA would increase the State of Illinois' total Federal transportation dollars and provide greater flexibility. It would help improve the condition of Illinois' roads and bridges, properly fund mass transit in Chicago and downstate, alleviate traffic congestion, and address highway safety and the environment.

Illinois has the third largest Interstate system in the country; however, its roads and bridges are rated among the worst in the Nation. The State can expect to receive more than $6.18 billion over the next 5 years from the highway formula contained in the Senate bill. That is a 33.34 percent increase or $1.545 billion over the last transportation bill.

With these additional funds, the Illinois Department of Transportation will be able to move forward on major reconstruction and rehabilitation projects throughout the State.

My Illinois colleague, Senator OBAMA, and I were able to add more than $215 million for projects through the State. And we worked closely with our House colleagues to support projects such as the Chicago railroad initiative CREATE and the new Mississippi River bridge in St. Clair County.

Mass transit funding is vitally important to the Chicago metropolitan area as well as to many downstate communities. It helps alleviate traffic congestion, lessen air emissions, and provides access for thousands of Illinoisans everyday. Illinois would receive about $2.467 billion under SAFETEA–LU, a 128 percent increase from TEA–21.

The transit section authorizes CTA and Metra projects as well as provides funding for transit systems in Springfield, Rock Island, Ottawa, and Rockford.

This legislation also preserves some important environmental and enhancement programs, including the Congestion Mitigation and Air Quality, CMAQ, program. CMAQ's goal is to help States meet their air quality conformity requirements as prescribed by the Clean Air Act. This legislation would increase funding for CMAQ by 7.5 percent.

With regard to highway safety, Illinois is one of 20 States that has enacted a primary seat belt law. H.R. 3 would enable the State of Illinois and other states who have passed primary seat belt laws to obtain Federal funds to implement this program and further improve highway safety.

I know this legislation is not perfect. Congress should have stood up to the President and passed a bill with greater funding for highways and transit. Illinois' highway formula should be higher, and this bill should have been finished 2 years ago. But thankfully we have reached the end of this very long road. Thankfully, the State of Illinois will not miss another construction season.

I would like to take a minute to thank Senator OBAMA for his work on this bill. As a member of the Environment and Public Works Committee and a conferee, he was able to ensure Illinois received its fair share of highway and transit funding. I was pleased to work with him and my House colleagues to deliver a transportation bill that will move our State forward and address critical highway, bridge, and transit needs.

With the passage of this legislation, Congress has upheld its obligation to reauthorize and improve our Nation's important transportation programs. I am pleased to support SAFETEA–LU.

Mr. INOUYE. Mr. President, I rise to support the passage of the conference report for H.R. 3, SAFETEA–LU, the reauthorization of our Federal surface transportation programs. During my 42 years in the Senate, it has been the rare occasion when we pass a piece of legislation that is guaranteed to save lives. But the safety provisions authored by the Senate Commerce Committee in this transportation reauthorization bill will save thousands of lives, and prevent thousands of serious injuries, for generations.

I want to thank Chairman STEVENS, Chairman LOTT, Senators PRYOR, ROCKEFELLER, BURNS, DORGAN, LAUTENBERG, and BOXER of the Senate Commerce Committee for working so closely with me to develop a consensus, bipartisan safety bill in the Senate. Likewise, Chairman YOUNG, Chairman PETRI, Chairman BARTON, and Ranking Members OBERSTAR, DEFAZIO, and DINGELL from the House Transportation and Infrastructure and Energy and Commerce Committees for their efforts in merging our bills into a truly landmark conference report.

In crafting our bill and conference report, we have incorporated many of the administration's recommendations and provisions from our similar effort that passed the Senate last year covering auto, truck, rail safety, and hazardous materials transportation safety. The bill also strengthens consumer protections for those who entrust their belongings to a moving company, provides more robust, predictable funding for boating safety and sport fish restoration programs, and provides additional financing options.

In the 1970s, we required that seatbelts be standard equipment in all automobiles. We then followed in the 1980s with airbags and other safety features. Now a new generation of technology has opened the door to even greater automobile safety. With Chairman STEVENS and Senator LOTT, we undertook a bipartisan mission in the Commerce Committee to use these new technologies to reduce injuries and save lives of automobile drivers and passengers.

The development of electronic stability control by America's brilliant engineers is the most promising vehicle safety technology of our generation. Rollovers represent one-third of all traffic safety fatalities, so our safety bill requires that electronic stability control become standard equipment on all passenger cars and trucks in 5 years. It is also cost effective since it uses existing anti-lock brakes to correct the course of a vehicle before a potential rollover.

During a rollover, we need to keep occupants inside the car where they are better protected. Therefore, the bill also requires stronger doors and door locks. The third critical change is to mandate stronger roofs that are less likely to crush occupants during a rollover.

This highway safety bill goes even further: side-impact crash standards that likely will result in side-curtain airbags in every automobile; new rules to make 15-passenger vans subject to the same safety tests as automobiles; a prohibition on sales of new 15-passenger vans to schools for use in carrying children; and new power-window switches that will reduce strangulation deaths and injuries to children.

Cumulatively, these improved vehicle safety standards will save thousands of lives.

We also dramatically increase funding for programs to reduce drunk driving and increase seatbelt use. I am especially proud that our bill gives States large incentives to crack down on hard-core drunk drivers, those who have the audacity to drive drunk again after a prior conviction. We also provide $29 million annually for national advertising and safety enforcement campaigns, which research data shows has had a significant effect on saving lives. In other words, everyone will see more commercials during the holidays about drunk driving and seatbelt use, and there will be more police on patrol during those times.

There is a final issue that is very important to me, highway safety on Indian lands. While the rate of highway deaths and injuries has declined across the Nation, the death and injury rate on Indian lands has actually increased.

Since 1982, 65 percent of fatal crashes that occurred on Indian lands were alcohol related. That compares to the national alcohol-related death rate of 47 percent of all fatal crashes.

The percentage of fatal crashes on Indian reservations that involves a single vehicle is 26 percent higher than in the rest of the Nation. These single-vehicle accidents are the most preventable, and where we can save the most lives per dollar spent on traffic safety outreach and enforcement.

Therefore, from the funding pool for the basic safety grant in this bill, we more than doubled the proportion of basic safety grant money sent to the Bureau of Indian Affairs. BIA distributes this money to Indian tribes that apply for funds to reduce drunk driving, increase seatbelt use, and enact other safety strategies. This was a provision in the original Senate bill, and we convinced our colleagues on the conference committee to include it in the final report. This extra funding will make a tremendous difference in the lives of our Native Americans, whose families suffer the tragedy of highway deaths more severely than any other part of our country.

To improve the safety of trucks and buses operating on our Nation's roads, we have reauthorized the Federal Motor Carrier Safety Administration's safety programs FMCSA and strengthened their efforts to improve truck safety through strong enforcement and cooperation with the trucking industry. The conference report also reauthorizes the Motor Carrier Safety Assistance Program, MCSAP, for the years 2006 through 2009 at an average annual funding level nearing $200 million, more than double the TEA 21 level, and consistent with the administration's proposal.

The conference report also provides $128 million over the life of the reauthorization to improve States' Commercial Driver's License programs and modernize the Commercial Driver's License Information System, CDLIS. The conference report updates the medical program for commercial drivers by establishing a Medical Review Board to recommend standards for the physical examinations of commercial drivers and a registry for qualified medical examiners to ensure medical examiners have received proper training.

The conference report also improves the maintenance and safety of intermodal truck chassis are the current Single State Registration System for truck registration, SSRS, with a new system that requires truckers to only register in one State, while preserving State revenues collected through the current system.

To improve the safety and security of the transportation of hazardous materials, the conference report reauthorizes the hazardous materials, HAZMAT, transportation safety programs at an average of $30 million annually, now administered by the Pipeline and Hazardous Materials Safety Administration, PHMSA, for the first time in over 10 years.

The conference report provides $21,800,000 annually for community HAZMAT planning and training grants and allows States to use some of their planning money to training programs as needed. Additionally, the bill provides $4 million annually for HAZMAT ''train the trainer'' grants, and allows these funds to be used to train HAZMAT employees directly.

The conference report also increases civil penalties to up to $100,000 for HAZMAT violations that result in severe injury or death and raises the minimum penalties for violations related to training. The conference report requires Mexican and Canadian commercial motor vehicle operators transporting HAZMAT in the U.S. to undergo a background check similar to those for U.S. HAZMAT drivers.

Additionally, the conference report streamlines Federal responsibilities for ensuring the safety of food shipment by transferring primary responsibility of food transportation safety from the Department of Transportation to the Department of Health and Human Services, HHS, which would set practices to be followed by shippers, carriers, and others engaged in food transportation.

To provide greater protection to consumers entrusting their belongings to a moving company, the conference report allows a state authority that enforces State consumer protection laws and State attorney general to enforce Federal laws and regulations governing the transportation of household goods in interstate commerce. Additionally, the conference report imposes new penalties for fraudulent activities perpetrated by movers and imposes new registration requirements on household goods carriers to protect consumers.

This conference report also reauthorizes activities funded by two of the Nation's most effective ''user-pay, user-benefit'' programs—the sport fish restoration fund, administered by the Fish and Wildlife Service, and the recreational boating safety fund, administered by the U.S. Coast Guard. These programs constitute the ''Wallop-Breaux'' program, which is funded through the aquatic resources trust fund.

The reauthorization will allow continued funding of programs that benefit boating safety, sportfish, and wetland restoration, as well as Clean Vessel Act grants that help to keep our waterways clean. I am pleased to report that this provision is supported by a large coalition of recreational and boating groups who are members of the American League of Anglers and Boaters.

The changes made include: (1) renaming the trust fund the sport fish restoration and boating trust fund, and eliminating the separate boating safety account; (2) reauthorizing the marine sanitary devices pump-out program, the Boating Infrastructure Grant Program, and outreach programs; and (3) funding most of the programs on a percentage basis, which provides both simplicity and fairness. Conforming changes to the Internal Revenue Code are also included.

The growing popularity of recreational boating and fishing has created safety, environmental, and access needs that have been successfully addressed by the Recreational Boating Safety and Sport Fish Restoration Programs. The trust fund program reauthorizations and funding adjustments contained in the conference report are important for the safety of boaters, the continued enjoyment of fishermen, and improvement of our coastal areas and waterways.

Finally, the conference report streamlines the Federal Railroad Administration's Railroad Rehabilitation and Improvement Financing Loan Program and increases the amount of loans for railroad infrastructure improvements. The conference report creates a new program to fund the relocation of rail lines and other projects that help alleviate congestion, noise, and other impacts from railroads on communities and provides additional funds for highspeed rail planning and development efforts.

As the title of this bill implies, increasing the safety of our highways and surface transportation system is one of our Nation's top priorities, and I am proud to say that this conference report will bring us closer to the goal of having the safest transportation system in the world.

Mr. DOMENICI. Mr. President, I rise today in support of the highway bill conference report. I want to first applaud the chairman, my good friend Senator INHOFE, for all of his hard work on this important legislation. I also want to thank the ranking member of the EPW committee, Senator JEFFORDS, for his work on the bill.

The highway bill is one of the most important pieces of legislation that the Senate undertakes. This bill makes it possible to construct and repair vital transportation arteries that crisscross this great Nation. As our country grows we must be conscious of our transportation needs. Accordingly, this bill increases funding for road construction that will substantially reduce traffic delays that plague the country. Additionally, this bill substantially increases transit funding further reducing congestion and pollution caused by overpopulated highways.

This bill will provide roughly $1.76 billion in funding for New Mexico over the next 5 years. The New Mexico projects that made it into this bill will be instrumental in continuing our push for economic development. The money for Double Eagle II Airport will play heavily in making this new facility a leader in aircraft manufacturing. Additionally, as our population continues to grow, the money for the extension of University Boulevard will allow this growing portion of Albuquerque direct access to other parts of the city.

This bill also contains vital funding for the southern portion of New Mexico. This bill contains $5 million for reconstruction of NM–176. This road will be a key component in making the LES plant in Eunice a success. Finally, this bill provides $7 million for reconstruction of the I–10/I–25 interchange and $2 million for road work on I–10 itself.

This bill also increases funding for the Indian Roads Program. I have advocated for increased Indian roads funding for a number of years and while this increase only begins to address the need, it will help immensely in addressing the economic development problems facing Indian Country.

Once again, I would like to thank the Chairman and Ranking member of the EPW Committee and their staff for doing a great job in getting this bill completed.

Mr. BAUCUS. Mr. President, after nearly 3 years and countless temporary extensions, the Senate is about to pass a monumental transportation bill. We will provide over $286 billion that will create thousands of jobs and keep our transportation infrastructure healthy.

Getting to this point truly has been a work of dedication and perseverance. First, I thank Senator INHOFE and Senator JEFFORDS, from the Environment and Public Works Committee, as well as Senator BOND, the chairman of the Subcommittee on Transportation and Infrastructure. They provided excellent leadership and cooperation.

I sincerely thank their staffs many of whom spent sleepless nights getting this done. In particular, I thank Ken Connolly, J.C. Sandberg, Malia Somerville, Alison Taylor, Jo-Ellen Darcy, Catharine Ransom, Chris Miller, Malcolm Woolf, Carolyn Dupree, Thomas Ashley, Cara Cookson, Andy Wheeler, Ruth Van Mark, James O'Keeffe, Nathan Richmond, Alex Herrgott, Angie Giancarlo, Greg Murrill, Heideh Shahmoradi, Ellen Stein, John Stoody. They played an important role developing the transit title in this bill.

I also thank my good friend Senator GRASSLEY, the chairman of the Finance Committee, for his commitment to the transportation program.

Let me take a moment and speak about the hard work of the Finance Committee staff. Getting the Tax Title done presented many challenges, not the least of which was getting it paid for. The House bill simply did not provide enough money for our highway infrastructure. The Finance Committee worked together tirelessly to find additional revenue to pay for it.

I want to thank some staff members in particular. I appreciate the cooperation we received from the Republican staff, especially Kolan Davis, Mark Prater, Elizabeth Paris, Christy Mistr, and Nick Wyatt.

I thank the staff of the Joint Committee on Taxation and Senate Legislative Counsel for their service.

I also thank my staff for their tireless effort and dedication, including Russ Sullivan, Patrick Heck, Bill Dauster, Matt Jones, Ryan Abraham, and Wendy Carey. I also thank our dedicated fellows, Mary Baker, Jorlie Cruz, Cuong Huynh, Richard Litsey, Stuart Sirkin, and Brian Townsend.

I especially express my sincere gratitude to Kathy Ruffalo-Farnsworth. Her extraordinary efforts and contributions in keeping this bill together went over and above the call of duty. I hold her in the highest esteem and can't thank her enough for her counsel and professionalism.

Finally, I thank our hard-working law clerks and interns: Katherine Bitz, Drew Blewett, Adam Elkington, Julie Golder, Rob Grayson, Jacob Kuipers, Heather O'Loughlin, Andrea Porter, Ashley Sparano, Julie Straus, Danny Shervin and Paul Turner.

This legislation really was a team effort. I yield the floor.

Mr. HATCH. Mr. President, as a member of the Senate-House team that negotiated the final transportation funding package, I want to commend Majority Leader BILL FRIST for avoiding yet another stalemate and steering this legislation toward final passage. The comprehensive highway measure allocates $286.5 billion over 5 years to support investment in our Nation's highways and transit systems. Miles traveled on Utah's roads has grown twice as fast as its population, but Federal funding has remained flat. Now, Utah can plan for long-term projects, which in the past have been interrupted by numerous temporary extensions.

With the passage of the Transportation bill, Utah will receive approximately $1.8 billion to fund its multiyear highway and transit projects. This highway bill will allocate close to $282 million each year to invest in Utah's highways over the next 5 years. This is the most Federal funding ever committed to Utah in a transportation bill and it is long overdue.

Utah is the crossroads of the West; every year millions of people visit the Beehive State to enjoy its natural beauty and to invest in its growing economy. The highway bill provides a tremendous amount of Federal assistance for road improvements and transit projects across the State, including: new I–15 interchanges in Ogden, Layton and Provo; light-rail lines to the airport and South Jordan; highway projects on US–6 in Carbon County and State Road 92 in Utah County; a railroad overpass in Kaysville; a pedestrian and bicycle access in Moab; a connector from I–15 to the Provo Municipal Airport; improvements for the Bear River Migratory Bird Refuge Access Road; the 3200 South Project in Nibley/Cache County; and building the Northern and Southern Corridors in St. George. There are, of course, many, many more projects throughout the State that will receive funding that I do not have time to name here but that are equally as important.

The Utah Transit Authority, UTA, plans to bring commuter rail to Utah to ease congestion and help Utah commuters. I am pleased with the $200 million set-aside to begin construction on this important project, which plans to provide service from Ogden to Provo. This project will do so much to relieve congestion and give Utahns a fast, comfortable, and efficient choice for transportation. Utah will also receive $30 million for its statewide bus and bus facilities for the purchase of buses, upgrading existing buses, and for improving maintenance facilities and storage yards.

At my urging as a Senate conferee to the Transportation bill, Utah State University was designated as a University Transportation Center. USU will receive approximately $2 million over the next 5 years and will greatly improve the statewide knowledge base and transportation research being done in Utah.

Mr. President, a few months ago, executives of Wavetronix, a traffic-data collecting company based in Lindon, UT, asked for my help in amending the Intelligent Transportation Infrastructure Program, ITIP. Wavetronix sells sensors that detect speed and flow in highways for purposes of gathering information to determine real-time traffic data and would like to have access to ITIP funds. Unfortunately, since 1998, a Pennsylvania-based company, Traffic.com, has had total control over how and where to use Federal ITIP funds. Wavetronix and many others have been shut out from receiving ITIP funds because of the closed nature of the program. One large company should not have a monopoly on the funds provided for traffic data collection. We should benefit from innovative solutions coming from small businesses in Utah and other States, not funnel millions of dollars each year to a company that does not have to compete for—the money.

In May, I included in the Senate highway bill language that gives qualified companies, including Wavetronix, the ability to compete for ITIP funding. I am pleased that the conference report maintained the important language which provides a fair and level playing field for State DOTs and qualified private-sector companies wishing to access ITIP funds, without requiring them to work with Traffic.com. This is a significant victory for Wavetronix and other similarly situated small companies across the Nation.

Finally, I want Utahns to know that the delegation worked very hard to include language in this bill to resolve the Legacy Parkway issue and perhaps save Utah hundreds of millions of dollars—and it came right down to the wire. We took this action after we received reports that the negotiations involving the Utah State Legislature, UDOT, and the Sierra Club, although promising, could not be implemented in a timely fashion. So the delegation attempted to use this bill to bring this longstanding battle to a close in a way that respected the environmental concerns that have been expressed. We

worked day and night to design language that would allow this 14-mile highway addition and at the same time alleviate the horrendous traffic jams we have witnessed in northern Utah. In the end, the language was blocked. The people who have now cost the State of Utah what some estimate to be over $300 million made it impossible, with the help of a very few allies in Congress, to get it through. In my estimation, this fight is not over. My goal is to save our State millions of additional dollars and get this highway done so the quality of life of those who work south and live north of the project will be improved.

Despite my disappointment that this provision was not included in the final bill, I still believe this bill is one of the most important pieces of legislation Congress will consider this year. This bill will help ensure the safety, efficiency, and mobility that every American expects from their transportation system.

I yield the floor.

Mr. FEINGOLD. Mr. President, today, Congress is finally completing work on a bill to reauthorize the Transportation Equity Act for the 21st century. This bill has been a long time coming and while it is 668 days overdue, for Wisconsin it may have been worth the wait. I am pleased that Wisconsin will now have a chance to address our State's vital transportation needs for the next year and plan its priorities for the next 5 years. I am even more pleased that this conference report builds on the precedent set under TEA–21, where Wisconsin, after decades of not getting our fair share, finally started to receive at least as much in highway funding as we pay to the Federal Government. During this summer travel season, the people of Wisconsin should be happy to know that their tax dollars will be used to improve Wisconsin's roads, bridges, trails, rails and transit system.

While the bill is not perfect, it goes a long way toward ending Wisconsin's decades-long legacy as a donor State. Historically, Wisconsin's taxpayers have received about 78 cents for every dollar we have paid into the highway trust fund. As a result, we have lost more than $625 million between 1956 and when TEA–21 was passed in 1998. Under TEA–21, the previous 6-year highway authorization, Wisconsin received approximately 102 cents for every dollar it paid contributed to the highway trust fund through gasoline taxes. I was pleased to work with the Wisconsin delegation to finally turn around decades of our State getting the short end of the stick, and am happy that we are now able to build upon that success. The conference report guarantees Wisconsin an absolute dollar increase of over 30 percent, or about $165 million per year, over the last bill and improves our rate of return to 106 cents per dollar paid in over the 5 years of the bill. This will help us make up for the decades where Wisconsin was instead on the losing end of the highway funding equation.

I applaud the efforts of Wisconsin's delegation in achieving an even greater measure of fairness for Wisconsin's taxpayers. Throughout this over 2-year process, I have worked closely with Senator KOHL and the entire House delegation to get the best possible treatment for Wisconsin. The conference bill represents a great victory for Wisconsin, largely due to this bipartisan bicameral cooperation. I would like to give special thanks to those members of both bodies who have worked in the trenches as conferees to craft this bill, especially Congressman TOM PETRI, the chairman of the House Subcommittee on Highways, Transit and Pipelines. As one of the key conferees, he worked tirelessly over the past 2 years or more to come to this agreement and to ensure that Wisconsin was treated fairly.

While there are probably some projects in this large bill that may not be priorities for their States or local communities, but instead were proposed by special interests, I don't feel that this is the case for Wisconsin. I worked closely with the Wisconsin Department of Transportation when I made requests for funding of specific projects to ensure that they addressed Wisconsin's transportation priorities. I think this was probably true for the entire Wisconsin delegation as well, and I want to thank the State Department of Transportation for this valuable advice and support. The projects I requested were chosen to meet a range of State and local needs and span the entire State from our urban areas, with the Marquette Interchange in Milwaukee or East Washington Avenue in Madison, to suburban and rural areas like the Stillwater Bridge linking St. Croix County to Minnesota, or the Sturgeon Bay Bridge and State Highway 57 in Door County. These projects will create jobs in Wisconsin, allow for the more efficient movement of manufactured goods and agricultural products throughout the State, provide access to Wisconsin's natural wonders to residents and visitors, and in many cases make the roads safer for Wisconsin's families as they go about their daily lives.

Finally, while attention has been focused on money for highways and bridges, this bill also includes funds for important safety improvements, transit projects, recreational trails, boating programs and funds to give seniors and the disabled more mobility, to name a few. I was proud to support many of these programs that were ultimately included in the bill. Having fought to secure funds for recreational trails, senior transportation, and various transit projects from the statewide bus funding to the Dane County's Transport 2020 and the commuter rail extension through Kenosha, Racine and Milwaukee, I can attest that these are as important to many citizens in Wisconsin as the essential highways and bridges.

As I noted before, this bill is not perfect. I am concerned about some of the environmental provisions in the bill, particularly those with a potential impact on the Nation's air quality. The language modifies current transportation regulations dealing with long-range transportation planning and its impact on air quality. The current rules require that major new road projects must not contribute to violations of air quality standards over a 20-year period. The conference report instead mandates that Clean Air Act conformity will be considered over 10 years. The bill also contains environmental review streamlining provisions that include tight review deadlines and conflict resolutions provisions. I agree with these measures in principle, but I am concerned that the articulated deadlines may not be realistic.

On balance, my concerns about these provisions are not enough to cause me to oppose this bill that provides critical highway funds in a fair manner. I will vote for the bill.

Mr. DODD. Mr. President, I rise to discuss the conference report that accompanied the Safe, Accountable, Flexible, Efficient Transportation Equity Act reauthorization bill. The Senate adopted this measure earlier today and I voted in support of it.

I would like to begin by thanking the principal Senate authors of this important legislation: Senator INHOFE and Senator JEFFORDS of the Environment and Public Works Committee; Senator SHELBY and Senator SARBANES of the Banking Committee; Senator GRASSLEY and Senator BAUCUS of the Finance Committee; and Senator STEVENS and Senator INOUYE of the Commerce, Science and Transportation Committee. I commend them and their staffs for their hard work over these past 3 years in crafting this legislation.

I would also like to thank my colleagues who served on the conference committee during these past 2 months. Reconciling legislative differences with the other body over a bill of this large, complex and important nature is no easy task; I appreciate all of their hard work.

The conference report that passed the Senate funds our Nation's transportation infrastructure at $286.4 billion between fiscal year 2005 and fiscal year 2009. This includes all of our Interstate highways, the National Highway System, secondary roadways, intercity passenger rail, local transit systems and transportation safety programs. Taken together, these elements form one of the most essential factors that determine the well-being of our country and our country's national economy: ensuring the safe and efficient passage of people and goods.

The conference report provided $233.8 billion for our Nation's roadways. Included in this amount was $25 billion for the maintenance and expansion of our Interstate highway system, $30.5 billion for the maintenance and expansion of our larger National Highway

System, $21.6 billion for the replacement of defunct or obsolete bridges, $32.5 billion for discretionary projects under the Surface Transportation Program and $5 billion for highway safety programs. Out of these funds the conference report provided my home State of Connecticut with nearly $2 billion between fiscal year 2006 and fiscal year 2009—a 19 percent increase over the original authorization bill's amount. Included in these resources were on average $51 million a year for Interstate highway maintenance, $48 million a year for roads included in the National Highway System, $91 million a year for bridge replacement, $61 million a year for large and small-scale road improvement projects under the Surface Transportation Program and $7 million a year for highway safety programs. Beyond these resources the bill provided over $160 million for several dozen highway initiatives across Connecticut. All of these initiatives, from the reconstruction of I–95, municipal streets and bridges to multi-use recreational trails, stand to improve the quality of life in the communities and regions where they are taking place.

The conference report also provided $52.6 billion for our Nation's transit systems. Out of these funds the report provided Connecticut—a State heavily-dependent on mass transit services—with nearly $485 million between fiscal year 2006 and fiscal year 2009—a 33 percent increase over the original authorization bill's amount. In addition to these resources the report included nearly $150 million for local transit agencies across Connecticut to improve their infrastructure and services, thereby working to alleviate congestion that continues to plague my State's roadways.

Overall I believe that the resources provided in this conference report will help improve our Nation's transportation infrastructure over the next 4 years. They will allow for critical maintenance and capital improvement projects to go forward on our roadways; they will allow for dangerous overpasses to be replaced; they will allow for transit systems to meet more efficiently the needs of their riders; and they will allow for a greater degree of safety on our roads and rails. Nevertheless, I would be remiss if I did not take a moment to discuss some of the shortcomings I see in this conference report—shortcomings that, in my view, threaten to undermine the very goals this legislation tried to accomplish.

First, I do not believe that the level of investment provided in this conference report is fully adequate to meet the growing needs of our transportation infrastructure. When the Senate originally debated this legislation, I was pleased to support a bipartisan measure that provided $295 billion between fiscal year 2004 and fiscal year 2009. This funding level was considerably higher than the House level of $283 billion and the Bush administration's original recommendation of $256 billion.

Therefore, when the conference report was completed earlier this week, I was disappointed to learn that the conference committee provided $286.4 billion—a figure only marginally higher than the House figure and significantly lower than the Senate figure. I have been told by the Connecticut Department of Transportation that this level of investment is barely adequate to keep pace with expected inflation over next 4 years and wholly inadequate to meet the growing crises facing our transportation systems both in Connecticut and across the country.

Second, I remain concerned over how the levels of guaranteed funding for highways and transit were determined in this conference report. Earlier this year, I strongly opposed a unilateral move by the Senate Environment and Public Works Committee to reduce transit's share in the Senate bill from the previously-negotiated ratio of 18.82 percent to 18.18 percent. Unfortunately, this new ratio prevailed in the Senate version of the bill. In conference it was raised to 18.57 percent. While this conference agreement is higher than the Senate version's ratio and higher than the ratio in the original authorization bill, it still underfunds transit activities by $700 million compared to the original agreed-upon ratio in the Senate.

Highway and transit interests should not be working against each other. They should be working together. The best transportation systems in the world are those that feature a sound, safe, and efficient balance between various modes of transportation. Disrupting that balance by favoring one mode over another ultimately causes road congestion, unreliable transit service, and higher transportation costs—three problems that many parts of this country, including Connecticut, are experiencing today. If we are to overcome these problems and support a balanced, safe, and efficient transportation network in this country, then we must adequately and equally invest in all modes, whether they are highways, transit, airports, or seaways. We must recognize that each mode is an important and integral part of a larger transportation network.

From reviewing the funding allocations provided for both transit and highways in this bill, it concerns me that inadequate resources are going to areas of the country, such as Connecticut, where the transportation needs are the greatest. I find this rationale inconsistent with the way our national government usually addresses matters of national significance that affect particular regions of our country. When a drought plagues a certain part of this country, we always stand ready to provide drought relief to the affected States. When a hurricane slams into our coastline, we always stand ready to provide emergency disaster relief to the affected States. When farmers are experiencing financial difficulty, we always stand ready to provide them with vital subsidies. And when forest fires burn mercilessly over hundreds of square miles, we always stand ready to provide emergency assistance to the affected States. Why then, when key components of our national transportation system are plagued by aging and obsolete infrastructure, do we not seem to stand ready to provide adequate assistance to the most affected States?

A transportation system in crisis is more than a transportation problem; it's an economic problem. Without a balanced, safe, and efficient transportation system, goods cannot be delivered to their destinations in a timely manner, services cannot be rendered efficiently, and people cannot get to their jobs conveniently. Over time, the environment worsens, the quality of life declines, and the region suffers as a whole.

Today, the transportation system serving Connecticut and the surrounding region is in need of assistance. In Connecticut alone, a rapidly aging infrastructure routinely causes significant disruptions to our transportation network—disruptions that have had a negative impact on the region and country as a whole.

The busiest commuter rail line in the country is located in Connecticut. It runs over 70 miles between New Haven and New York City—carrying over 33 million riders annually along our southwest coast. Last year, a combination of cold weather and rapidly aging rail cars—many of which are a decade or more beyond their operational lifetimes—caused one-third of the line's fleet to be taken out of service for emergency maintenance. In fact, about 37 percent of the fleet was taken out of service for most of last February—230 cars out of the 800-car fleet. Needless to say, this occurrence put an enormous strain on thousands of commuters who rely on the service daily to get to and from work, travel to and from school, and to see their families.

The nation's seventh busiest highway is also located in Connecticut. Our segment of Interstate 95 is a major artery for commercial vehicles and other interstate traffic. In March of 2004, an accident caused an overpass in Bridgeport to collapse. While there were thankfully no fatalities, the accident did force the closure of Interstate 95 for 4 days until a temporary overpass could be built. Needless to say, this closure created enormous burdens on the already beleaguered highway and transit systems in Connecticut, New York, and New England. It also created an adverse economic effect that was felt far beyond our region as people and goods were unable to reach their important destinations on time.

These are the types of incidents that speak to an acute transportation need in Connecticut and in our region of the country. These are the types of incidents that should be considered closely when vital transportation resources are being allocated in a reauthorization bill. It is my hope that Congress in

future years will take these considerations more into account when drafting transportation authorization measures. The problems facing my State and others will not go away on their own.

In closing I thank again the authors, managers and conferees of this legislation. I look forward to working with them and all of my colleagues on future initiatives that seek to ensure the long-term well-being of our Nation's transportation system.

Mr. DURBIN. Mr. President, I rise in support of the U.S. Department of Transportation's disadvantaged business enterprise, DBE, program contained within the surface transportation reauthorization bill. The DBE program is critical to providing equal opportunities to small businesses that are owned and controlled by minorities, women, and others in our Nation who have been socially and economically disadvantaged. I am pleased that Congress is committed to its reauthorization.

This important DBE program has been in existence since 1983. It was created to remedy the demonstrated history of discrimination that has existed in our Nation against minority-owned small businesses. The program was amended in 1987 to include women-owned small businesses. In 1998, Congress reauthorized the DBE program for both minorities and women, in light of an extensive record of hearings and evidence showing the effects of discrimination on the ability of disadvantaged businesses to compete on an equal basis.

Although we have made progress as a Nation in the treatment of minorities and women, the evidence shows that discrimination endures. The U.S. Department of Transportation has conducted 15 detailed disparity studies since 1998 showing ongoing discrimination against businesses owned by these groups. The studies show a statistically significant disparity between the availability of minority and women-owned businesses in government contracting, and their utilization. Courts have consistently held that such evidence is strong evidence of unlawful discrimination and of the need for the continuation of the DBE program.

There is also ample anecdotal evidence showing that discrimination in contracting still exists. Loretta Molter started her own business in Frankfort, IL, in 1987, and her business was recently named subcontractor of the year by the Illinois Department of Transportation. But in a letter that Ms. Molter wrote last year to the Women First National Legislative Committee, she stated: ''Prime contractors tend to take advantage of small minority or women businesses. . . . If the goals were eliminated, general contractors would not use minority or women business owners. . . . There is a good ol boy's network, be it on the golf course, on trips, or dinner/lunch meetings.''

And consider the words of Takyung Lee, an Asian-American owner of a small trucking company in Wauconda, IL. Lee submitted a statement to the city of Chicago last year that discussed the disparate treatment faced by Asian Americans in the trucking business: ''When we do get jobs, we are targeted and harassed. Our drivers are stopped and checked for identification when others are not. We have to show proof of health, welfare and pension payments when other companies get away with these and other violations. . . . It seems that some people think an Asian American does not belong in the construction business. I have worked hard to prove them wrong but face discrimination and unfairness every day. I wonder how much success I could have if I did not have to fight so hard against people who are prejudiced?''

It is unfortunate that Asian Americans, women, and other participants in the DBE program must ask themselves that painful question. We can hope for a day when we have a color-blind society and equality of opportunity, but that day is not yet here. The surface transportation reauthorization bill recognizes this reality and gives new life to a program that is trying to level the playing field for those who continue to be socially and economically disadvantaged in the 21st century.

Mr. GRASSLEY. Mr. President, today is our final step to positively reaffirm our commitment to a strong and dedicated highway program, the safety and soundness of its infrastructure, and the security of the Nation's transportation network.

But in the process of pursuing and completing those goals, conferees had to make many decisions. As chairman of the Finance Committee, at the outset, I committed to several fundamental principles during this conference.

First, that the bill be paid for. Whatever we added to the trust fund should not increase the deficit. If you look at the revenue table, prepared by Joint Tax, you will see that the new trust fund money raised by fuel fraud enforcement is raised in a deficit-neutral manner. The tax-writing committees were fiscally responsible in our efforts to grow the trust fund.

Second, highway taxes pay for highways. These are taxes that will be collected regardless of whether or not we have a highway bill. They can't be used for anything else. The tax provisions of the highway bill aggressively focus on collecting all of the taxes due and owed to the highway trust fund.

So we increase the size of the trust fund. Primarily, we do it by being tough on fraud. Some of this fraud is just plain old criminal activity—but we have reason to believe that billions of our highway tax dollars are being stolen for a more sinister purpose, that being the potential funding of terrorism. So we have the opportunity with this legislation to not only shut down these thieves but to rightfully collect all of our highway taxes to fully fund this bill. Under the Senate bill, several billion dollars will be added to the highway trust fund merely by moving jet fuel to the rack. Unfortunately, we can't keep all of the untaxed jet fuel out of the diesel market unless all 50 States move all of their fuel tax collection to the rack. But we can collect billions that are currently stolen from both airport and highway trust funds.

The third principle was to provide the highway trust fund with sufficient resources to serve America's highway needs. The additional resources the Finance Committee produced for the authorizers, I believe, enabled this deal to happen. Add up last year's FSC–ETI conference report changes and the trust fund gained $24 billion extra. This year we have added another roughly $3 billion in additional receipts for the trust fund. Without these additional resources, we would have faced another case of legislative gridlock. Legislative gridlock wouldn't help the folks we represent who were facing gridlock on their roads.

I would also like to mention two policy initiatives that do not relate to the highway trust fund. The Senate carried into conference a package of excise tax reforms and a transportation bond proposal.

The legislation before us also includes a number of excise tax reforms. These are small items, but important to the affected taxpayers. For the most part, these provisions simplify various Federal excise taxes.

I will note that these excise tax reforms do lose some revenue. It is roughly $1 billion over the 10-year period. When the highway bill came out of the Senate, these measures were offset with revenue raisers to make them deficit neutral. The House did not accept the group of revenue raisers we had allocated to these provisions. It should be noted that the budget resolution provides $36 billion over 5 years for tax relief outside of reconciliation. So this relatively minor deficit impact is accounted for in the budget.

Finally, I am pleased we were able to reach agreement on the Talent-Wyden transportation infrastructure private activity bond proposal. Senators TALENT and WYDEN are to be commended for pursuing this innovative concept. There will now be $15 billion in bond authority for transportation projects.

We did hear some sharp criticisms of the heavy-lifting the Finance Committee did to make this bill happen. We were told our offsets weren't real and that phony accounting occurred in the highway trust fund. I rebutted these charges during Senate floor debate. I said our principles would be honored in conference and they were. We got the job done.

In the end, that is what counts: doing the peoples' business. The conferees achieved an important policy objective. The highway trust fund more accurately reflects the resources it receives from the taxpayers who use our

Nation's roads. The resources will go into maintaining and improving America's highway system. All of this will be accomplished in a fiscally responsible manner. That is what the folks back home should expect. That is what we have done. That is what really matters. That is why the folks back home sent us here in the first place.

In conclusion, after great effort by many people, the Senate is poised to enacting legislation with the potential to impact all Americans in every State. Crumbling infrastructure and poor transportation choices impede our ability to live and do business, and today we are going to deliver legislation to the President's desk to start solving these problems. Our conference agreement utilizes more than $285 billion to ensure all Americans have access to efficient and reliable transportation as they go about their professional and personal lives.

Among the many people whose hard work has made the difference, I must first thank the chairmen and ranking members of all the appropriating committees that have been involved in this process.

Credit must also go to all members of my staff, who spent many hours sifting through the nuts and bolts of this bill. Kolan Davis, Mark Prater, Elizabeth Paris, Christy Mistr, Sherry Kuntz, John Good, and Nick Wyatt showed great dedication to the tasks before them.

As is usually the case, the cooperation of Senator BAUCUS and his staff was imperative. I particularly want to thank Russ Sullivan, Patrick Heck, Bill Dauster, Kathy Ruffalo-Farnsworth, Matt Jones, and Ryan Abraham.

I also want to mention George K. Yin, the chief of staff of the Joint Committee on Taxation and his staff, especially the fuel fraud team of Tom Barthold, Deirdre James, Roger Colinvaux, and Allen Littman as well as the always invaluable assistance of Mark Mathiesen, Jim Fransen, and Mark McGunagle of Senate Legislative Counsel.

This conference agreement is infused with the spirit of bipartisan and bicameral cooperation. Hopefully, that spirit will be influential to the entire ongoing legislative process.

Mr. INHOFE. Madam President, today the Senate is taking the final step in a very long, and at times frustrating but overall rewarding process to address our national transportation needs. It has been 22 months since TEA–21 expired on September 30, 2003. The Federal-aid program has since been operating under a number of short-term extensions—a total of 11 to date. I urge the Senate to approve the conference report before us so that our States can start working on addressing their transportation needs.

Both sides of the aisle in the Senate and House embraced a spirit of bipartisanship and collaboration that has delivered a quality piece of legislation. As in all legislative endeavors there has been much give and take. There are provisions in this bill for which I would have preferred another outcome, but on the whole, I believe we have produced a product that will continue the good work started in ISTEA and improved upon in TEA–21.

The conference report provides $244 billion in guaranteed spending over the 2005–2009 period for our Nation's highways and mass transit systems. If you include 2004, the bill provides $286.5 billion in guaranteed spending—an almost $90 billion increase over TEA–21. Finally, the highway program is guaranteed $193 billion over the 2005–2009 period.

We worked very hard with our House colleagues to balance the needs of donor and donee States. I will be the first to acknowledge that this balance—as with any compromise—is not perfect. My colleagues representing donee and donor States that receive lower rates of return or growth rates than they feel fair have made this fact very clear to me.

I am very sympathetic to the concerns of both donors and donees in this situation. Both have significant transportation needs that cannot be ignored. Addressing their concerns was even more difficult because we had very limited dollars to solve either group's issues.

SAFETEA–LU tries to split the difference. Donee States have an average rate of growth of 19 percent above their TEA–21 levels, and donor States will reach a 92 percent rate of return by 2008. Also, if there is a positive revenue aligned budget authority in 2007, it will be directed to improve donor States rate of return.

One concern of my donor State colleagues when we were on the floor was that not all donor States were treated equally—that concern has been addressed.

Over the 6 years under TEA–21, we made great progress in preserving and improving the overall physical condition and operation of our transportation system; however, more needs to be done. A safe, effective transportation system is the foundation of our economy. We are past due to fulfill an obligation to this country and the American people—the conference report before us does just that.

Finally, I would like to acknowledge all the staff time and effort that has gone into the bill. Specifically, I would like to single out my highway team: again, Ruth Van Mark and James O'Keeffe, Andrew Wheeler, Marty Hall, Nathan Richmond, Greg Murrill, Angie Giancarlo, Alex Herrgott, and Rudy Kapichak.

From Senator BOND's staff: Ellen Stein, Heideh Shahmoradi, John Stoody, and Julie Daman.

From Senator JEFFORD's staff: JC Sandberg, Malia Somerville, Ken Connolly, Cara Cookson, Chris Miller, and Jo-Ellen Darcy.

From Senator BAUCUS's staff: Kathy Ruffalo.

From Senator FRIST's staff: Libby Jarvis, Sharon Soderstrom, and Erik Ueland.

From the Federal Highway Administration: Today is Administrator Mary Peters last day before she heads back to Arizona. It is very appropriate that we finish the bill on her last day, because without the hard work of Mary and her staff at FHWA, we would not be here today.

On Mary's staff I want to especially thank Susan Binder, Carolyn Edwards and Ross Crichton, who over the last 3 years have done more than 1600 formula runs. We really appreciate all of your hard work.

Also, I want to personally thank the hard working attorneys in the Senate Legislative Counsel office. In particular, Darci Chan, Heather Arpin and Gary Endicott.

Finally, Rachel Milberg with CBO has done great work in assisting staff work through the complicated scoring process.

I am certain my colleagues share my strong desire to get a transportation reauthorization bill passed and urge them to support the bill before the Senate today.

Let me say I do have a great deal of respect for both of my colleagues from Arizona. However, I will put them on my doubtful list. But I would say this and I will be very brief. We only have 7½ minutes on each side. I want to make sure that Senator BOND, with whom I have worked as chairman of the Subcommittee of Transportation, and a few others get their time.

Working with Senator JEFFORDS and Senator BAUCUS and Senator BOND has been a great experience. We have worked very well together. This has been difficult. We have worked for 2 years on this bill. It is not easy. I would only say this: It is paid for. It didn't increase taxes. It is within the President's parameters.

Mr. JEFFORDS. Mr. President, I yield 2 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President,

I rise in strong support of the conference agreement on the transportation reauthorization measure. This legislation authorizes more than $286 billion—more than an $80 billion increase over TEA–21—in funding over the 6 years for maintaining and improving our Nation's and State's highways, bridges and transit systems. This is one of the most important pieces of legislation that we have considered this year and its enactment will help to restore the Federal commitment to our surface transportation infrastructure—the lifeblood for our economy as well as our quality of life.

As the ranking member on the Senate Banking, Housing and Urban Affairs Committee which crafted the transit portion of this legislation, I am proud that the agreement continues our commitment to a national transit

program and builds on the important achievements we made in the Intermodal Surface Transportation Efficiency Act, ISTEA, of 1991, and TEA–21, enacted in 1998.

I want to express my appreciation to Chairman SHELBY of the full committee for his efforts on the balanced budget amendment of the transit title and to Senators ALLARD and REED, the chairman and ranking member of the Housing and Transportation Subcommittee, for their hard work as well.

This legislation increase overall transit funding by 45 percent over the levels provided in the past 6 years to meet the growing needs for public transit infrastructure in all regions of the country. It provides the resources and planning tools to help ensure the continued development of an advanced, integrated transit system—a system that will cut air pollution, conserve fuel and reduce congestion on our roadways. This measure will go a long way to meeting the growing demand for transit in cities, towns, rural areas, and suburban jurisdictions across the country.

I am particularly pleased that the legislation includes two key provisions which I sponsored, the Transit in Parks Act, or TRIP, and an expansion of the commuter benefits program to encourage greater mass transit use by Federal employees in the National Capital Area. The new Federal transit grant initiative known as TRIP will support the development of alternative transportation services—everything from rail or clean fuel bus projects to pedestrian and bike paths, or park waterway access—within or adjacent to national parks and other public lands. It will give our Federal land management agencies important new tools to improve both preservation and access. Just as we have found in metropolitan areas, transit is essential to moving large numbers of people in our national parks—quickly, efficiently, at low cost, and without adverse impact.

The expansion of the commuter benefits program will allow thousands more federal employees to take advantage of a guaranteed tax-free financial incentive of up to $105 per month, paid by their employer, towards the costs of transit commuting. It will give employees more choice in their commuting options and provide an additional incentive to move off our congested roadways and onto public transit. In addition, Federal agencies will be permitted to offer shuttle services for their employees to a public transit facility. This is particularly important to employees of the Food and Drug Administration who will be relocating to the new FDA headquarters at White Oak, MD.

Maryland's formula share of transit funding will grow by nearly $275 million over the 6 years—from $571 million to $846 million. These funds are absolutely critical to Maryland's efforts to maintain and upgrade the Baltimore and Washington Metro systems, the MARC commuter rail system serving Baltimore, Washington, D.C., Frederick and Brunswick, the Baltimore Light Rail system, and bus systems and para-transit systems for elderly and disabled people throughout Maryland.

This bill advances important existing and planned new transit projects in the Baltimore and Washington Metropolitan areas as well as in growing regions of our State. In the Washington area, it provides $100 million to enable the Washington Metropolitan Area Transit Authority, WMATA to purchase 52 new rail cars to help alleviate the severe overcrowding that the Metrorail system is currently experiencing. The new cars will enable WMATA to lengthen trains from 6 cars to 8 cars on the Metrorail System, utilize more of its design capacity, and give the authority increased ability to assist in case of an emergency. It provides $21 million to enable Montgomery County to complete the Silver Spring Transit Center—a major new transportation hub connecting MARC commuter trains, the Metrorail system, Ride-on and Metro buses and taxi services that is designed for integrated, mixed use private transit-oriented development. The Silver Spring Transit Center will not only enhance regional mobility, but will also help to promote smart growth and continue to strengthen the remarkable revitalization in Silver Spring's downtown business district. The measure also authorizes two new transit projects to help relieve traffic congestion and improve mobility in the region—the Bi-County Transitway, otherwise known as the Purple Line, connecting Bethesda to Silver Spring and extending to New Carrollton, and the Corridor Cities Transitway connecting the high-tech employment centers and mix-use developments in the I–270 corridor to the Washington Metro and MARC Commuter rail.

In the Baltimore area, the measure authorizes $105.3 million for planning, environmental study, right of way, and initial construction of the Red and Green Line Transit projects as proposed in the Baltimore Region Transit System Plan. The Red Line—an East-West Transit Line that will extend for approximately 11 miles from the Social Security Administration Headquarters in Woodlawn to Fells Point—will provide service to areas in Baltimore currently not served by high quality transit. The Green Line would extend from the existing Metro system at the Johns Hopkins Hospital for approximately 5 miles northeast to Morgan State University. This authorization will guarantee that these projects continue to move forward in a timely fashion over the next 5 years. The measure also authorized the final $12.5 million in Federal funds needed to complete the double tracking of the Baltimore Light Rail Project and provides $5.2 million to enhance the Baltimore water taxi system.

And statewide, the bill authorizes continued funding for the MARC Capacity Expansion Program to enable the Maryland Department of Transportation to make needed capacity improvements, purchase new rolling stock, and enhance the MARC system. The bill also provides $25 million in statewide bus and bus facility grants that benefit towns and cities throughout the State. The measure also includes a provision reauthorizing the National Transportation Center, NTC, at Morgan State University over the next 4 years. The NTC conducts important research, education and technology transfer activities that support workforce development of minorities and women, and addresses urban transportation problems. Morgan State will receive $1 million each year to continue those activities.

For our Nation's roadways and bridges, this legislation authorizes nearly $184 billion in funding to enable States and localities to make desperately needed repairs and improvements. The measure preserves the dedicated funding for the Congestion Mitigation and Air Quality, CMAQ, Program which helps States and local governments improve air quality in nonattainment areas under the Clean Air Act; the Transportation enhancement set-aside provisions which support bicycle and pedestrian facilities and other community based projects, as well as the other core programs—Interstate maintenance, National Highway System, Bridge and the Surface Transportation Program. Likewise, ISTEA's and TEA–21's basic principles of flexibility, intermodalism, strategic infrastructure investment, commitment to safety and inclusive decision-making processes are retained.

Maryland's share of highway funding will grow from an average of $443 million a year to $583 million a year or an average of $140 million more each year than was provided under TEA–21 for a total of more than $2.9 billion over 5 years. The measure provides funding for a number of important transportation improvement projects through all regions of our State. Senator MIKULSKI and I placed a high priority in this measure of ensuring that Maryland is ''BRAC'' ready as it prepares to handle an influx of new people in areas surrounding many of Maryland's military installations. In this regard, the measure provides $12.5 million to make sorely needed access improvements to MD 175 in the vicinity of Fort Meade, nearly $10 million for upgrading the US 40, MD 715 interchange at Aberdeen Proving Ground and the Edgewood Train Station, $15 million for construction of MD Route 4 at Suitland Parkway—an important access way to Andrews Air Force Base—and $6 million to design improvements to MD 210—a major regional commuting corridor that provides access to the Indian Head Naval Base in Charles County. The measure also provides $12 million for planning and construction of the Southern Maryland Commuter Initiative, a program of improvements in

Southern Maryland to relieve congestion by enhancing peak-period transit services for commuters, including individuals commuting to military bases in Southern Maryland. And it provides over $1.5 million for intermodal improvements at the Edgewood and Odenton MARC stations.

We also placed a premium on addressing those areas of Maryland that have experienced particularly severe congestion, bottlenecks or safety problems and provided more than $31 million to upgrade MD Route 404 and US 113 on the Eastern Shore, nearly $30 million to continue improvements to 1–70 in Frederick and to initiate upgrades of US 220 South of Cumberland in Western Maryland, $27 million for upgrades to MD 5 in Southern Maryland, and more than $22 million for roadway, interchange and bridge improvements in the Baltimore metroplitan area

We provided funds for several community-based projects around Maryland designed to expand travel choices and enhance the transportation experience of our citizens by improving the cultural, historic, aesthetic and environmental aspects of our transportation infrastructure, including funding to complete the Allegheny Highlands Trail in Western Maryland, the Fort McHenry and Assateague Visitors Centers, the Baltimore water-taxi system, and the roads and trails at Patuxent and Blackwater Refuges.

Before I close, I want to take a moment to note the hard work of the staff involved with this bill. This legislation has been years in the making and while it represents the efforts of many individuals there are several whom I would like to especially recognize. First, let me thank the staff of Banking Committee Chairman Shelby, particularly Sherry Little and John East, as well as Tewana Wilkerson of Senator ALLARD's staff, for their hard work and dedication to the transit program. Also, as I noted earlier, Senator REED has worked closely with me throughout this process and I want to thank Neil Campbell of his staff for his significant contributions to this bill. On my own staff, I want to recognize Sarah Kline, Aaron Klein, and Charlie Stek for their tireless work and for their commitment to helping the people of Maryland. Kate Mattice, on detail from the Federal Transit Administration to my office last year, also made an important contribution to this legislation. Finally, I would like to extend particular thanks to Richard Steinmann for the exceptional assistance he has provided to the Banking Committee over the past 2 years while he has been on detail from the Federal Transit Administration.

Like any other complex and comprehensive piece of legislation, this bill has its share of imperfections. I think it was unfortunate that the administration was unwilling to snpport a higher level of investment in these programs, and as a result the measure that emerged from the conference is billions of dollars less than what the Senate passed a few months ago. And I am particularly disappointed that the measure does not contain the stormwater runoff mitigation provision that was approved by the Senate and is so important to helping States and localities meet water quality standards stemming from the stormwater impacts of Federal aid highways. But if we are to ensure not only the safe and efficient movement of people, goods and services, but also the future competitiveness and productivity of our economy, we must make these investments, and move forward with this legislation. I urge my colleagues to join me in approving this measure.

Mr. JEFFORDS. Madam President, as we prepare to give the final approval to the highway bill conference report I would like to thank Chairman INHOFE and Senators BOND and BAUCUS and all of the Senators and staff who have helped to move this bill forward.

The bill we are about to vote on is good for the Nation.

This bill will save lives by making our roads safer.

This bill will reduce traffic congestion by making our roads and bridges more efficient.

This bill will boost local economies by creating hundreds of thousands of jobs across the Nation.

It may have taken us 3 long years to get here, but the impact of this bill will be felt for decades to come.

This bill will affect every American in some way.

This bill provides the biggest investment in our roads, highways, bridges and transit systems in our nation's history.

Once again I thank Chairman INHOFE and all the members of the EPW Committee for their work.

Madam President, I would like to take one brief moment to thank the staff who have worked so hard to help craft this highway bill.

On my staff I would like to thank my staff director, Ken Connolly; J.C. Sandberg, Alison Taylor, Malia Somerville, Cara Cookson, Catherine Cyr Ransom, Chris Miller, Mary-Francis Repko, Geoff Brown and Jeff Munger.

From Senator BAUCUS's staff, Kathy Ruffalo-Farnsworth;

From Senator INHOFE's staff, Ruth Van Mark, Andy Wheeler and James O'Keefe;

And from Senator BOND's staff, Ellen Stein.

These Congressional staffers have made extraordinary personal sacrifices to move this massive legislation along for over 3 years, and I would like to express my personal gratitude for their efforts.

I yield the floor.

Madam President, I yield back the remainder of my time on this side. I yield the floor.

Mr. INHOFE. I thank Senator JEFFORDS for the great working relationship.

Mr. INHOFE. Madam President, it is my understanding we have 6 minutes. I would like to yield 2 minutes each to three Senators, three of the hard workers on this bill. I did forget to mention Senator GRASSLEY, who was so helpful. I would like to recognize Senators BOND, LOTT, and SHELBY for 2 minutes each.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, it has been a long road to get here on SAFETEA, and I am pleased to be here. I thank Chairman INHOFE, Senators JEFFORDS and BAUCUS, with a special thank you to my staff: Ellen Stein, John Stoody, and Heideh Shahmoradi; Senator INHOFE's staff, Senator JEFFORDS' staff, Senator BAUCUS's staff, the help of Senate legal counsel, employees of FHWA, who ran 1661 runs, Ross Crichton, Susan Binder, and Carolyn Edwards, and the staffs of the Banking, Finance, Commerce, and Budget Committees.

I might inform my colleagues from Arizona, this includes highways and bridges, mass transit, safety, and other items. I thank particularly my colleague from Arizona for mentioning a bridge across the Mississippi River. We have the largest truck traffic in the Nation coming east and west on Highway 70, the eastern edge of Missouri. If they do not have a bridge, they do not get to Illinois. That is one point people from drier States perhaps do not understand.

This bill is one characterized by equity, by safety. Environmental issues are addressed by getting environmental input early on and giving them an opportunity to resolve the problems before money is wasted. It brings the stakeholders to the table earlier. Under the CMAQ provisions, we allow in six States the use of clean-burning biodiesel fuel.

My colleagues and staff have worked tremendously hard in moving this bill over the last 2½ years and I want to highlight some of the key elements of this bill that I am proud of.

H.R. 3 achieves several major goals:

First, equity—this bill carefully balances the needs of the donor States while recognizing the needs of the donee States.

There are many sections in this bill that I am proud of supporting, such as the fact that all donor States will receive an equitable increase to, at the minimum, a 92 percent rate of return by fiscal year 2008.

The average rate of growth among States is 30.32 percent and all States will grow at not less than 117 percent over what they received in TEA–21 starting in 2005 ramping up to 121 percent by 2009.

I, along with Chairman INHOFE, both Senators BAUCUS and JEFFORDS, and our partners on the House side have worked diligently in trying to ensure that the bill remain fair and equitable among all States.

There are many States that continue to fall under the $1.00 rate of return, I am one of them. Due to the budgetary

constraints as well as balancing the needs of both the donor States with the needs of the donee States, we were unable to achieve any better.

Another key component of this bill is safety. This bill goes a long way to saving lives by providing funds to States to address safety needs at hazardous locations, sections, and elements.

Safety in this authorization is for the first time given a prominent position, being elevated to a core program.

Inadequate roads not only lead to congestion, they also kill people. We average more than three deaths a day in Missouri and I think that a large number of these deaths can be attributable to inadequate infrastructure.

Nearly 43,000 people were killed on our roads and highways last year alone. I am glad that the bill reflects the continued commitment to making not only investments in our infrastructure, but also to the general safety and welfare of our constituents.

I am hopeful that the level of funding provided toward the safety program and other core programs is a sufficient amount to address the growing needs of all states.

The passage of this bill comes at a very critical time, especially for my home State of Missouri. We have some of the worst roads in the Nation, with over 50 percent of its major roads in poor or mediocre condition, requiring immediate repair or reconstruction.

Environmental issues are also addressed, such as to ease the transition under the new air quality standards, the conformity process is better aligned with air quality planning, as well as streamlining the project delivery process by providing the necessary tools to reduce or eliminate unnecessary delays during the environmental review stage.

Another accomplishment of our package ensures transportation projects are built more quickly by bringing environmental stakeholders to the table sooner. Environmental issues will be raised earlier and the public will have better opportunities to shape projects. Projects more sensitive to environmental concerns will move through a more structured environmental review process more efficiently and with fewer delays.

This bill also ensures that transportation projects will not make air worse in areas with poor air quality, while giving local transportation planners more tools and elbow room to meet their Federal air quality responsibilities. Transportation planning will be on a regular 4-year cycle, require air quality checks for projects large enough to be regionally significant and reduce current barriers local official face in adopting projects that improve air quality.

Another accomplishment in the bill is allowing local areas to spend congestion, mitigation and air quality funds on the purchase of biodiesel fuel. Soybean based biodiesel provides another market for midwestern, including Missouri, farmers. The clean burning fuel reduces smog forming ozone, soot and hazardous air pollutants. Homegrown biodiesel also decreases our dependence on foreign oil. It's a win for the environment, energy security and farmers.

Lastly, jobs. We have all heard the statistics and this bill undoubtedly will create jobs.

The comprehensive package here before the Senate today is the key to addressing our Nation's needs in infrastructure development and improvement. I am hopeful that other Members of the Senate agree and pass this bill so our State transportation departments can get back in the business of letting contracts.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Madam President, I rise in support of the conference report.

I am in support of the conference report to accompany H.R. 3, the surface transportation reauthorization bill. This is a bill, that Senator SARBANES and I have been working on in the Banking Committee for over 3 years now, and I look forward to seeing it signed into law.

It has taken 12 extensions of TEA–21 to reach agreement on this bill. It is time to get this bill completed and furnish States with resources for needed transportation infrastructure and implement these important policy improvements.

The transportation bill has many important components which I am proud to stand here today and support. I am especially proud of Title 3, the Public Transportation Title. I extend my personal thanks to Senator SARBANES, the ranking member of the Banking Committee, for all the work he has done to help craft our committee's approach to strengthening public transportation, both in terms of funding and policy.

I would also like to thank Senator ALLARD and Senator REED, chairman and ranking member of the Subcommittee on Housing and Transportation, and Senator JOHNSON who also served as a conferee. This bill was truly a bipartisan, collaborative effort. I am very proud of what we have been able to accomplish.

In this bill, we have increased the ability of States to use money flexibly. We made new and innovative technology, like bus rapid transit, eligible for significant Federal investment for the first time. This is a promising new cost-effective approach to transportation that has real promise in this country. Also, we increased accountability for the Federal investment in public transportation through several new mechanisms. A contractor performance assessment report will provide real data on transit industry performance and will enable transit agencies to have an opportunity to assess the quality of cost and ridership estimates for their high-dollar investments.

I am a big believer in positive reinforcement and I included several provisions in the bill to reward transit agencies for delivering projects that are on-time and on budget. One of those provisions will, for the first time, allow transit agencies an opportunity to keep a portion of their under-run in new starts projects or would give them the chance for a more generous share if they deliver the projects they promise to their communities.

Another accomplishment here of which I proud is the extent to which we have been able to extend the benefits of public transportation to some of the people who need it most, for example, in rural areas. For many years, the prevailing view—a wrong view in my mind—was that public transportation was only valuable in very urbanized cities.

In some rural parts of our country, long distances separate people from critical infrastructure. Many of these people are elderly or do not have access to a car. Connecting these people to critical infrastructure is one of the most valuable services public transportation can provide.

These are just a few of the several important advancements this bill makes over current law. This is a bill I am proud of and I want to acknowledge some people who have been critical to putting this bill together and making it a successful piece of legislation with broad bipartisan support.

Me and my staff were very lucky to have one of the best resources that the Banking Committee could have during this process. The Federal Transit Administration loaned the committee one of their finest people: Rich Steinmann. Rich is an extremely knowledgeable, competent professional and his experience is widely respected on both sides of the aisle and in both chambers of the Congress. We are indebted to him for his time and work on this bill. Additionally, I want to thank Sherry Little and John East of the Banking Committee staff. I think everyone would agree that this was a tough process on members and staff alike. Finally, I want to thank some additional staff who had a critical role in putting this challenging bill together: Sarah Kline, Aaron Klein, Tewana Wilkerson, and Neil Campbell. Thank you for your work on this.

I am proud of this bill and I look forward to seeing it signed into law.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Madam President, as a member of the conference, I thank the leadership and the job they have done. The process has not been easy. It has been long and not always pretty, but we produced a bill with more jobs, safety, and opportunity for all American people. I am very proud of it.

I yield the remainder of my time to the chairman to dispense as he sees fit.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. FRIST. The next vote is on the highway conference reported bill, the last of the evening, the 11th rollcall of the day and the last vote before the August break. I thank all of our colleagues for their patience and efforts. We have been very busy, very productive the last several weeks. We can all, in a bipartisan way, be proud of what we have accomplished.

We will return for business on Tuesday, September 6th, with a vote that day sometime around 5:30. That is Tuesday, September 6th. I wish everyone a safe break.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Kansas (Mr. ROBERTS), the Senator from Oregon (Mr. SMITH), and the Senator from New Hampshire (Mr. SUNUNU).

Further, if present and voting, the Senator from Oregon (Mr. SMITH) and the Senator from Kansas (Mr. ROBERTS) would have voted ''yea.''

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER) and the Senator from California (Mrs. FEINSTEIN) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER) and the Senator from California (Mrs. FEINSTEIN) would each vote ''aye.''

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

The result was announced—yeas 91, nays 4, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—91

Akaka	Dodd	Martinez
Alexander	Dole	McConnell
Allard	Domenici	Mikulski
Allen	Dorgan	Murkowski
Baucus	Durbin	Murray
Bayh	Ensign	Nelson (FL)
Bennett	Enzi	Nelson (NE)
Biden	Feingold	Obama
Bingaman	Frist	Pryor
Bond	Graham	Reed
Brownback	Grassley	Reid
Bunning	Hagel	Rockefeller
Burns	Harkin	Salazar
Burr	Hatch	Santorum
Byrd	Hutchison	Sarbanes
Cantwell	Inhofe	Schumer
Carper	Inouye	Sessions
Chafee	Isakson	Shelby
Chambliss	Jeffords	Snowe
Clinton	Johnson	Specter
Coburn	Kennedy	Stabenow
Cochran	Kerry	Stevens
Coleman	Kohl	Talent
Collins	Landrieu	Thomas
Conrad	Lautenberg	Thune
Corzine	Leahy	Vitter
Craig	Levin	Voinovich
Crapo	Lieberman	Warner
Dayton	Lincoln	Wyden
DeMint	Lott	
DeWine	Lugar	

NAYS—4

Cornyn	Kyl
Gregg	McCain

NOT VOTING—5

Boxer	Roberts	Sununu
Feinstein	Smith	

The conference report was agreed to.

EXTENSION OF ADMINISTRATIVE EXPENSES FOR THE HIGHWAY BILL

Mr. DOMENICI. Madam President, on behalf of the leader, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3512, which was received from the House.

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

The assistant legislative clerk read as follows:

A bill (H.R. 3512) to provide an extension of administrative expenses for highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

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

Mr. DOMENICI. Madam President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 3512) was read the third time and passed.

Mr. DOMENICI. Mr. President, are we in morning business?

The PRESIDING OFFICER (Mr. ALLARD). No, we are not.

Mr. DOMENICI. I ask unanimous consent that I be permitted to speak for 5 minutes.

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

The Senator is recognized for 5 minutes.

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

Mr. DOMENICI. Yes.

Mr. ALEXANDER. Would it be possible to get 3 or 4 minutes following the Senator's remarks before the discussion begins?

Mr. DOMENICI. I think it is a matter of whether the Senate confers.

Mr. President, I ask unanimous consent that following my 5 minutes, the junior Senator from Tennessee be given 4 minutes to speak.

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

The Senator from New Mexico is recognized.

SENATE ACCOMPLISHMENTS

Mr. DOMENICI. Madam President, I rise today before we leave on this recess to tell the Senate and those interested in how we do the people's business, what a successful 6 months we have had in the Senate. I have been here a long time. I believe this first 6 months has been like a great marathon runner. We started off slow and crossed the finish line a winner.

About 4 hours ago, we passed the first comprehensive Energy bill in about 14 years. We have been trying for 6 years, and now it is done. The Senate did that in a bipartisan way, and we worked with the House and got a great policy for our Nation.

A few moments ago, we passed a comprehensive Transportation bill for all of our States and our people, and regardless of what is said about it, in meticulous detail it is a terrific jobs package and infrastructure building bill for America.

In addition, I submit that we have also accomplished some things we never were able to do: we enacted a bankruptcy reform act. I know people wonder why that is important, but we will not talk about why. Let's just say credit is the lifeblood of our Nation. If something is wrong with the credit system, you have to fix it. We have been waiting around to fix the bankruptcy law, which is an integral part of the credit system, for at least 5 years. We passed the bill about three times in the Senate and, yes, in this particular 6 months, we did that. We sent it to the House and it is a law.

The budget resolution, I did them for years—let's be honest, for 31 years. This new Senator produced, under our leader's leadership, the fifth fastest budget resolution, and he got it in on time.

The emergency supplemental was as big as many appropriations bills, gigantic—for Iraq, the tsunami, and we provided real help for the borders of our country. Five-hundred new Border Patrol people were in that bill, along with other things.

We included, since then, in an Interior appropriations bill, which also passed, veterans funding of $1.5 billion.

Let me go on with the list. After the emergency supplemental, we did six judges who had been filibustered for months upon months.

We did CAFTA. That is the last of a long list of American free-trade agreements. This one, for a change, went our way. It was taking off tariffs that were imposed mostly on us, instead of the other way around.

Now, 5 of the 12 appropriations bills have passed. All of the appropriations bills have been reported out of committee, except one. I didn't check the history, but I think that is close to a record.

We confirmed the Secretaries of State, Justice and Homeland Security. We confirmed the Director of National Intelligence. That is the equivalent of another Cabinet seat.

We also passed the Legislative Branch appropriations bill. We did, a while ago, a very important piece of legislation, gun liability reform. People wonder what that has to do with—as we say out in the country—the price of eggs. I will tell you, it is important legislation, too. It conformed liability, as far as the liability of those who manufacture, which is growing out of proportion to our regular negligence laws, and put that under some kind of reasonable control as far as the liability of manufacturers, those who build firearms. If these gun manufacturers went out of business, we would have had to get guns produced overseas, and that would not have been good.

The reason I did this kind of litany of successes is that it didn't just happen. It didn't fall down from the sky. It happened because we have real leadership. I believe it is because of our majority leader, BILL FRIST, and MITCH MCCONNELL, our whip. I give them extreme credit. I also say that much of this has been bipartisan—at least I can speak for myself. We would not have had an Energy bill without bipartisan leadership. Part of the year we didn't have it, let's be honest. We had the minority trying to move the other way on almost everything. I must say the new minority leader said he was going to try to move in a way to help get things done. I think this list, to some extent, indicates that is occurring.

Before we leave, I think it is always good to remind ourselves of what we have done so we can take home a recollection, kind of a roadmap of accomplishments. I might have left something out because I just did this this afternoon. It took about 30 minutes, so it is no masterpiece, but I think it is pretty accurate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

POLICIES RELATED TO DETAINEES FROM THE WAR ON TERROR

Mr. ALEXANDER. Mr. President, I agree with the Senator from New Mexico. I am especially proud of the majority leader whose patience and intelligence and perseverance has helped us through these several months. I am thankful to the Democratic leader for his help in making those things happen.

When the Senate reconvenes in September, one of the first orders of business will be the Defense authorization bill. During August, I respectfully suggest that the President reconsider his opposition to legislation that would set the rules for the treatment and interrogation of detainees.

I have decided to cosponsor three amendments to the Defense authorization bill that clarify our policies relative to detainees from the war on terror. There has been some debate about whether it is appropriate for Congress to set rules on the treatment of detainees. Mr. President, for me, this question isn't even close.

The people, through their elected representatives, should set the rules for how detainees and prisoners under U.S. control are treated and interrogated. In the short term, the President can set the rules. But the war on terror is now nearly 4 years old. We don't want judges making up the rules. So for the long term, the people should set the rules. That is why we have an independent Congress.

In fact, the Constitution says, quite clearly, that is what Congress should do. Article I, section 8 of the Constitution says that Congress, and Congress alone, shall have the power to ''make Rules concerning Captures on Land and Water.''

So Congress has the responsibility to set clear rules here.

But the spirit of these amendments is really one I hope the White House will decide to embrace. In essence, these amendments codify military procedures and policies; procedures in the Army Field Manual; policies regarding compliance with the Convention Against Torture, signed by President Reagan; and policies the Defense Department has set regarding the classification of detainees.

If the President thinks these are wrong rules, I hope he will submit new ones to Congress so we can debate and pass them. I am one Senator who gives great weight to his views on any matter, especially this matter. This has been a gray area for the law.

In this gray area, the question is, Who should set the rules? In the short term, surely, the President can, and in the longer term, the people should through their elected representatives. We don't want the courts to write those rules.

In summary, it is time for Congress to represent the people, to clarify and set the rules for detention and interrogation of our enemies during the next few weeks. I hope the White House will tell us what rules and procedures the President needs to succeed in the war on terror. That way, we can move forward together.

Mr. President, to reiterate, when the Senate reconvenes in September, one of the first orders of business will be the Defense authorization bill. During August, I respectfully suggest the President reconsider his opposition to legislation that would set the rules for the treatment and interrogation of detainees.

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That is right. All three of these amendments uphold or codify policies and procedures the administration says we are following today and intend to follow moving forward.

Senator GRAHAM's amendment, No. 1505, authorizes the system the Defense Department has created—Combat Status Review Tribunals—which are there for determining whether a detainee is a lawful or unlawful combatant and then ensures that information from interrogating those detainees was derived from following the rules regarding their treatment. Senator GRAHAM's amendment also allows the President to make adjustments when necessary as long as he notifies Congress.

The first McCain Amendment, No. 1556, prohibits cruel, inhuman, or degrading treatment or punishment of detainees. The amendment is in specific compliance with the Convention Against Torture that was signed by President Reagan. The administration says that we are already upholding those standards when it comes to treatment of detainees, so this should be no problem.

The second McCain Amendment, No. 1557, states simply that the interrogation techniques used by the military on detainees shall be those specified by the Army Field Manual on Intelligence Interrogation. The military, not Congress, writes that manual, and we are told that the techniques specified in that manual will do the job. Further, the manual is under revision now to include techniques related to unlawful combatants, including classified portions, that will continue to give the President and the military a great deal of flexibility.

If the President thinks these are the wrong rules, I hope he will submit new ones to Congress so that we can debate and pass them. I am one Senator who would give great weight to the President's views on this matter. It's quite possible the Graham and McCain amendments need to be altered to set the right rules, but it is time for Congress to act.

This has been a gray area in the law. In this gray area, the question is who should set the rules. In the short term, surely the President can. In the longer term, the people should, through their elected representatives. We don't want the courts to write the rules.

So, in summary, it is time for Congress, which represents the people, to clarify and set the rules for detention and interrogation of our enemies. During the next few weeks, I hope the White House will tell us what rules and procedures the President needs to succeed in this effort. That way we can move forward together.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

HEARINGS ON SUPREME COURT NOMINEE JOHN ROBERTS

Mr. SPECTER. Mr. President, I have sought recognition to outline the scheduling procedures for the confirmation hearings on Judge John Roberts to the Supreme Court of the United States. I will be followed by my colleague, the ranking member of the Judiciary Committee, who will state a joint agreement, which is incorporated in my statement. Senator LEAHY will deal with the joint agreement.

The decision on when to start the confirmation hearings on Judge Roberts depends on what beginning day—whether August 29 or September 6—is most likely to lead to a vote no later than September 29, so that, if confirmed, the nominee can be seated when the Supreme Court begins its term on October 3. I have stated my own preference for September 6 early on, but I emphasized that I was flexible and would be willing to start on August 29.

Our duty to have the nominee in place by October 3 took precedence on my or anyone else's preferences.

In light of the many possibilities for delay, some justified and some tactical, it seemed to me the safer course was the earlier date. At the same time, I was and am mindful that the Senate and the Judiciary Committee can accomplish more in 3 cooperative hours than 3 days or perhaps even 3 weeks of disharmonious activity. If any disgruntled Senator wants to throw a monkey wrench into the proceedings, even with the August 29 starting date, there would be no absolute assurance of meeting the October 3 target.

I acknowledge at the outset that it was unrealistic to obtain a binding unanimous consent agreement specifying an exact timetable with a commitment to vote by September 29. There are too many legitimate issues which could arise which would justify delays where Senators would be compromising their rights by such an agreement. Senator LEAHY and I have had numerous discussions over the past week with his objective to start the hearings on September 6 and my objective to obtain assurances, if not commitments, that the Senate would vote by September 29.

Our discussions at various times included Senator FRIST, Senator REID, and Senator MCCONNELL. We have had many additional discussions in the last 72 hours, too numerous to mention. But in one meeting on Thursday among the five of us—Senator FRIST, Senator REID, Senator MCCONNELL, Senator LEAHY, and myself—we came to an agreement.

No. 1, the hearings would start on September 6.

No. 2, Senators would waive their right to hold over the nomination for 1 week when first on the Judiciary Committee executive agenda, so the committee vote could occur any time after September 12 and, as chairman, I intend to exercise my prerogative to set the committee vote on our Judiciary Committee agenda for September 15.

No. 3, Democrats and Republicans would waive their right to terminate committee hearings which went past 2 hours after the Senate came into session.

No. 4, all written questions would have to be submitted by September 12, with answers to be submitted in a timely fashion.

No. 5 Senators from both parties would waive their right to submit dissenting or additional or minority views to the committee report.

Beyond these enumerated agreements, the principal basis for the Republicans' willingness to begin the hearing on September 6 was the emphasis by Senator REID and Senator LEAHY of their good faith in moving the nomination process promptly to meet the October 3 date.

All factors considered, it was our judgment that the September 6 starting date was the best alternative for concluding the hearings in time to seat Judge Roberts, if confirmed, on October 3.

I now yield to my distinguished colleague, the ranking member, the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank the distinguished chairman. He and I have spent, I believe, more time with each other than we have with our families in the past couple weeks. I am not sure if that is to the detriment of our families or ourselves or to the benefit of our families or ourselves. In any event, it is a fact we spent an enormous amount of time.

As the distinguished chairman has talked about—and I will in a moment submit this as a joint statement from the two of us—we have agreed to the following:

The hearings will start on Tuesday, September 6. The Judiciary Committee members will waive their right to hold over the nomination for 1 week, when first placed on the Judiciary Committee executive agenda. The vote, of course, then could occur any time after Monday, September 12. The chairman intends to set that vote on the executive agenda on Thursday, September 15.

Senators—and this will require all 100 Senators—will waive their right to invoke the 2-hour rule to terminate Judiciary Committee hearings 2 hours after the Senate comes into session during the time of the nomination hearings on Judge Roberts.

All written questions will be submitted within 24 hours of the conclusion of the hearing, and answers will be provided in a timely fashion.

And we recognize that nothing in the Senate or Judiciary Committee rules precludes the Senate from considering the nomination on the floor without a committee report.

As we know—and I see two of the distinguished leaders of the Senate on the floor and others will be joining us—I served several times in the majority, several times in the minority, and I have handled many bills on the floor—you can work out every single possible contingency, but there is always something that comes up, and that is why we have chairmen and ranking members.

I have a great deal of respect for Senator SPECTER. He has always been straightforward with me. He has always kept his word to me, as I have to him. We think we have covered all the contingencies. Anything can happen. I suspect the two of us can handle that.

I think of some of the contingencies in the last few years. I remember an important hearing scheduled and we had the disaster of September 11. Obviously, nobody plans or hopes for such events. We have the ability to work out those kinds of situations.

Long before the Supreme Court vacancy, long before this nomination, the chairman and I worked cooperatively to lay the groundwork for full hearings to prepare that committee for when that day will arrive. We have now announced the schedule for the hearings to begin. I know we will continue to work with each other in good faith as the process unfolds, but when we look at this beginning the first week the Senate returns to session after Labor Day, it is a brisk schedule. To meet the schedule, we need the cooperation of the administration.

The Senate only today, Friday, received the President's official nomination of Judge Roberts. The Senate has not received basic background information on the nominee in answer to the Judiciary Committee's questionnaire. The Senate only today received updated background check materials from the FBI. All of these, of course, we need.

In advance of receiving the nomination, Chairman SPECTER and I joined together earlier this week in setting forth additional requests for the information through the Judiciary Committee questionnaire, something worked out by the two of us.

The Democratic members of the committee sent the White House a letter on Tuesday, with a priority of the documents for the nominee's years of work in the Reagan White House with White House counsel Fred Fielding from among the documents the administration had indicated it was making arrangements to provide to the Senate.

Yesterday I shared with the chairman a suggested request for materials in connection with only 16 priority cases from the hundreds considered during the years during which the nominee was Kenneth Starr's political deputy at the Department of Justice. That request has also been expedited and sent to the administration this week, even before the President sent the nomination to the Senate.

The President said he hopes the new Justice can be confirmed by the start of the Court's next session on the first

Monday in October. The Senate has already cooperated in achieving this goal. At this point, there is no reason to believe the goal cannot be met, but we need the full cooperation of the administration. The administration has weighed in heavily with demands regarding the Senate's schedule.

What we need more than the White House telling us how and when to do our job is a White House willing to help us expedite our consideration by making relevant materials available without delay so we can meet the chairman's aggressive schedule.

The President has extolled the nominee's credentials, including his years of work in three senior executive branch posts during the Presidencies of his father and President Reagan.

We are seeking a very small number of the documents evidencing his work in those policy positions. In order for us to fulfill our responsibilities to examine this nomination and report it to the Senate, the Senate Judiciary Committee should be provided these materials without delay so we can perform our due diligence.

The White House this week said the Senate will have wide access to the documents from the Reagan administration, but only after an elaborate screening process. Based on the White House's own statement about the length of time it will take to screen these documents, that will be 4 weeks from now, maybe even longer.

The date the chairman is setting for the beginning of the hearings emphasizes the ability to review the materials before the hearings requires quicker action from the administration than that. One only need glance at the calendar to see 4 weeks from today is only a few days before the hearings, and that includes Labor Day weekend.

This is a nominee who, if confirmed, could be serving on the Supreme Court until 2030 or beyond, well past the term of the President who appointed him and well past the terms or even the lifetimes of Members of the Senate who may make this decision. This is a decision that not only affects every American alive today but also our children and grandchildren.

The Constitution gives the Senate, and only the Senate, the responsibility of considering a President's nominations to a lifetime appointment to the Supreme Court.

The Constitution gives us the duty to make this decision as well as we can, not as fast as we can.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I express my appreciation to the two managers of the Judiciary Committee, the chairman and ranking member. I understand why there is a little distrust on both sides because of all the stuff we have gone through on judges. They have done good work, and there is no reason that anyone should be concerned about the work of the Judiciary Committee.

The waivers that have been made by the Senators as to the 1-week layover and 2-hour meeting time for the committee to meet is something to show we are trying to move forward on this in good faith.

I have no doubt, with the work of these two men, that we will be able to work our way through any hurdles we have. We all know the date the distinguished Senator from Pennsylvania, the chairman of the committee, is shooting for is to make sure Judge Roberts is seated by October 3. We want to make sure that everyone understands that there are no games being played. Nobody is trying to do anything untoward. We are going to do our very best to work toward that date.

The entire Democratic caucus has the utmost faith in our leader, Senator LEAHY. The Judiciary Committee has been, for 7 months, his. He has done extremely good work, as he has always done. I have been on this floor many times when I served in different capacities where I would talk about the Senator from Vermont in the most positive terms.

I feel the same way about the Senator from Pennsylvania. The Senate is fortunate to have the Senator from Pennsylvania leading the Senate in this most complicated, difficult committee, with the most vexatious issues, it seems, all the times.

I have spent quite a bit of time, in the last few days, with them and the majority leader and Senator MCCONNELL. It has been worthwhile. This is going to move forward.

As the Senator from Vermont has stated, materials are needed. We understand the power of a committee chairman in this instance. He has tremendous power. We don't take anything away from the power he has. He can set the markup whenever he wants, within reason. He can call for votes when he wants. But he has, in the past, been very fair, and he will continue to be. I have no doubt that is the case.

I also want the record to reflect that I did not get the floor before the majority leader; he was not here. That is why I grabbed the floor before someone else did. I certainly would not try to speak before the majority leader. Protocol would say that isn't the case. The majority leader was not here, and I did not want somebody else to grab the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, we have a bit of business to do before we close down tonight. What we heard from our colleagues reflects the cooperative spirit that is very important as we fulfill our constitutional responsibility in terms of this very important nomination.

As our colleagues can tell, there have been a lot of discussions with the chairman and ranking member and the leadership on both sides of the aisle. What we witnessed is the decision to begin hearings after Labor Day, that the hearings and the subsequent action, including the workup to the floor, which according to the schedule that has been laid out, implies to me we would be able to be on the floor by September 26, and with that would be able to have the nomination finished by the end of that week, confirmed, and the Justice would be sitting on that first Monday in October.

I do wish to thank all of the people who have been mentioned for bringing us to this point and expect that over August, with civility, we will be able to continue our study of records and background that are provided. We will have a very busy early September as those hearings begin.

In terms of timing, it looks as if we will be able to achieve the objectives from both sides of the aisle. We very much appreciate that leadership in a bipartisan way in the chairman and ranking member.

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

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

Mr. HATCH. Mr. President, I commend the chairman and the ranking member of the Judiciary Committee. These are difficult things to do, and I am glad to see that type of cooperation in what really is a very important set of hearings with regard to the Supreme Court of the United States of America. Above all, I want to see Judge Roberts treated fairly. I believe we are off to a good start, and hopefully that will continue.

RETIREMENT OF GENERAL GREGORY S. MARTIN, USAF

Mr. HATCH. Mr. President, today I have the distinct privilege and honor of rising to pay tribute, on the announcement of his retirement, to one of our Nation's greatest generals, and my good friend, Gen. Gregory S. Martin of the U.S. Air Force. When I first met the general over 2 years ago, I knew immediately that his reputation of being an extraordinary leader was true.

From the beginning of his career at the Air Force Academy, where he was named the National Collegiate Parachuting Champion, to his current command of Air Force Materiel Command, excellence has been the defining characteristic of General Martin's career.

As a young fighter pilot, he flew combat missions over Vietnam and served as a mission commander during Operations Linebacker I and Linebacker II. I do not have to remind my colleagues that these two air campaigns were instrumental in securing the release of our prisoners of war from Vietnam.

General Martin has served in a number of capacities including Commander

of the 479th Tactical Training Wing at Holloman Air Force Base, NM; the 33rd Fighter Wing at Eglin Air Force Base, FL; and 1st Fighter Wing at Langley Air Force Base, VA.

The Senate began to learn more about General Martin's reputation when he was confirmed as Commander of United States Air Forces in Europe and Commander of Allied Forces Northern Europe. In this capacity, during Operation Enduring Freedom he directed airdrop support for United States and allied forces as well as Afghani refugees. The following year, General Martin provided deployment support, combat airdrop operations, and all air delivered sustainment support for Operation Iraqi Freedom.

As a testament to his effectiveness as a leader, not only did General Martin accomplish these tasks for his Nation, but he also earned the respect and dedication of the Air Force enlisted personnel who served with him. This was reflected in the decision of the Air Force's enlisted personnel to honor General Martin with the Order of the Sword, the highest tribute the Air Force enlisted corps can pay to a commander.

After this successful tour of duty, General Martin was confirmed to his present post as Commander of the Air Force Materiel Command at Wright-Patterson Air Force Base, OH. As Commander, Air Force Materiel Command, General Martin leads more than 78,000 men and women of the world's most respected air and space force, and he is all too eager to state that this has been the most satisfying assignment in his career.

During his tenure, General Martin transformed Air Force Materiel Command, which is charged with delivering on-time, on-budget war-winning capabilities to our Nation's warfighters as well as providing ''cradle to grave'' management of every Air Force weapons system. General Martin led the development of a new Air Force Science and Technology vision that will guide critical research and development work for decades to come. He strengthened, unified, and streamlined the Air Force Program Executive Office to ensure more effective acquisition support for current and future Air force weapon systems. He led the implementation of Continuous Process Improvement initiatives within the Air Force logistics and sustainment activities, achieving the best on-time, on-cost performance in the history of our Air Force logistics centers. Under General Martin's leadership, the Air Force Materiel Command returned $570 million last year to the Department of Defense to support the global war on terrorism. That is how good this man is, and the people who serve with time.

All that being said, none of these accomplishments would have been possible without the support of his wife, General Martin's high school sweetheart. They have been married for 35 years. I know I join a grateful Nation in saying thank you to Wendy for the sacrifices she had made for her husband and for her country throughout the years.

As I conclude my remarks on the announcement of the General's retirement, I am reminded of the Air Force's motto: No one comes close. That is how I would describe General Martin: no one comes close.

Mr. President, on a personal note, General Martin's call sign is ''Speedy''. There is good reason for that. He is one of the most efficient, revered and honored generals in the history of the Air Force. He is a person who has given a great deal to our country. He deserves a great deal of respect. He is a man of honor. My remarks do not even begin to do justice for this great man, his wife, and those who have served with him in the Air Force and in the defense of our country over all of these years. This is a man who makes a difference. This is a man who I hate to see retire because there is nobody better. However, I wish him well in retirement. Speedy Martin deserves a great retirement, and if he wishes a greater opportunity to continue to serve in whatever capacity he wants for the rest of his life. Until then, we salute him and let him know that we have appreciated the great service he has given to our country. We appreciate him as a person and as an example to all of us.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TRYING TERRORISTS IN OUR COURTS

Mr. DURBIN. Mr. President, it has come to my attention that there was a significant decision by a criminal court in Seattle. The decision, as I understand it, was made this week, and it involved a U.S. district judge, John C. Coughenour. I hope I have pronounced his name correctly. Judge Coughenour was tasked with an awesome responsibility—the prosecution of Ahmed Ressam, who had been accused of terrorist acts against the United States.

The case was rather straightforward. The man had plotted to bomb the Los Angeles Airport on the eve of the celebration of our millennium. It was in imposing the sentence that Judge Coughenour said some things which are worth repeating. He called into question some conclusions that many people have reached about our system of justice and really reminded us of our legacy in terms of constitutional responsibility in this country.

I ask unanimous consent that the judge's entire statement at the sentencing hearing be printed in the RECORD.

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

Judge's Statement

U.S. District Judge John C. Coughenour made a statement during Wednesday's sentencing hearing for Ahmed Ressam. ''Okay. Let me say a few things. First of all, it will come as no surprise to anybody that this sentencing is one that I have struggled with a great deal, more than any other sentencing that I've had in the 24 years I've been on the bench.

''I've done my very best to arrive at a period of confinement that appropriately recognizes the severity of the intended offense, but also recognizes the practicalities of the parties' positions before trial and the cooperation of Mr. Ressam, even though it did terminate prematurely.

''The message I would hope to convey in today's sentencing is twofold:

''First, that we have the resolve in this country to deal with the subject of terrorism and people who engage in it should be prepared to sacrifice a major portion of their life in confinement.

''Secondly, though, I would like to convey the message that our system works. We did not need to use a secret military tribunal, or detain the defendant indefinitely as an enemy combatant, or deny him the right to counsel, or invoke any proceedings beyond those guaranteed by or contrary to the United States Constitution.

''I would suggest that the message to the world from today's sentencing is that our courts have not abandoned our commitment to the ideals that set our nation apart. We can deal with the threats to our national security without denying the accused fundamental constitutional protections.

''Despite the fact that Mr. Ressam is not an American citizen and despite the fact that he entered this country intent upon killing American citizens, he received an effective, vigorous defense, and the opportunity to have his guilt or innocence determined by a jury of 12 ordinary citizens.

''Most importantly, all of this occurred in the sunlight of a public trial. There were no secret proceedings, no indefinite detention, no denial of counsel.

''The tragedy of September 11th shook our sense of security and made us realize that we, too, are vulnerable to acts of terrorism.

''Unfortunately, some believe that this threat renders our Constitution obsolete. This is a Constitution for which men and women have died and continue to die and which has made us a model among nations. If that view is allowed to prevail, the terrorists will have won.

''It is my sworn duty, and as long as there is breath in my body I'll perform it, to support and defend the Constitution of the United States. We will be in recess.''

Mr. DURBIN. Let me read a few things from this statement that I think are so significant. The judge said at the sentencing hearing for Ahmed Ressam, an alleged terrorist now prosecuted and convicted, the following:

Okay. Let me say a few things. First of all, it will come as no surprise to anybody that this sentencing is one that I have struggled with a great deal, more than any other sentencing that I've had in the 24 years I've been on the bench.

The judge went on to say:

I've done my very best to arrive at a period of confinement that appropriately recognizes the severity of the intended offense, but also recognizes the practicalities of the parties' positions before trial and the cooperation of

Mr. Ressam, even though it did terminate prematurely.

The judge said:

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The tragedy of September 11th shook our sense of security and made us realize that we, too, are vulnerable to acts of terrorism. Unfortunately, some believe that this threat renders our Constitution obsolete. This is a Constitution for which men and women have died and continue to die and which has made us a model among nations. If that view is allowed to prevail, the terrorists will have won.

It is my sworn duty, and as long as there is breath in my body I'll perform it, to support and defend the Constitution of the United States.

That is the end of the statement by Judge Coughenour. This judge was appointed by a Republican President. He clearly speaks to constitutional principles which know no party bounds.

All of us, Republicans and Democrats, swear to uphold that same Constitution in our service to the Senate and our service to this Government. It is clear that in some cases the open and public trial which this accused, Ahmed Ressam, received in Seattle could never occur because of concerns over classified information, over concerns of security for individuals. But it is very clear that in this case extraordinary efforts were made to make certain that we said to the world, this man can be tried in open court, judged by a jury of 12 ordinary citizens and his guilt determined according to a system bound by the Constitution we have sworn to uphold.

I am humbled by the wisdom of this simple statement from this Federal judge. I hope it serves as a reminder to all that we must seek not only security in this time of peril, but we must seek it in a way that never imperils our basic freedoms in America.

DEFENSE AUTHORIZATION

Mr. DODD. Mr. President, during the consideration of the Department of Defense authorization bill, several of our colleagues offered an amendment concerning the treatment of prisoners. It was an important amendment. It was offered by Senator MCCAIN and Senator GRAHAM. Senator WARNER offered a related amendment. The McCain Amendment made it clear that the United States would not engage in conduct related to detainees and prisoners which could be characterized as ''cruel, inhumane or degrading.''

I salute my colleagues for their courage in stepping forward to address this very difficult and controversial issue. I hope when we return to the Department of Defense authorization bill, we will give them a resounding vote of support. They speak for all in their dedication to make certain that we live up to the rules of law and to the standards of American values which have guided us for so many decades.

I look forward to that debate. I thank them for their political courage in offering this to the Department of Defense authorization bill.

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

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

The legislative clerk proceeded to call the roll.

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

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

SHIELD LAW

Mr. DODD. Mr. President, I would like to briefly mention three items in these closing minutes before the Senate takes its traditional August break. One has to do with the legislation Senator LUGAR of Indiana and I have introduced in this Senate and its companion which has been introduced by Congressman PENCE and Congressman BOUCHER on a bipartisan basis in the other body. I refer to the so-called shield law bill, which we have offered to the Congress as a Federal proposal to complement the statutes that exist across the United States in 31 States as well as the District of Columbia. Eighteen other States have rules of law that provide some protections for reporters who rely on confidential sources for their stories.

This law Senator LUGAR and I are proposing in the Senate is only nominally about reporters. It is fundamentally about those who rely on the free flow of information in our society to gather important information that is critical for our democracy.

As we are about to take this recess for the next 4 or 5 weeks, we would do well to remember that a few short miles from where we are this evening, there is a reporter who sits in a prison cell. Her only offense is that she has steadfastly refused to reveal a journalistic source. In a society such as ours, this should not be, in my view, an imprisonable offense. A free society obviously requires a free press. Thomas Jefferson once said that given the choice between a free government and a free press, he would choose the latter. Others, such as Madison, have suggested that in a nation where you do not have the free flow of information, it puts a nation at great risk.

That has been the tradition of our society for more than 200 years. We are entering dangerous territory in the 21st century when a reporter gets thrown in jail because she or he honors a commitment to keep a source confidential.

I believe it is time we enact a Federal shield law to mirror what 49 States and the District of Columbia have done by law or rule.

It is thought that our bill would absolutely guarantee under any and all circumstances that a reporter's sources ought to remain confidential. It does by and large protect that confidentiality. However, we create exceptions for national security. Obviously when there is no other means by which you could glean important information, the reporter should release the information that may be critical in a prosecution. But we try to keep sacrosanct that relationship between the source and the reporter. Again, not for the sake of the reporter, but for the sake of our citizenry, for the sake of the free flow of information which is critical in a democracy.

The distinguished chairman of the Judiciary Committee on which the Presiding Officer today serves held a very good hearing a few days ago. I commend the members of that committee. It was a very good participation by members of the Judiciary Committee who listened to various witnesses talk about a shield law.

This is not a liberal or conservative issue. As I mentioned, we have Congressman PENCE and Congressman BOUCHER in the House of Representatives. Congressman PENCE, a conservative from Indiana, Congressman BOUCHER a Democrat from Virginia, along with Senator LUGAR and I and others have introduced this legislation because as Senators and Congressmen, as American citizens, we believe it is important in our society that we have this free flow of information. Therefore, we are hopeful this body in the coming months before we adjourn sine die would enact a shield law.

I sat with an executive in the news business who told me the incarceration of Judith Miller, the reporter who is in jail tonight in Alexandria, is having an impact in his own newsroom. Reporters and their editors are thinking twice about going forward with stories, important stories, stories in the public interest, because they fear the harshest sanctions should a prosecutor knock on their door one morning and demand to know the sources of those stories. This

should not be happening in our country.

I hope we as a Senate will give this matter the attention it deserves. Senator LUGAR and I do not claim that the bill we have introduced is perfect. We welcome advice and counsel of our colleagues on how we might craft a good shield law. It is not a partisan issue. Senator LUGAR and I have a bill that has support on both sides of the aisle. We want to work with our colleagues to see this law be enacted. It is of fundamental importance to our country that we enact a strong and good and viable shield law at the national level.

TERRORISM RISK INSURANCE

Mr. DODD. Mr. President, the second issue I will mention briefly, in addition to the shield law issue, is terrorism risk insurance legislation. I speak as the author of the original legislation 3 years ago, which provided a backstop, not a bailout, for businesses in this country that rely on having terrorism risk insurance in major real estate developments and other major projects that are potentially vulnerable to attack.

That bill expires on December 31. It is critically important for American businesses and consumers that we enact this backstop legislation. It is important for our country, important that we provide the kind of insurance coverage that would allow some protection against a major catastrophe. Without that, we run the risk of major projects not going forward.

We had a briefing from major industries and others calling upon the Congress to extend the terrorism risk insurance law for the next 2 years. We need to sit down and try to determine whether we can establish some permanent partnership between public and private sectors in which we can guarantee to some extent, should a catastrophic event occur, we would be in a position to provide a backstop, some relief, under those circumstances.

None of us want to think about those events, but certainly the events in Spain in March of 2004 and Great Britain over the last several weeks and Sharm el Sheik over the last several days clearly indicate to all of us that we are living in a different world today.

Terrorism risk insurance is not like insurance against other hazards. By the very nature of terrorism, it is very difficult, if not impossible, to develop accurate models for terrorist events. They are inherently and extremely unpredictable. Good, solid business people will say a federal backstop is absolutely critical to sustain the kind of economic growth that is important to our nation's future. Jobs are at stake, major developments are at stake, major public gatherings at sporting events and the like are at stake without the ability to provide this critical insurance, terrorism risk insurance.

We have approximately 32 cosponsors of the bill I have introduced with Senator BENNETT of Utah. Most of the members of the Banking Committee are supportive. The chairman of the Banking Committee, Senator SHELBY, indicated he would like to work out a proposal in September to go forward. My hope is that will happen. We need the backing of the White House as well as the House leadership if that law is going to be enacted.

Terrorism risk insurance legislation will require real emphasis over these coming weeks and months if we are going to succeed in enacting this bill before December 31 when the present law expires.

DEFENSE AUTHORIZATION BILL

Mr. DODD. Lastly, I urge that when we return in September, the top item be the Defense authorization bill. I was terribly disappointed that we put aside that bill this week. I don't recall another event quite like that where we literally pulled the Defense authorization bill for special interest legislation. With men and women in harm's way, when we are at war, it was stunning to me we would replace that effort with the proposal to provide immunity, in effect, to gun manufacturers and dealers with the legislation that was enacted earlier this afternoon.

Putting aside my view on that bill, which I have expressed earlier this week, I am stunned that the Senate would prematurely cease action on legislation to help our men and women in uniform would get everything they possibly need—not to mention provide support for veterans, for survivors' families, and for the weapons systems that are essential to our national security. I found it unbelievable we would set aside that legislation in order to provide legal immunity for gun dealers and gun manufacturers in the United States. I have never seen anything like it in my service.

I recall once, last year, there was an effort to cease work on the Defense authorization bill in order to consider the class action reform bill, which I supported and was deeply involved in crafting. We succeeded in dissuading those who wanted to make that move. We went forward and completed the work on the Defense authorization bill. We did not do that this time.

I hope when we return in September the first order of business will be to complete the Defense authorization bill. It is critically important that people who serve in the military, those who are our veterans, those whose loved ones have made the ultimate sacrifice, those who have served and given their lives for our country, that they understand how important we think that legislation is. I urge my colleagues and the leadership to place that item as the No. 1 item when we return in September.

In closing, Mr. President, the shield law, terrorism risk insurance legislation, and the Defense authorization bill are three pieces of legislation I hope will become priority bills when we return this fall.

I yield the floor.

AFRICA WATER

Mr. FRIST. Mr. President, diplomacy and foreign policy are essential pillars of our national security. They reflect the values, principles, views and interests of the American people. They are central to advancing the United States role and stature in the world.

This year, for the first time ever, we are earmarking specific funds in the Foreign Operations bill to advance a specific cause. This year, we are legislating a direct appropriation of $200 million to advance the cause of clean water and sanitation—$50 million specifically targeted toward Africa.

In America, we take clean water for granted. Water to drink. Water to bathe in. But in other parts of the world, clean water is a scarcity and the results are devastating.

Every 15 seconds a child dies because of a disease contracted from unclean water. Ninety percent of infant deaths are caused by unclean water. Water-related disease kills 14,000 people a day, most of them children. Millions more are debilitated and prevented from leading healthy lives.

Cholera, typhoid, dysentery, dengue fever, trachoma, intestinal helminth infection, and schistosomiasis can all be prevented simply by providing safe water and sanitation.

Unfortunately, reliable projections suggest that the problem is only growing worse. Water stress and water scarcity, leading to impure and disease borne water, is expected to increase. By 2025, upwards of two-thirds of the world's population may be subject to water stress.

Imagine living in a rural village in Sub Saharan Africa or East Asia where the village members share their water source with livestock.

Imagine being a grandmother like Mihiret G-Maryam from a small village in Ethiopia. She watched five of her grandchildren between the ages of three and eight die from water-related diseases.

Before the UK-based WaterAid organization intervened in her community, constant stomach pain and diarrhea were a fact of life. The foul smelling, contaminated water exposed Mihiret and her neighbors to parasitic diseases.

With no latrines, human waste was everywhere. As Mihiret testifies, ''it was horrid to see, as well as being unhealthy.''

Now, because of the education and investment of WaterAid, together with the local church, her village is clean and the people no longer suffer chronic stomach aches. Clean water has literally saved lives. And proper management and intervention can be a currency for peace and international cooperation.

I have been on numerous medical missions around the world and seen the

truth of this. In January, I traveled with my colleague Senator LANDRIEU to East Asia to survey the aftermath of the December 26 tsunami.

We helicoptered over the Sri Lankan coast and through the windows witnessed a scene of unending devastation.

Over 155,000 people died. At least 1 million lost their homes. Whole villages were literally washed out to sea.

Through all of this, the lack of clean water emerged as the most pressing public health concern. In many areas, the tsunami had poisoned wells with salt water, and swept away water treatment plants.

Shortages of potable water threatened to trigger outbreaks of diseases like cholera, typhoid, and dysentery. The large pools of stagnant water I saw along the coast were potential breeding grounds for mosquitoes carrying malaria and dengue fever.

In confronting these challenges, America showed tremendous generosity and compassion. And part of our efforts included innovative new technologies to provide clean, safe water. And those efforts continue.

This March, World Water Day launched the International Decade for Action. The United States and countries around the world are working together to reduce by one-half the number of people who lack access to safe drinking water.

I applaud the President his leadership. In August 2002, the administration launched the ''Water for the Poor Initiative'' to improve management of fresh water resources in over 70 developing countries. An estimated $750 million was invested in 2004 alone.

While no single piece of legislation can eliminate water-related diseases in the world, continued leadership is essential.

In March, the minority leader and I introduced the Safe Water: Currency of Peace Act to make safe water and sanitation a major priority of our foreign relief efforts.

The $200 million earmarked in the Foreign Operations bill is an extension of these efforts.

I commend the assistant majority leader, Senator MCCONNELL, the chairman of the Foreign Operations Appropriations Subcommittee, for his leadership. And I thank my colleagues for their continued commitment to this pressing issue.

It is hard to imagine that something so basic, so necessary, is lacking in so many places.

Providing clean water will save millions of lives. It is as simple as a glass of H_2O.

40TH ANNIVERSARY OF MEDICARE

Mr. FRIST. Tomorrow, America celebrates the 40th anniversary of the Medicare law.

Forty years ago, standing in the Harry S. Truman library in Independence, Missouri, President Johnson told a grateful nation that ''Through this new law, every citizen will be able, in his productive years when he is earning, to insure himself against the ravages of old age.''

Passage of the Medicare law ensured that never again would health care for the elderly be a matter of charity, but one of national conscience.

Medicare has served millions of seniors, improving their health and lengthening their lives. Today, 41 million elderly and disabled Americans have Medicare coverage. That number is expected to hit 77 million in 2031 when the baby boom generation is fully enrolled.

I am proud to have worked to pass the Medicare Modernization Act in 2003. This legislation guarantees seniors for the first time have access to affordable prescription drugs.

It also expands health care choices, improves preventive care, and begins to take a number of additional steps to improve quality and affordability of care in the Medicare program.

In just a few short months, in January 2006, every senior will have access to prescription drug coverage under Medicare. This represents the most significant improvement to the Medicare program since its inception 40 years ago. And 41 million American seniors and individuals with disabilities finally have the prescription drug coverage they need and the Medicare choices they deserve.

As a physician, I have written thousands of prescriptions that I knew would go unfilled because patients could not afford them. Under the Medicare Modernization Act that will soon change.

As a senator, I watched a decades-old Medicare program operate without flexibility, without comprehensive and coordinated care, without preventive care or disease management, and with no catastrophic protection against high out-of-pocket medical costs. I watched as science raced ahead, and Medicare stood still.

Now, under the Medicare Modernization Act that, too, is beginning to change. By expanding opportunities for private sector innovation, Medicare now combines the best of the public and private sectors. It provides better and more comprehensive coverage for today's seniors, and helps to lay the foundation for a stronger and more modern program for tomorrow's seniors.

The Medicare Modernization Act also offered some benefits for younger Americans. Most significantly, it is making health insurance more affordable through portable and tax-free health savings accounts. Health savings accounts are already giving younger Americans more control over their health care choices and hard-earned dollars.

The Medicare Modernization Act was a historic step forward for a program that has served millions of America's seniors. And it continues to draw on technological advances, like health information technologies and e-prescribing, to deliver more effective and more affordable care.

Medicare is a compact between generations. It is one of the most valued and compassionate legislative achievements of the 20th century. More changes will be needed in the future. But we have already begun to lay the groundwork. Medicare is providing a platform for making health care more affordable, more available, and more dependable for all Americans.

H.J. RES. 59, WOMEN SUFFRAGISTS

Mr. REID. Mr. President, I rise today to express my support for H.J. Res. 59, a joint resolution that expresses the sense of Congress with respect to the women suffragists who fought for and won the right of women to vote in the United States. It is my privilegte to join Congresswoman SHELLEY BERKLEY, my colleague and fellow Nevadan, in the effort to honor and celebrate their hard-won achievements.

Our Nation was founded on the principle of ''consent of the governed.'' Yet for the greater part of America's history, women were denied the fundamental right to participate in our democracy through the power of the vote. Today, it would be unthinkable and unconscionable to hold elections where not every vote properly cast is counted. Eighty-five years ago—perhaps within the lifespan of our mothers or grandmothers—this was not the case.

Next month we will observe the 85th anniversary of the 19th amendment, which finally secured women's right to vote in the United States. The 19th amendment does not just represent voting rights. It also represents a profound victory for women suffragists long seeking to be affirmed as equal partners in America's civic, cultural, and social affairs. But as victories with enduring and far-reaching consequences tend to, this one required the suffragists to first overcome numerous setbacks.

In 1866, Elizabeth Cady Stanton ran for Congress to test women's constitutional right to hold public office—and received only 24 of 12,000 votes cast. In 1872, Susan B. Anthony registered to vote in Rochester, New York, and cast a ballot—and subsequently was arrested. Two years later, the Supreme Court considered whether citizenship itself conferred voting rights and ruled that it does not for women. During the several years leading up to 1920, many suffragists, including Alice Paul, exercised their right to engage in civil discourse through protest and were thrown in jail for doing so.

These names may not sound familiar to everyone. Nor are these events the full extent of the challenges that the women suffragists faced as they fought for the ratification of the 19th amendment. The joint resolution would let us remember them and give them their due tribute.

The women suffragists commended in this resolution were instrumental not

just in securing women's right to vote. By winning for women the power of the ballot, they moved countless others to strengthen women's voice in charting the course of the nation. By asserting women's equality in the mechanism that sustains our democracy, they helped future generations fight for equality in all aspects of American life. By opening the voting booths, they spurred on the work to open our institutions of higher education, our athletic fields, and our boardrooms. And by having persisted in their convictions, they inspire young women today, like Hannah Low and Destiny Carroll of Henderson, Nevada, to continue the effort to ensure that their triumphs will not be forgotten.

On behalf of Hannah and Destiny, as well as my friend Congresswoman BERKLEY, each person a credit to Nevada, I am pleased to support the passage of this resolution.

COMMENDING JUDY ANSLEY

Mr. WARNER. Mr. President, I rise today to commend an outstanding public servant, Judy Ansley, who for many years has worked as diligently and as ably as anyone with whom I have had the privilege of serving during my years in the Senate.

When I was vice chairman of the Senate Intelligence Committee, I selected Judy Ansley to serve as the first woman minority staff director. Today, Judy is the first woman staff director of the Senate Armed Services Committee which I chair.

How proud I am; how proud the Senate is that Judy has been selected to be the Special Assistant to the President and Senior Director for European Affairs at the National Security Council. The administration could not have made a better choice for this important post, and I am confident that Judy will serve her country with dignity and honor, as she has done throughout her extensive career in public service.

My only regret is that Judy Ansley will be leaving the Armed Services Committee after next week to move to the White House. Over the course of the last 6 years, Judy has dedicated her time, energy, and intelligence to the work of the committee with great enthusiasm. As the deputy staff director and staff director, Judy has provided excellent leadership to the committee during challenging times, and I am deeply thankful for her profound concern for the issues facing the men and women of our armed services. I am sure that my colleagues on the committee would agree that she has been an indispensable resource for our efforts. In those instances where she had professional views in opposition to mine, she has never hesitated to express them. I trust that she will most respectfully do the same for the President.

As the chairman of the Armed Services Committee, I have had the opportunity to observe closely Judy's indefatigable efforts. Before she joined the committee, Judy served as my national security adviser for 5 years, and her keen judgment and incisiveness were readily apparent throughout her work. Truly, while I am pleased that the administration will be gaining such a remarkable asset, I will miss Judy's counsel and extraordinary nature. I send my deepest gratitude to Judy as she begins her transition to the National Security Council, and I join with her wonderful family, husband Steve and daughters Rachel and Megan, in celebrating this achievement.

Mr. President, I also take this opportunity to announce Judy's successor as staff director for the Armed Services Committee. I have asked Mr. Charles S. Abell, the Principal Deputy Under Secretary of Defense for Personnel and Readiness, to become the new staff director, and it gives me great pleasure to note that he has accepted this responsibility.

A humble and devoted patriot, Charlie Abell has served his country with valor in every endeavor. Before joining the administration, Charlie was an exceptional member of the Armed Services Committee professional staff. During his years with the committee staff, Charlie was the lead staffer for the Subcommittee on Personnel, including issues of military readiness and quality of life. A highly decorated soldier, he retired from the Army as a lieutenant colonel after 26 years of distinguished service, and he brought a profound insight to his duties with the committee. I was privileged to work with this outstanding individual during his previous term with the committee, and I look forward to collaborating with him in the months ahead.

HONORING OUR ARMED FORCES

SPC ADAM JAMES HARTING

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave soldier from Portage. Adam Harting, 21 years old, died on July 25 in Samarra when an improvised explosive device detonated near his Bradley Fighting Vehicle. With so much of his life left before him, Adam risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Only 19 years old when he arrived in Kuwait to begin his service in Operation Iraqi Freedom, Adam was featured in Time Magazine in 2003 as one of the youngest soldiers stationed overseas. A graduate of Portage High School, Adam had always dreamed of joining the military and was active in the ROTC program throughout his high school years. Adam and his twin brother, Alex, both promised their father when they were young that they would enter the military, and both lived up to that promise, with Adam serving in the Army and Alex in the Air Force. Their father, Jim Harting, recounted his pride in Adam's service and character to a local newspaper, saying, ''He was a hero. He was my hero.'' I stand here today to express the same feelings of pride and gratitude for this young Hoosier's sacrifices and those made by his family on behalf of our country.

Adam was killed while serving his country in Operation Iraqi Freedom. He was a member of the 3rd Battalion, 69th Armor Regiment, 1st Brigade Combat Team, 42nd Infantry Division, Fort Stewart, GA. This brave young soldier leaves behind his father and step-mother, Jim and Brenda Harting; his mother, Katherine Brown; and his seven siblings, Alex, 21, Mark, 20, Josh, 15, Jimmy, 14, Tiffany, 22, Tabitha, 20, and Hanna, 8.

Today, I join Adam's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Adam, a memory that will burn brightly during these continuing days of conflict and grief.

Adam was known for his dedication to his family and his love of country. Today and always, Adam will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country. '

As I search for words to do justice in honoring Adam's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Adam's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of SPC Adam James Harting in the official record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Adam's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Adam.

TRIBUTE TO SOLDIERS

Mrs. BOXER. Mr. President, today I rise to pay tribute to 32 young Americans who have been killed in Iraq since April 23. This brings to 434 the number

of soldiers who were either from California or based in California who have been killed while serving our country in Iraq. This represents 24 percent of all U.S. deaths in Iraq.

SGT Anthony J. Davis, age 22, died April 23 in Mosul when a vehicle-borne improvised explosive device detonated near his Stryker military vehicle. He was assigned to the 1st Battalion, 24th Infantry Regiment, 1st Brigade, 25th Infantry Division, Fort Lewis, WA. He was from Long Beach, CA.

CPL Kevin W. Prince, age 22, died April 23 in Baghdad of injuries sustained when an improvised explosive device detonated near his humvee. He was assigned to the 2nd Squadron, 11th Armored Cavalry Regiment, Fort Irwin, CA.

SGT Timothy C. Kiser, age 37, died April 28 in Riyhad, Iraq when an improvised explosive device detonated near his patrol. He was assigned to the Army National Guard's 340th Forward Support Battalion, 40th Infantry Division, Red Bluff, CA. He was from Tehama, CA.

CPT Stephen W. Frank, age 29, died April 29 in Diyarah, Iraq when a vehicle-borne improvised explosive device detonated as he was conducting a traffic control point inspection. He was assigned to 2nd Squadron, 11th Armored Cavalry Regiment, Fort Irwin, CA.

CPT Ralph J. Harting III, age 28, died April 29 in Diyarah, Iraq when a vehicle-borne improvised explosive device detonated as he was conducting a traffic control point inspection. He was assigned to 2nd Squadron, 11th Armored Cavalry Regiment, Fort Irwin, CA.

SSG Juan De Dios Garcia-Arana, age 27, died April 30 in Khaladiyah, Iraq when his Bradley Fighting Vehicle was attacked by enemy forces using small arms fire. He was assigned to the 5th Battalion, 5th Air Defense Artillery Regiment, 2nd Infantry Division, Camp Hovey, Korea. He was from Los Angeles, CA.

MAJ John C. Spahr, age 42, died May 2 from injuries received when the F/A–18 Hornet aircraft he was piloting apparently crashed in Iraq. He was assigned to Marine Fighter Attack Squadron 323, Marine Aircraft Group 11, 3rd Marine Aircraft Wing, Marine Corps Air Station Miramar, CA. His unit was embarked aboard the U.S.S. *Carl Vinson*.

CPT Kelly C. Hinz, age 30, died May 2 from injuries received when the F/A–18 Hornet aircraft he was piloting crashed in Iraq while flying in support of Operation Iraqi Freedom. He was assigned to Marine Fighter Attack Squadron 323, Marine Aircraft Group 11, 3rd Marine Aircraft Wing, Marine Corps Air Station Miramar, CA. His unit was embarked aboard the U.S.S. *Carl Vinson*.

SGT Stephen P. Saxton, age 24, died May 3 in Baghdad when his unit was conducting a route security mission and an improvised explosive device detonated near his humvee. He was assigned to the Army's 3rd Armored Cavalry Regiment, Fort Carson, CO. He was from Temecula, CA.

LCPL John T. Schmidt III, age 21, died May 11 from wounds received as a result of an explosion while conducting combat operations against enemy forces in Al Anbar Province on January 30. He was assigned to 3rd Battalion, 8th Marine Regiment, 2nd Marine Division, Camp Lejeune, NC. During Operation Iraqi Freedom, his unit was attached to the 1st Marine Division, Camp Pendleton, CA.

SGT John M. Smith, age 22, died May 12 in Iskandariyah, Iraq from injuries sustained when an improvised explosive device detonated near his vehicle. He was assigned to the Army's 2nd Squadron, 11th Armored Cavalry Regiment, Fort Irwin, CA.

SFC Randy D. Collins, age 36, died May 24 at the National Naval Medical Center in Bethesda, Maryland of injuries sustained in Mosul on May 4 during a mortar attack. He was assigned to the Army's 11th Armored Cavalry Regiment, Fort Irwin, CA. He was from Long Beach, CA.

MAJ Ricardo A. Crocker, age 39, died May 26 from a rocket propelled grenade explosion while conducting combat operations in Hadithah, Iraq. He was assigned to the Marine Corps Reserve's 3rd Civil Affairs Group, Camp Lejeune, NC. During Operation Iraqi Freedom, his unit was attached to II Marine Expeditionary Force. He was from Mission Viejo, CA.

SGT Mark A. Maida, age 22, died May 27 in Baghdad of injuries sustained in Diyarah, Iraq on May 26 when an improvised explosive device detonated near his humvee. He was assigned to the Army's 2nd Squadron, 11th Armored Cavalry Regiment, Fort Irwin, CA.

1st Sgt Michael S. Barnhill, age 39, died May 28 after his vehicle stuck an improvised explosive device near Haqlaniyah, Iraq. He was assigned to the Marine Corps Reserve's 6th Engineer Support Battalion, 4th Force Service Support Group, Eugene, OR. During Operation Iraqi Freedom, his unit was attached to II Marine Expeditionary Force. He was from Folsom, CA.

CPL Jeffrey B. Starr, age 22, died May 30 from small-arms fire while conducting combat operations against enemy forces near Ar Ramadi, Iraq. He was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was attached to II Marine Expeditionary Force.

CPT Derek Argel, age 28, died May 30 in the crash of an Iraqi air force aircraft during a training mission in eastern Diyala province. He was assigned to the 23rd Special Tactics Squadron, Hurlburt Field, FL. He was from Lompoc, CA.

CPL Antonio Mendoza, age 21, died June 3 at Brook Army Medical Center, San Antonio, TX from wounds received as a result of an explosion while conducting combat operations against enemy forces in Ar Ramadi, Iraq on February 22. At the time of his injury, he was assigned to 5th Battalion, 11th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Santa Ana, CA.

LCPL Daniel Chavez, age 20, died June 9 as a result of explosion while conducting combat operations with the 2nd Marine Division in Haqlaniyah, Iraq. He was assigned to 1st Tank Battalion, 1st Marine Division, Camp Pendleton, CA.

LCpl Jonathan R. Flores, age 18, died June 15 when his vehicle hit an improvised explosive device while conducting combat operations near Ar Ramadi, Iraq. He was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was operating with the 2nd Infantry Division of the U.S. Army, which was attached to 2nd Marine Division.

LCpl Jesse Jaime, age 22, died June 15 when his vehicle hit an improvised explosive device while conducting combat operations near Ar Ramadi, Iraq. He was assigned to the 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was operating with the 2nd Infantry Division of the U.S. Army, which was attached to 2nd Marine Division.

LCpl Tyler S. Trovillion, age 23, died June 15 when his vehicle hit an improvised explosive device while conducting combat operations near Ar Ramadi, Iraq. He was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was operating with the 2nd Infantry Division of the U.S. Army, which was attached to 2nd Marine Division.

LCpl Dion M. Whitley, age 21, died June 15 when his vehicle hit an improvised explosive device while conducting combat operations near Ar Ramadi, Iraq. He was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was operating with the 2nd Infantry Division of the U.S. Army, which was attached to 2nd Marine Division. He was from Los Angeles, CA.

LCpl Chad B. Maynard, age 19, died June 15 when his vehicle hit an improvised explosive device while conducting combat operations near Ar Ramadi, Iraq. He was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was operating with the 2nd Infantry Division of the U.S. Army, which was attached to 2nd Marine Division.

Petty Officer 2nd Class Cesar O. Baez, age 37, died June 15 as a result of enemy small arms fire while conducting combat operations in al-Anbar Province. He was a Hospital Corpsman assigned to 2nd Marine Division, II Marine Expeditionary Force. He was from Pomona, CA.

LCpl Erik R. Heldt, age 26, died June 16 when his vehicle hit an improvised

explosive device while conducting combat operations near Ar Ramadi, Iraq. He was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was attached to 2nd Marine Division.

CPT John W. Maloney, age 36, died June 16 when his vehicle hit an improvised explosive device while conducting combat operations near Ar Ramadi, Iraq. He was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was attached to 2nd Marine Division.

SGT Arnold Duplantier II, age 26, died June 22 in Baghdad where he was providing cordon security, and was attacked by enemy forces using small arms fire. He was assigned to the Army National Guard's 1st Battalion, 184th Infantry Regiment, Auburn, CA. He was from Sacramento, CA

PFC Veashna Muy, age 20, died June 23 while traveling in a convoy that was attacked by a suicide, vehicle-borne, improvised explosive device in Fallujah. He was assigned to the 8th Marine Regiment, 2nd Marine Division, Camp Lejeune, NC. He was from Los Angeles, CA.

Petty Officer 1st Class Regina R. Clark, age 43, died June 23 in a convoy that was attacked by a vehicle-borne improvised explosive device in Fallujah. She was a culinary specialist deployed with Naval Construction Regiment Detachment 30, Port Hueneme, CA and was temporarily assigned to II Marine Expeditionary Force.

LCpl Carlos Pineda, age 23, died June 24 as a result of wounds sustained from enemy small-arms fire while conducting combat operations in Fallujah. He was assigned to the 8th Marine Regiment, 2nd Marine Division, Camp Lejeune, NC. He was from Los Angeles, CA.

SSG Jorge L. Pena-Romero, age 29, died July 16 in Baghdad when an improvised explosive device detonated near his Humvee while his unit was conducting a mounted patrol. He was assigned to the 1st Squadron, 11th Armored Cavalry Regiment, Fort Irwin, CA. He was from Fallbrook, CA.

Four hundred thirty-four soldiers who were either from California or based in California have been killed while serving our country in Iraq. I pray for these young Americans and their families.

I would also like to pay tribute to the five soldiers from or based in California who have died while serving our country in Operation Enduring Freedom since April 26.

SFC Allen C. Johnson, age 31, died April 26 in Khanaqin, Afghanistan, of injuries sustained when enemy forces using small arms fire attacked his patrol. He was assigned to the 1st Battalion, 7th Special Forces Group, Fort Bragg, NC. He was from Los Molinos, CA.

SFC Victor H. Cervantes, age 27, died June 10 in Orgun-e, Afghanistan, when he came under small arms fire while on patrol. He was assigned to the Army's 1st Battalion, 7th Special Forces Group (Airborne), Fort Bragg, NC. He was from Stockton, CA.

MAJ Duane W. Dively, age 43, died June 22 in Southwest Asia in the crash of a U–2 aircraft. He had completed flying a mission and was returning to his base when the crash occurred. He was assigned to the 1st Reconnaissance Squadron, Beale Air Force Base, CA. He was from Rancho California, CA.

LCDR Erik S. Kristensen, age 33, was killed while conducting combat operations when the MH–47 helicopter that he was aboard crashed in the Kumar province of Afghanistan on June 28. He was assigned to SEAL Team Ten, Virginia Beach, VA. He was from San Diego, CA.

Petty Officer 2nd Class Matthew G. Axelson, age 29, died while conducting counter-terrorism operations in Kunar province, Afghanistan. Coalition forces located him while conducting a combat search and rescue operation July 10. He was assigned to SEAL Delivery Vehicle Team One, Pearl Harbor, HI. He was from Cupertino, CA.

Thirty soldiers who were either from California or based in California have been killed while serving our country in Operation Enduring Freedom. I pray for these Americans and their families.

CHRISTOPHER HOSKINS

Mr. DODD. Mr. President, I rise to speak in honor of U.S. Army SPC Christopher Hoskins, of Danielson, CT, who was killed in Iraq on June 21, 2005. He was 21 years old.

Specialist Hoskins was killed along with another soldier when his unit came under small-arms fire in Ramadi, Iraq.

Growing up, Christopher was known as quiet, passionate, and full of energy. He competed on the wrestling team at Killingly High School and was interested in graphic arts. He carried a sketchbook with him in Iraq.

Christopher enlisted in the Army simply because he thought it was the right thing to do. He was proud to be a soldier. In Iraq he drove Bradley fighting vehicles and humvees.

He served with valor and humanity. He often said that the Iraqi people are just like us. They have many of the same basic needs—food, water, clothing, and shelter. And he knew that he had extra and that they are wanting. It would have been easier for him, serving in a dangerous region, to shut himself off from the populace, but he didn't. He often shared his extra non-military supplies with Iraqi civilians.

Christopher also formed a special bond with those in his unit. Even during the short amount of time that he was able to come back home to Connecticut, he would swap pictures over the Internet with those in his unit who were still in Iraq. He sent them care packages of magazines and junk food. He had recently signed up for a second tour.

Christopher's life was defined by unselfish service to his community and his country, and that selflessness continues after his death. He asked his mother a few months ago that, if he died, donations be made to his former school system in lieu of flowers. He was concerned about his younger brother, Sean, who is a special needs student, and the students in the art department, who do not have up-to-date software.

People like Christopher Hoskins make it possible for us to live each and every day in freedom, peace, and security. Their sacrifices, in lands thousands of miles away, keep us safe here at home. We must never forget those sacrifices.

So today I salute the courage and commitment of Christopher Hoskins, a young man who lost his life fulfilling the noblest of callings, defending our Nation and the values we hold dear. And I offer my heartfelt sympathies to his parents, Richard and Claudia, his siblings, Kristin, Erin, and Sean, and to everyone who knew and loved him.

STEVE REICH

Mr. DODD. Mr. President, I rise today to speak in tribute of U.S. Army MAJ Steve Reich, of Washington, CT, who lost his life on duty in Afghanistan on June 28, 2005. He was 34 years old.

Major Reich, a member of the 160th Special Operations Aviation Regiment known as ''The Nightstalkers,'' was killed along with 15 other soldiers in a helicopter crash in the eastern mountains of Afghanistan. His service to his country will not be forgotten.

Steve was respected in his small home town both for his abilities on the baseball diamond and for his caring personality.

He was a star pitcher before entering the military. With the rare combination of a blazing fastball and uncanny control, Steve was an All-Star at every level. He pitched in two championship games for Shepaug Valley High School before moving on to West Point. In his debut against the Naval Academy, he pitched a one-hitter.

He was a member of the U.S. National baseball team in 1993 and played for it in Italy, Nicaragua, and Cuba. He was rightly very proud of having carried the American flag for the team in the World University Games. He later signed with the Baltimore Orioles farm system and pitched two games before being recalled to active duty.

Major Reich was as accomplished in the military as he was on the baseball field. He learned to pilot three models of Army helicopter and became a company commander in his regiment. He was serving his fourth tour of duty after having already been stationed in Korea, Hungary, Bosnia, and Albania.

He was known in his unit for his willingness to serve by example and his composure, something that, no doubt, made him a great leader and kept those who served with him safer.

Despite the fact that he was a hero to those in his hometown, Steve was modest. He had won a bronze star for service, but he never told his family what

heroic acts he performed to deserve the award. He went out of his way to show his appreciation for the warm welcomes that he received from his community on the rare occasions that he was able to return home. On Christmas, he and his sisters would deliver treats to say thanks to his friends and neighbors.

Countless members of his community said that they admired Steve's selflessness and that they felt safer knowing that he was watching out for them.

His friends and family took great joy in the fact that he met and married Jill Blue during the past year. It warmed the hearts of those around him that he found someone to marry because he had always had so little time for a personal life. They said that his wedding day in March was the happiest day of his life. My heart truly goes out to Jill, who has suffered the kind of loss that is difficult for most of us to comprehend.

And I offer my deepest sympathies to his parents, Ray and Sue, and his sisters, AnnMarie and Megan, whose loss is too great for words.

TRIBUTE TO NAVY SEALS

Mr. WARNER. Mr. President, I rise today to recognize and pay tribute to the 10 courageous sailors who lost their lives in Afghanistan during Operation Enduring Freedom on 28 June 2005 by printing the eloquent words of U.S. Navy RADM Joseph Maguire, Commander, Naval Special Warfare Command, during a memorial speech at Naval Amphibious Base Little Creek on July 8, 2005.

I ask unanimous consent to print this tribute in the RECORD.

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

(By Rear Admiral Joseph Maguire)

Good Morning. On behalf of the Commander, United States Special Operations Command, General Doug Brown, the United States Navy, the proud men and women of Naval Special Warfare, I'd like to welcome everybody to this morning's memorial service for our ten fallen Sailors.

We're honored to have with us today the leaders of our nation and our Navy. We are joined this morning in grief. The chairman of the Senate Armed Services Committee, Senator John Warner, Congresswoman Thelma Drake, our local Congresswoman, Ambassador Joseph Prurer and Mrs. Prurer, Undersecretary of the Navy Aviles, the Vice Chief of Naval Operations, Admiral Willard and Mrs. Willard. The Commander Fleet Forces Command, Admiral Nathman and Mrs. Nathman, and the General Council of the United States Navy, Mr. Mora. In addition to that we have many general officers [From the joint services, retired community, retired Flag Officers. I'd also like to extend a welcome to our many veterans here today, our combat veterans.

I would also like to extend a warm welcome to our families in Naval Special Warfare, especially to the families of Squadron Ten, whose husbands are still deployed and engaged in combat operations far away. But most importantly I'd like to welcome the families of the ten SEALs that we honor here today. Earlier in this week I along with General Brown and many others have been attending memorial services for our United States Army Special Operations Aviation Regiment, the 160th, located at Fort Campbell, Kentucky, and Hunter Army Air Field, where as you all know we lost eight brave Special Operations Aviators.

This morning we pause to honor the memory of ten Navy SEALS, in particular the six SEALS who were home ported here at the Naval Amphibious Base in Little Creek. I'd also like to extend a welcome to those who can't be with us physically in this theater right now. The theater holds 1800 people and we filled that up earlier this morning. And for those of you in the overflow where we have nearly 2000 people seated, I welcome you this morning and I apologize that we did not have space for everybody to be in here physically. But I know, spiritually, that you're with us and we sincerely appreciate you being part of the ceremony this morning.

My remarks will be short. I think it's important that you hear from the friends and loved ones, and also Commodore Pete Van Hooser has got some very important things to say.

But what I would like to say as the Commander for Naval Special Warfare and the head of this community, how proud I am to be the Commander for Naval Special Warfare and have the opportunity to lead and serve with these ten fine men. Naval Special Warfare is the smallest war fighting community in the Navy. There's 1750 enlisted men and six 600 officers. We're a small town, we literally know each other, and honestly, for those of you it may be hard to believe if you see the way we act with each other, we love one another.

Everything that you see here and everything this morning was put together by their Teammates. I'd like to call your attention to the operational equipment that we have forward here on stage. It traces its proud heritage back to World War II. The Underwater Demolition Teams and the Navy Combat Demolition Units and you'd have to go all the way back to World War II to get the number of Naval Special Warriors who died in one day in one military operation. The loss of one SEAL, the loss of one military man is more than we could possibly bear, but to have ten or our brave men perish in one day along with eight of our Nightstalkers is truly a remarkable day and one that will always be etched in our memory.

But before you though you have UDT swim fins, a UDT lifejacket, a web belt and a mask. And it may seem strange to you knowing that these Naval commandos died on a mountain top 7,500 feet in elevation in a country 300 miles from the sea. But our nation called. These are the same people that flew the planes into the Twin Towers that flew the plane into the Pentagon that also flew the plane into the ground in Pennsylvania. The Al Qaeda and the Taliban are barely distinguishable and these are the people that these brave men, these ten men, went out to meet and engage in combat. So although the operational equipment that they had on them that day on the 28th of June was not swim fins, not a UDT life jacket, not a mask, perhaps a K-Bar. We thought it's appropriate because we are first and foremost warriors from the sea, Navy men, that we honor them today as SEALs and Navy men.

The last thing I'd like to just mention is the knife that's on the web belt. The K-Bar also dates back to the knife used by the UDT in World War II. And a tradition in Naval Special Warfare when a young man finishes his training and is awarded his trident, when he is awarded his trident he is also presented a K-Bar, and on that K-Bar is inscribed the name of a SEAL who went before him, where he died, and the date he died on. So that knife would always link him to the past and serve as an inspiration to him as a SEAL in combat in the future. These ten knives that we have up here are now etched with your husbands, your son, your brother, your father, your uncle, your nephew, your neighbor, your friend, and to us our Teammates names. You can take these home with you today, and I hope that you treasure them, but what I want you to know is that in the future when fellow SEALs become SEALS and they are presented with their K-Bars, the name of these men will be engraved to serve as an inspiration to future SEALs in combat, our teammates.

And I want to leave you with this. We have a creed, we have many things in Naval Special Warfare, but to sum it up, it is loyalty to our teammates dead or alive. These ten men are no longer with us, that doesn't mean that our allegiance and our covenant ends with them today. We will remain their teammates forever and to the family members sitting here, always know that we will always be there from them, always there for you and, we will always stay connected. God bless and thank you.

I'd like to go into the awards presentation now and I ask all of the guests and military to remain seated as we make the presentations so that all can see.

The Silver Star Medal, Bronze Star Medal with Valor, Purple Heart Medal, Combat Action Ribbon and Afghanistan Campaign Medal will be presented posthumously for the actions in the following citation below.

On Tuesday 28 June 2005, thirty members of Naval Special Warfare Task Unit-Afghanistan were preparing to conduct a direct action mission when they were tasked to respond as a Quick Reaction Force to reinforce a four-man Navy SEAL reconnaissance element engaged in a fierce firefight near Asadabad, Konar Province, Afghanistan.

The reconnaissance element was bravely fighting Anti-Coalition Militia, who held both a numerical and positional advantage. The ensuing firefight resulted in numerous enemy personnel killed, with several of the SEALs suffering casualties.

After receiving the task to reinforce, the Quick Reaction Force loaded aboard two MH–47 U.S. Special Operations Army helicopters planning to air assault onto a hostile battlefield, ready to engage and destroy the enemy in order to protect the lives of their fellow SEALs. Demonstrating exceptional resolve and fully comprehending the ramifications of the mission, the Quick Reaction Force, while airborne, continued to refine the plan of attack to support both the reinforcement task and hasty execution of their intended deliberate assault.

As the helicopter approached the nearly inaccessible mountainside and hovered in preparation for a daring fast-rope insertion of the SEALs, the aircraft was struck by an enemy rocket-propelled grenade fired by Anti-Coalition Militiaman. The resulting explosion and impact caused the tragic and untimely death of all SEALs and Army Night Stalkers onboard.

These men answered the call to duty with conspicuous gallantry. Their bravery and heroism in the face of severe danger while fighting a determined enemy in the Global War on Terror was extraordinary. Their courageous actions, zealous initiative and loyal dedication to duty reflected great credit upon themselves, Naval Special Warfare, and the United States Navy. For the President, Vern Clark, U.S. Navy, Chief of Naval Operations.

The presentations this morning will be made by Commodore Pete Van Hooser, Commander, Naval Special Warfare Group Two

and Master Chief Chuck Williams, Command Master Chief of SEAL Team Ten.

The President of the United States takes pride in presenting the Bronze Star Medal with Valor, Purple Heart Medal, Combat Action Ribbon, and Afghanistan Campaign Medal posthumously to LCDR Erik Kristensen, United States Navy.

The President of the United States takes pride in presenting the Bronze Star Medal with Valor, Purple Heart Medal, Combat Action Ribbon and Afghanistan Campaign Medal posthumously to LT Mike McGreevy, United States Navy.

The President of the United States takes pride in presenting the Bronze Star Medal with Valor, Purple Heart Medal, Combat Action Ribbon, and Afghanistan Campaign Medal posthumously to Chief Fire Controlman Jacques Fontan, United States Navy.

The President of the United States takes pride in presenting the Bronze Star Medal with Valor, Purple Heart Medal, Combat Action Ribbon, and Afghanistan Campaign Medal posthumously to Electronics Technician 1st Class Jeffrey Lucas, United States Navy. Accepting his father's awards is his son, Seth Lucas.

The President of the United States takes pride in presenting the Bronze Star Medal with Valor, Purple Heart Medal, Combat Action Ribbon and Afghanistan Campaign Medal posthumously to Hospital Corpsman 1st Class Jeffrey Taylor, United States Navy.

The President of the United States takes pride in presenting the Silver Star Medal, Purple Heart Medal, Combat Action Ribbon, and Afghanistan Campaign Medal posthumously to Gunner's Mate 2nd Class Danny Dietz, United States Navy.

Mr. WARNER. Mr. President, I would like to associate myself with these exceptional remarks by Admiral Maguire. Our great country will forever owe these courageous SEALs a debt of gratitude for their selfless actions in battle on June 28, 2005. While I am sorry that the families of these men have suffered such an irreplaceable loss, I am proud that America produced such fine gentlemen who valiantly answered the call to defend these United States. Recalling our national anthem, I say, we would not be ''the land of the free'' were we not also the ''home of the brave.''

Mr. President, I rise today to recognize and pay tribute to the 10 courageous sailors who lost their lives in Afghanistan during Operation Enduring Freedom on June 28, 2005, by reading the eloquent words of U.S. Navy CAPT Pete Van Hooser, Commander, Naval Special Warfare Group Two, during a memorial speech at Naval Amphibious Base Little Creek on July 8, 2005.

I ask unanimous consent to print this tribute in the RECORD.

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

(By CAPT Pete Van Hooser)

I am always humbled in the presence of warriors. We have been in sustained combat for over 3 years—things have changed.

I find myself speaking in public a lot more than I would like, but I always start by thanking four groups of people. The first are our warriors who haven fallen; the second, those who have guaranteed that those who have fallen will not be left behind. Some with their bravery, others with lives.

I thank those who have selflessly pulled themselves off the line to train the next warriors to go forward—so that they may surpass the prowess of those currently engaged.

And I am thankful for the families that nurture such men.

My remarks will be focused on these families and the men who wear the trident. We would not be able to do our jobs without the brave men and women of the Army, Air Force, and Marine Corps. Task Unit—Afghanistan of Naval Special Warfare Squadron Ten, was comprised of SEAL Team Ten and SEAL Delivery Vehicle Team Two and One, had many U.S. Navy rates other than SEALs that trained and deployed by our side, and we recognize and are grateful for the professional efforts of all. But this time and this place is about the SEALs.

Leonidas, the Spartan King, hand-picked and led a force to go on what all knew to be a one-way mission. He selected 300 men to stand against an invading Persian force of over 2 million. They were ordered to delay the advance the Persian Army. Selecting the battlefield was easy—the narrow mountain pass at Thermopylae restricted the combat power that the enemy could apply—allowing the superior fighting skills of the 300 Spartans to destroy the will of this Persian Army to fight. These Spartan warriors died fighting to the last man.

The Persian invaders were defeated by the Greek Army in later battles. Democracy and freedom were saved.

Most know this story. But most of us don't know how Leonidas selected the 300 men. Should he take the older seasoned Warriors who had lived a full life, should he take the young lions that felt they were invincible, should we take the battle-hardened, backbone-proven warrior elites in their prime, or should he sacrifice his Olympic champions?

The force he chose reflected every demographic of the Spartan Warrior class. He selected those who would go based solely on the strength of the women in their lives. After such great loss, if the women faltered in their commitment, Sparta would falter and the rest of Greece would think it useless to stand against the Persian invaders. The democratic flame that started in Greece would be extinguished.

The Spartan women were strong. They did not falter. I would even argue that we live in a democracy and have freedom because of the strength, skill, and courage of these 300 men and the extraordinary will and dedication of the women in their lives.

The women in our lives are the same. I see the pride in their wearing of the Trident symbol—I hear it in their voices when they are asked what is that symbol, and they say my husband, my son, my brother, or my dad is a Navy SEAL—usually they say nothing more.

If I were to say to the families, I feel your pain, that could not be so. I can never know the depth of your relationship or the anguish of your personal loss. What I can say is the truth I know. Those who wear the trident provide only brief glimpses into our world to those on the outside. Even our families see only a limited view of the path we have chosen. We are all different, but on the inside we share many common beliefs and actions. We spend most of our adult lives with other SEALs preparing for battle.

On this occasion I feel compelled to share our innermost thoughts. I want to show you a little more of our world so you can understand the way we see, the way we feel about what happened.

There is a bond between those who wear a trident—that is our greatest strength.

It is unique to this very small community. It is unique in its intensity. It is nurtured by the way we train—the way we bring warriors into the brotherhood. This bond is born in BUD/S. It starts to grow the first time you look into the eyes of your classmate when things have gone beyond what you or he thinks is possible. It grows in the platoon as you work up for deployment, and it grows around the PT circle. It's the moving force behind every action in a firefight. This bond is sacred. This bond is unspoken, unconditional, and unending.

When it comes to fighting we are all the same inside. During the first stages of planning, at the point where you know you are going into the battle, we think about our families. The master chief passing the word to the boys sums it up, ''I am going home to my kids and you are going home to yours. Here is our next mission.''

We never stop planning—we never stop thinking through every contingency—we want to cover every anticipated enemy action. This is the way we face the risk.

There is a significant difference between inserting on a mission where there may or may not be enemy contact or serious resistance and inserting into a fight where forces are already engaged. On 11 April, the men of this task unit—during their initial week in Afghanistan, immediately shifted from a helicopter training scenario directly into the fight as a quick response force to help soldiers and marines in a desperate battle. They made the difference—saving the lives of our fellow servicemen and destroying the enemy.

Last week when these fallen warriors launched on this mission, their SEAL teammates were fighting the enemy—fellow SEALs were in peril—as always in the teams—in this—situation there is no hesitation. It is not about tactics—its about what makes men fight.

As you are going in hot—you can't help it—you must allow one more small block of personal time. You think of those at home—the people you—the people you left behind. For this brief moment, there is no war.

Our souls have touched a thousand times before this moment
Boundless undefined shadows quietly surging through and waking each other
On a moonless star rich night we patiently wait for the dawn
There is no distance
You smile a cool wind that takes away thirst
I will never know hunger
I have never known fear
Unspoken—Unconditional—Unending

It's the same bond—now your focus returns to your SEAL teammates. Total focus on the approaching fight is all that exists.

In April, when I heard of the Task unit's first contact that very first week in country—when I saw the reports of the enemy casualties they had inflicted—I was happy but not too happy. Its was more of a quiet internal sharing of a sense of satisfaction they had executed flawlessly.

Last week when I was told of their deaths and saw what they were trying to accomplish, I was sad—but not too sad. It was more of a quiet and internal recognition that they had gone to the wall, and there was no hesitation. They were warriors—they are SEALs

We are not callous. We don't have the luxury of expressing our emotions at will. In these times our duty is to press on and finish the fight, for all depends on each man's individual actions.

We answer to a higher moral calling on the path that requires us to take and give life. It is this dedication to ideals greater than self that gives us strength. It is the nurturing of our families that gives us courage. Love is the opposite of fear—it is the bond that is reinforced when we look in the eyes of another SEAL that drives super human endurance. My teammate is more important than I.

The enemy we face in Afghanistan is as hard and tough as the land they inhabit. They come from a long line of warriors who have prevailed in the face of many armies for centuries. It is their intimate knowledge of every inch of the most rugged terrain on earth that is matched against our skill, cunning, and technology.

They are worthy adversaries and our intelligence confirms that they fear and respect us. They have learned to carefully choose their fights because as SEALs we answer the bell every time.

When you see the endless mountains—the severe cliff—the rivers that generate power that can be felt while standing on the bank—the night sky filled with more stars then you have ever seen—when you feel the silence of the night were no city exists—when the altitude takes your breath away and the cold and heat hit the extreme ends of the spectrum—you cannot help being captured by the raw strength of this place.

This is a great loss. These men were some of the future high-impact leaders of naval special warfare, but I take refuge in the thought that there is no better place a warrior's spirit can be released then the Hindu Kush of the Himalayas.

In their last moments, their only thoughts were coming to the aid of SEAL brothers in deep peril. I can say that any one wearing a trident would gladly have taken the place of these men even with full knowledge of what was to come.

Some of those on the outside may understand that the one man who was recovered would possibly make this loss acceptable. Only those who wear the trident know, if no one had come back, it would all have been worth the cost.

These men are my men. They are good men. The SEAL teams—this path is my religion. This loss will not go unanswered.

I am always humbled in the presence of Warriors.

Mr. President, I would like associate myself with these exceptional remarks by Captain Van Hooser. Our great country will forever owe these courageous SEALs a debt of gratitude for their selfless actions in battle on June 28, 2005. While I am sorry that the families of these men have suffered such an irreplaceable loss, I am proud that America produced such fine gentlemen who valiantly answered the call to defend these United States. Recalling our national anthem, I say, we would not be ''the land of the free'' were we not also the ''home of the brave.''

GENERAL LOUIS HUGH WILSON, JR.

Mr. WARNER. Mr. President, I rise to recognize and pay tribute to GEN Louis Hugh Wilson, Jr., U.S. Marine Corps, 26th Commandant of the Corps. General Wilson was the embodiment of everything the Marine Corps and our Nation stands for. I am honored to read the eloquent eulogy delivered by General Carl Epting Mundy, Jr., U.S. Marine Corps, 30th Commandant of the Corps, delivered in the Old Chapel, Fort Myer, Virginia, 19 July 2005, in General Wilson's memory.

I ask unanimous consent to print this tribute in the RECORD.

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

EULOGY FOR GENERAL LOUIS HUGH WILSON, JR.

(By General Carl Epting Mundy, Jr.)

Three years after I graduated from the Basic School at Quantico, I was ordered back to become an instructor. I reported to the adjutant, who informed me that the commanding officer was absent for a few days, but would return the following week. He advised, further, that it was the colonel's policy to address all newly forming companies of lieutenants on the first day of training, which would occur, coincidentally, on the day of his return, and that I should be there.

At 0700 on the prescribed day, I mustered with a half-dozen instructors and couple of hundred new lieutenants in the outdoor classroom just in front of the headquarters building. Precisely at 0715, the front door opened and a tall, rangy, all-business-looking colonel walked out. We were called to attention, then put at ease and given our seats. The colonel spoke for probably no more than 8 to 10 minutes, citing what was to be accomplished and what was expected of the lieutenants in the next 6 months. He concluded by saying: ''While you're here, you'll find many things that are wrong . . . that are not to your liking . . . not the way you would do them—and you'll find yourselves talking about how 'they' ought to change this or that . . . and how 'they' just don't understand the problem. When you have those thoughts or discussions'' he went on, ''I want you to remember: I . . . am they!''

He stood looking at us for probably no more than 5 seconds, which seemed like minutes. Not a head turned; not an eye blinked, and I'm sure 200 second-lieutenant minds were working in unison to figure out how they could go through 26 weeks of training without ever once uttering the word, ''they''!

This was my first association with then-COL Louis Wilson. Like a few others, the ''I am they'' assertion became pure ''Wilsonian'' over the years, and like me, I suspect that many here this morning have heard it on more than one occasion. It contained a little humor, but it also characterized the man as the leader he was: ''I am 'they'; I'm in command; I'm responsible; I give the orders.''

Even beyond his years in the Corps, these characteristics continued. His good friend, Bill Schreyer—chairman of the board of Merrill-Lynch when General Wilson served, after retirement, as a director of that company—tells the story of a board meeting at which a particularly difficult issue was being deliberated. After considerable discussion, during which a number of thoughts and ideas emerged, but without definitive resolution of the issue, Director Wilson said, ''Mr. Chairman, if Moses had been a member of this board, instead of ''The Ten Commandments'', we would have wound up with ''The Ten Suggestions!''

Louis Hugh Wilson, Jr., was born and grew up in Branson, MS. His father died when he was five, and those family members who knew him then characterized him—even as a small boy—as exhibiting a clear feeling of responsibility for his Mother and sister. He worked at a variety of jobs throughout his school years to help with their support. After graduation from high school, he enrolled at nearby Milsaps College, majored in economics, ran track, played football and joined the ''Pikes''—Pi Kappa Alpha Fraternity.

In the summer after his freshman year, he and a buddy took a job laying asphalt over the dirt and gravel roads of Mississippi, and while working one day, a car passed, carrying an attractive local high school graduate named Jane Clark. ''I sure would like to get to know that girl,'' Louis remarked to his buddy. ''No chance, Lou, she's taken,'' his friend answered.

Wrong answer! Within a short time, Lou and Jane were dating, and by the time she followed him a year or so later to Milsaps, they were courting. When he graduated in 1941 and went off to officer candidate training in the Marines, and then into the war in the Pacific, they ''had an understanding,'' and she waited. They became ''Captain and Mrs. Wilson'' 3 years later, when he returned from hospitalization after the battle for Guam.

Captain Wilson got a bride, but the Corps got one of its most gracious future first ladies—one beloved by all who have had the privilege of knowing her—but none more so than the Wilson aides-de-camp over the years to whom she became known as ''President of the Aides' Protective Society'' with an occasional early morning call just after the General departed quarters for the office, wishing them—in her soft, Southern manner—''a wonderful day—even though it may not start that way!''

Throughout their career, and to the present, Jane has been an inspiring role model to all of us in both the good and the hard times. Indeed, a legion of Marines are glad that Lou's friend on the hot asphalt road in Mississippi in 1938 was wrong when he predicted: ''No chance, Lou.''

Captain Wilson's action on Guam was the beginning of the many highlights in his career. I was privileged to be on the island with him in 1994 for the 50th anniversary of its liberation, and while there, walked the battleground on Fonte Hill with him where he remembered and described every move as he assembled and maneuvered the remnants of his company and those of the other companies of his battalion to secure the heights. Only then . . . having been wounded three times . . . did he allow treatment of his wounds and medical evacuation.

The following day, I hosted a sad ceremony at Asan Point—near the beach where, 50 years earlier, he had landed. Because of mandated personnel reductions in the Corps—the 9th Marines—the regiment in which he had served on Guam—was being deactivated. As its proud battle color was furled, General Wilson placed the casement over it.

There is, however, a humorous sequel to this event. Enroute back from Guam, we stopped in Hawaii to attend the change of command of Marine Forces, Pacific. The day allowed time for a round of golf before the ceremonies that evening. As General Wilson and I were having breakfast before teeing-off, a retired marine—red baseball cap and all—came over to our table to warmly greet the general. Turned out they had been in the 9th Marines together, and the conversation turned quickly to something like this: ''Lou, who's this new Commandant that's doing away with the 9th Marines? What does he think he's doing? You need to get hold of him and straighten him out!''

The breakfast could have undoubtedly been more entertaining for those around us had he done so, but without introducing me, General Wilson graciously responded that he knew it was a tough decision, but that were he still Commandant, he probably would have had to make the same one. He wished his retired friend a good game, and sat back down to breakfast with a wink and big grin for me. I was grateful to have ''They'' on my team that morning!

Throughout the decades of service that marked his career, Louis Wilson established the reputation of a firm, but fair leader who was devoted to the welfare and readiness of marines and would lay his career on the line for them; who asked straight questions and expected no ''off the record'' answers or hidden agendas; and who, while he could show understanding, did not easily suffer fools.

During his tenure as Commanding General of Fleet Marine Force, Pacific, as North Vietnamese forces closed in, the evacuation of the U.S. Embassy in Saigon was ordered, using ships of the U.S. Seventh Fleet and embarked marines from Okinawa, including then-COL Al Gray's 4th Marines. As the day wore far longer than had been planned due to the panicky influx of hundreds more evacuees than the embassy had planned for, the operation continued through the night and into the wee hours of the following morning.

About 3 a.m., word came into the command center in Hawaii that the Seventh Fleet Commander had signaled that the helicopter crews which had been flying since early that day had reached their administrative maximum allowed flying hours and that he intended to suspend flight operations to allow crew rest, even though a hundred or more marines still remained in the besieged embassy.

Although he was not in the direct chain of command for the operation, an infuriated General Wilson immediately sent back a message stating that under no circumstances would such an order be given, that Marine helicopters would continue to fly so long as marines remained in Saigon, and that if the Seventh Fleet Commander issued such an order, he, Wilson, would personally prefer court martial charges against him. The order was never issued, the helicopter crews kept flying, and the remaining marines were evacuated.

A year later found the Secretary of Defense looking for a new Commandant, and ''Wilson'' was a name high on the list. While many important people are involved in the naming of any new Commandant, there are a couple who merit special note in this case.

The Wilsons had become very happy in Hawaii, and nearing the point at which his career might come to an end, he had been extended a lucrative job offer; Janet was a senior in high school; and Jane had found a ''Dream House'' on the slopes overlooking Wailai Golf Course and the blue Pacific. As the likelihood of his being nominated to become Commandant took shape, the Wilsons sat down for a family conference to discuss the choices. After a brief discussion, Janet brought a decisive end to their deliberations when she said, ''Dad, you've talked for a long time about all the things that are wrong in the Marine Corps. This is your chance to fix them.'' He thought for a moment, and then responded, ''OK, we'll do it.'' And so, perhaps history should record that it was Miss Janet Wilson who, as much as anyone, brought us the 26th Commandant!

But there was another player who should not go without note. When the selection was made, Secretary of Defense Jim Schlesinger directed an assistant to ''get General Wilson in Hawaii on the phone.'' Moments later, the assistant reported, ''Sir, he's on the line''. Schlesinger picked up the phone and said, ''Lou, I'm delighted to inform you that the President has selected you to be the next Commandant of the Marine Corps.'' There was a pause, and the voice at the other end of the line responded, ''Sir, I'm deeply honored by your call. I've always had great admiration for the Marines, but do you really think I'm qualified to become Commandant?'' Schlesinger's assistant had dialed the Commander of Pacific Air Forces in Hawaii—also a Lieutenant General named Lou Wilson!

A few minutes later, when the right Wilson was reached, Schlesinger repeated the same congratulatory message, but ended by saying: ''However, Lou, you should know that my first call turned me down!'' So perhaps—in the spirit of jointness—we also owe the U.S. Air Force a debt of gratitude!

Lou Wilson became Commandant at a time when the Corps needed him. Fewer than 50% of those who filled our ranks were high school graduates. Illegal drug use was rampant. Lingering Vietnam era recruiting had brought a fair number of criminals into the Corps. Riots and gang intimidation were common. His comment when he assumed command, set the stage for his attack on these problems: ''I call on all marines to get in step and do so smartly!''

His tenure as Commandant would be marked by firm initiatives to ''get the Corps in step'' again. Overweight marines, ''high-water'' trousers, shaggy haircuts, and moustaches became early points of focus. The word went out: ''If I see a fat marine, he's in trouble—and so is his commanding officer!'' More than a few commanders got early morning calls from the Commandant that began: ''Who's minding the store down there? Seems like you might be looking for a different line of work!'' Prompt administrative discharges from the Corps for ''those who can't, or don't want to measure up to our standards'' were authorized. The Air-Ground Combat Center at 29 Palms came into being to cause marines to prepare for the next war, instead of the last one—and it might be recalled that the ''next big one'' after Vietnam was in the desert sands of Kuwait, and the Combined Arms Exercises at 29 Palms were the training grounds.

The Wilson years, and those that followed would rehone the Marine Corps into what it remains today—the finest military organization in the history of the world.

But if Fonte Hill on Guam, and the Medal of Honor was the early signature of Lou Wilson, it may be that his enduring mark on the Corps—and our entire joint military establishment—is that which he achieved in his final ''Hill'' battle near the end of his tenure as Commandant.

A quarter-century earlier, after a period of intense debate as to the role of the Marine Corps in the national defense establishment, the National Security Act had made the Commandant of the Marine Corps a ''part-time'' member of the Joint Chiefs of Staff only when matters of Marine Corps interest were at issue. This denigration of the Corps to second-class citizenship had long been an insult and irritation. Within the organization of the Joint Chiefs, a policy existed that when the chairman was absent from Washington, the next ranking chief would assume authority as ''acting chairman''.

In early 1978, the Chairman and all other chiefs of service, except General Wilson, were absent from Washington. A memorandum from the Director of the Joint Staff indicated that in the absence of the chairman, and the Chiefs of the Army, Navy, and Air Force, the vice chief of staff of the Army was appointed ''acting chairman''. An irritated inquiry from the Marine Corps gained a response from the Director that ''the Commandant cannot be appointed acting chairman because he is only a part-time member of the Joint Chiefs.''

Like when Miss Jane Clark drove by four decades earlier—already with a ''steady'' and ''no chance''—or when the Seventh Fleet Commander was about to suspend flight operations: Wrong Answer!

General Wilson quietly and without fanfare, took the issue to Capitol Hill, and when the 1979 Defense authorization bill came out, it contained a provision that made the Commandant of the Marine Corps a full-fledged member of the Joint Chiefs of Staff.

Indeed, the legacy achieved by its 26th Commandant for the Corps sits before us today. Without Lou Wilson's personal perseverance and victory, it is not likely that GEN Pete Pace, the chairman designate, or GEN Jim Jones, the Supreme Allied Commander in Europe, or GEN Jim Cartwright, the combatant commander, U. S. Strategic Command, would be in their positions today. Lou Wilson elevated his Corps from a bureaucratic, second-class category to co-equal status with every other branch of the armed services . . . and his country—and the profession of those who bear arms in its defense—will be forever the beneficiaries.

And so, as we assemble today to bid farewell to one of the true giants of our Corps and our Nation, let us do so with gratitude that America produces men the likes of Louis Wilson—and that ''they'' choose to become Marines. Semper Fidelis

Mr. President, I would like to associate myself with these exceptional remarks by General Mundy. I recall my modest service in the Marine Corps during the Korean War and later as Secretary of the Navy, where I witnessed firsthand the impact of General Wilson's efforts in the Corps. His tremendous legacy will forever challenge future Marines to become part of the best fighting force on the Earth. While I am saddened by the General's passing, I am proud that America produced such a fine gentleman who valiantly answered the call to defend these United States. Recalling our national anthem, I say, we would not be ''the land of the free'' were we not also the ''home of the brave.''

TRIBUTE TO CAPTAIN KENNETH J. PANOS, USN

Mr. WARNER. Mr. President, I rise to recognize and pay tribute to CAPT Kenneth J. Panos, U.S. Navy. Captain Panos will retire from the Navy on September 1, 2005, having completed an exemplary 26-year career of service to our Nation.

Captain Panos was born in Union, NJ, and is a 1979 graduate of the U.S. Naval Academy. He also earned a masters degree in Financial Management from the Naval Postgraduate School in Monterey, CA.

During his military career, Captain Panos excelled at all facets of his chosen profession. As a naval aviator, he deployed to South America and the Caribbean. While serving aboard USS *Paul* (FF 1096), Captain Panos participated in peacekeeping operations in the waters off Beirut, Lebanon.

In 1986, Captain Panos was redesignated a full-time support officer in the Navy Reserve. He reported aboard Helicopter Anti-Submarine Squadron (Light)-94 as the head of the Maintenance, Training and Administration Departments and achieved 1,000 flight hours in the SH–2F Seasprite while deployed aboard various Navy Reserve Force frigates. His outstanding capacity for leadership was recognized when he was selected as the HSL–94 Junior Officer of the Year in 1988. During Captain Panos' tour as the assistant reserve programs director/reserve service officer and later department head at Naval Air Station Willow Grove, he transitioned to fixed-wing aircraft and achieved an airline transport pilot rating while flying the UC–12B transport.

Captain Panos made good use of his graduate degree in financial management with assignments in the Aviation

Budgets and Requirements Office; the Chief of Naval Operations' Staff where he was assistant for aircraft procurement; research, design, test & evaluation; and ship construction appropriations; the Office of the Assistant Secretary of the Navy for Financial Management; and as the director, Programming and Financial Management Division for the Chief of Navy Reserve. Many of my colleagues know Captain Panos from his service as the Navy's legislative affairs liaison for Reserve matters and anti-terrorism/force protection programs.

The U.S. Navy is a better Navy thanks in part to the talent and dedication of CAPT Kenneth J. Panos. While Captain Panos' retirement means the Navy will lose a fine officer, I am happy to report to this body that he has found a replacement. His oldest son, Michael, is currently a midshipman at the U.S. Naval Academy. His youngest son, Robert, is a sophomore at Robinson Secondary School in Fairfax, Virginia. I know all of my colleagues join me in congratulating Ken, his hometown sweetheart and wife Karen, as well as Michael and Robert, on the completion of an outstanding military career.

ROMANIA

Mr. LUGAR. Mr. President, I rise today to express solidarity with the people of Romania in the aftermath of the fatal floods that occurred earlier this month. As a consequence of the heavy rainfalls that occurred in Romania from July 1 to July 17, 2005, 24 people are reported to have lost their lives, and some 800 towns and villages suffered damage to road infrastructure, farmlands, and utilities.

The United States and Romania have a strong and continuing relationship. In April 2003, the Senate voted unanimously to bring Romania into NATO. It represented a vote of confidence in the Romanian people and I was honored to witness that expression of American support as chairman of the Committee on Foreign Relations. Romania's commitment to the Alliance is evident in its active participation in the Balkans, Afghanistan and Iraq. I am hopeful that Romania will be invited to join the European Union in the near future.

The United States and Romania cooperate closely in a number of areas. Following the terrorist attacks on September 11, Romania has been fully supportive of the global war on terrorism. Among other actions, it contributed transport aircraft and more than 400 troops to Afghanistan. In addition, Romania permitted the use of its territory—land, airspace and seaports—for the U.S.-led military action against Iraq, and dispatched non-combat troops to the region. Romania currently has approximately 900 troops in Iraq, and approximately 500 troops in Afghanistan.

I commend Romania for its consistent contribution to international peace and stability. Since 1991, it has participated in United Nations peacekeeping operations in the Gulf, the former Soviet Union, Africa, and the Balkans. Just yesterday, the Department of State issued a press statement welcoming the decision by the Romanian cabinet to accept approximately 450 Uzbek asylum seekers on a temporary basis as part of the resettlement processing. The asylum seekers had sought initial refuge in the Kyrgyz Republic following the May violence in Uzbekistan. Romania stands as a role model in the international community for those who are committed in words and actions to the United Nation's principles.

CONGRESS' EFFORTS TO IMPROVE AGRICULTURE SECURITY

Mr. AKAKA. Mr President, I have come to the floor again to speak about the ability of the United States to prevent and respond to a terrorist attack on American agriculture, a topic that I believe deserves more attention from the Congress and the administration.

That is why I commend the Committee on Agriculture, Nutrition, and Forestry for holding a hearing on agroterrorism last week. This was their first hearing on the subject, and I welcome their interest because I have been pursuing the passage of legislation on agriculture security for the past 3 years.

I first introduced agriculture security legislation, S. 2767, the Agriculture Security Preparedness Act, which was referred to the Agriculture Committee, in the 107th Congress. Unfortunately, it was not acted upon in that Congress. I reintroduced my legislation in the 108th Congress and again in the 109th. I am pleased that S. 573, the Agriculture Security Assistance Act, was included in S. 975, the Project Bioshield Act of 2005, and I thank the bill's chief sponsor, Senator LIEBERMAN, for that inclusion.

The strong potential for the American food supply system to be a target of terrorist attack and the severe repercussions such an attack would cause are widely accepted among experts. At the July 20 Agriculture Committee hearing, Mr. John Lewis, Deputy Assistant Director, Counterterrorism Division, Federal Bureau of Investigation, FBI, testified:

> Most people do not equate terrorist attacks with agroterrorism. But the threat is real, and the impact could be devastating.

Another witness, Dr. Robert Brackett, Director, Center for Food Safety and Applied Nutrition, Food and Drug Administration, FDA, added:

> A terrorist attack on the food supply could have both severe public health and economic consequences, while damaging the public's confidence in the food we eat.

According to the Department of Agriculture, USDA, the United States food and fiber system accounts for approximately 12 percent of our gross domestic product and employs 17 percent of the U.S. workforce. Yet the infrastructure that composes this sector of the economy, which is central to American prosperity, is often not viewed as critical as power lines, bridges, or ports. We cannot underestimate our dependence on America's breadbasket.

On March 9, 2005, the same day I introduced my two agriculture security bills, S. 572, the Homeland Security Food and Agriculture Act, and S. 573, the Government Accountability Office, GAO, released a report I requested entitled, ''Much is Being Done to Protect Agriculture from a Terrorist Attack, but Important Challenges Remain'' (GAO–05–214). The GAO report reviews the current state of agriculture security in the United States and points to a number of key areas where improvement is necessary, such as the inability of USDA to deploy animal disease vaccines in 24 hours and the lack of foreign animal disease knowledge among USDA-certified veterinarians.

GAO also confirmed information I had received from the National Association of Agriculture Employees that the agricultural mission of Customs and Border Protection, CBP, was insufficiently prioritized. GAO found that the number of agricultural inspections at U.S. borders had declined by 3.4 million since the Department of Homeland Security, DHS, took over the border inspection responsibility from USDA.

In February 2005, I wrote to then-DHS Undersecretary for Border and Transportation Security Asa Hutchinson expressing my concern over the decline in border inspections because I know how important they are to the economy of Hawaii—home to more endangered species than any other State. In response, I received a commitment from DHS to hire additional agriculture specialists at CBP to ensure the agricultural mission does not go unmet.

Also noted in the GAO report were shortcomings in DHS's Federal coordination of national efforts to protect against agroterrorism. The Federal agencies involved in agriculture security—DHS, USDA, FBI, and FDA, to name a few—claim they are working closely with each other. However, one only need look at the June 2004 incident in Washington State, where 18 cattle developed chromium contamination, to see that there are communication gaps at the Federal level. Agroterrorism was suspected, yet neither USDA nor DHS were notified.

In May 2004, representatives from the FBI, FDA, and USDA gave a presentation at an agroterrorism conference in Kansas City, MO, on lessons learned from the Washington outbreak which included a slide stating that the following agencies should be contacted if agroterrorism is suspected: a State's Department of Agriculture, FDA, USDA, FBI, local law enforcement, and State and county public health officials.

Why was the Department of Homeland Security not on the list?

It is apparent that Federal coordination remains inadequate if notification of DHS is considered unnecessary by other responding agencies.

To ensure a comprehensive and coordinated approach to agroterrorism, my bills address many of the concerns raised by GAO and others. The Homeland Security Food and Agriculture Act will: increase communication and coordination between DHS and State, local, and tribal homeland security officials regarding agroterrorism; ensure agriculture security is included in State, local, and regional emergency response plans; and establish a task force of State and local first responders that will work with DHS to identify best practices in the area of agriculture security.

The Agriculture Security Assistance Act will: provide financial and technical assistance to States and localities for agroterrorism preparedness and response; increase international agricultural disease surveillance and inspections of imported agricultural products; require that certified veterinarians be knowledgeable in foreign animal diseases; and require that USDA study the costs and benefits of developing a more robust animal disease vaccine stockpile.

I look forward to working with the Agriculture Committee as agriculture security legislation moves forward. As ranking member of the Homeland Security Subcommittee on Oversight of Government Management, I will continue to make agroterrorism a priority for the Federal Government, and I ask my colleagues to join me in this quest.

40TH ANNIVERSARY OF THE VOTING RIGHTS ACT

Mr. FEINGOLD. Mr. President, 40 years ago, in 1965, African Americans were excluded from almost all public offices in the South. At that time, with 21 million people fenced out of the political process, our nation was suffering a devastating failure. A failure to fulfill one of its signature promises: representation for all.

As I speak here today, African-American and Hispanic voters are now substantially represented in the state legislatures and local governing bodies throughout the South. And 81 minority Members currently serve in the U.S. Congress.

This turn-around came as the result of a monumental struggle, a struggle in which Americans risked their lives to secure the right to vote. They marched in Alabama and across the South to protest the use of poll taxes, literacy tests, and other barriers erected in Southern States to exclude African Americans from the political process. African Americans were harassed, intimidated, and physically assaulted for simply trying to vote. Televised broadcasts brought the horrible images of attacks on peaceful protesters with nightsticks, tear gas, and police dogs into the living rooms of citizens throughout the country. Some brave souls, and some innocent bystanders, lost their lives in this struggle for justice, which still today stands as a testament to the power of ideas and nonviolence to bring about crucial social and legal change.

Two days after ''Bloody Sunday,'' a day on which protesters in Selma, Alabama, were attacked by State troopers while crossing the Edmund Pettus bridge, President Johnson sent the Voting Rights Act to Congress. In response to the horrific events in Selma and after years of efforts in Congress and around the country, on August 6, 1965, the Voting Rights Act was signed into law.

The act outlawed barriers to voting, such as literacy tests, and empowered the Federal Government to oversee voter registration and elections in counties that historically had prevented African Americans from participating in elections. Since its enactment, the Voting Rights Act has been extended four times—in 1970, 1975, 1982, and 1992. Changes included increasing the act's scope to cover non-English speaking minorities such as Latinos, Asian Americans and Native Americans, Alaskan Natives, and other minority groups. It has also been used to examine and challenge new election formats that dilute minority votes and have a discriminatory effect.

The Voting Rights Act has been hailed as the most important piece of federal legislation in our Nation's history. Not just the most important piece of civil rights legislation, but the most important piece of legislation ever passed. This may well be true: it is from our political rights, our rights of citizenship, that all other freedoms flow. Without a meaningful chance to vote, there can be no equality before the law, no equal access to justice, no equal opportunity in the workplace or to share in the benefits and burdens of citizenship.

The Voting Rights Act is also considered one of the most successful pieces of civil rights legislation ever enacted. In Selma, Alabama, in 1965, 2.1 percent of blacks of voting age were registered to vote. Today, more than 70 percent are registered.

Still, we must remember that the fight is not over. On this 40th anniversary of the Voting Rights Act, many Americans are still disenfranchised by discriminatory redistricting plans, voter intimidation tactics, long lines at polling places and inadequate numbers of voting machines, and lifetime restrictions on voting rights for ex-felons.

In 2007, key elements of the Voting Rights Act, including the Federal preclearance requirement, are due to expire. The pre-clearance requirement is especially important. It requires Federal approval of any proposed changes in voting or election procedures in areas with a history of discrimination. The Supreme Court in South Carolina v. Katzenbach, the case that upheld Congress's power to impose these requirements, aptly called this a shifting of the ''advantage of time and inertia from the perpetrators of the evil to its victims.'' It simply means that voters in these areas do not have to refight the battles they won in the civil rights struggle. These provisions of the Act are crucial.

As we approach, the 40th anniversary of the signing of the Voting Rights Act on August 6, I urge my colleagues and the citizens of this great Nation to renew our commitment to protect and strengthen the right to vote for all Americans. That right is the foundation of our democracy and it must never again be denied to a group of Americans based on the color of their skin.

CYPRUS

Ms. SNOWE. Mr. President, I rise today to bring to the Senate's attention a troubling development in our efforts to support the reunification of Cyprus. I have recently learned that the State Department is encouraging members of Congress and their staffs to initiate certain visits to the country through an airport in the illegally occupied area of the island—an airport that is not authorized by the Republic of Cyprus as a legal port of entry. In fact, the airport is built on property that was expropriated from its lawful owners following the Turkish invasion of Cyprus in 1974.

As you may know, Cyprus was forcibly divided by an invasion of Turkish troops more than 30 years ago. Today, the United States and the world community recognize that the Turkish invasion was illegal, and that the Republic of Cyprus, which controls ⅔ of the island, is the only legitimate government of Cyprus. For years, as reflected in our domestic law and echoed in several U.N. Security Council Resolutions, U.S. foreign policy has refused to give either recognition or direct assistance to the self-declared administrative authority in the occupied area, the so-called ''Turkish Republic of Northern Cyprus.'' Indeed, the Foreign Assistance Act of 1961, as amended following the Turkish invasion, has established that the United States supports a free government for Cyprus, the withdrawal of all Turkish forces from Cyprus, and the reunification of the island communities.

On the specific matter of flights into Cyprus, the U.S. is bound by the Chicago Convention on International Civil Aviation, to which both the U.S. and Cyprus are signatories. The Chicago Convention provides that ''[t]he contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory,'' including designation of official ports of entry. The Republic of Cyprus's sovereignty over the entire territory of Cyprus has been recognized and reaffirmed by numerous U.N. Security Council Resolutions as well as

long-standing U.S. policy. Because the Republic of Cyprus has never authorized direct flights into the airports in the occupied area, and because it has not designated these airports as official ports of entry, entering the country through these airports is a direct violation of the Chicago Convention. Simply put, our State Department should not be authorizing, encouraging, or even condoning such a blatant violation of international law.

Moreover, flights into an occupied airport violate local Cypriot law. If Cypriots visit the United States, they cannot just land a plane in the middle of the country—they must land at an airport that is an immigration and customs point of entry. We would rightly object if a Cypriot landed at an unauthorized airport in our country, and we should not be encouraging Americans to do so in Cyprus.

Over the past year, I believe the administration has been playing fast and loose with U.S. policy toward Cyprus, and has, at times, been less than forthcoming to me and others who are concerned with the viability of our efforts to facilitate reunification of the island.

In late October 2004, officials from the U.S. Transportation Security Administration—over the protests of the Government of Cyprus—conducted an inspection of the airport at Tymbou, which is one of the airports in the occupied area. When I expressed my concern to the State Department that such a visit was not appropriate because flights into that airport would violate international and Cypriot law and are inconsistent with U.S. law, the Department assured me that it was not changing its policy toward Cyprus. Instead, I was told that ''the visit . . . was a liaison visit to conduct a general review of the aviation security posture and was fully consistent with the TSA's mandate to promote international aviation security.'' It now appears that this visit may have been an early step toward encouraging Members of Congress and staff to land at this illegal airport.

This past June, Members of Congress travelled, at the behest and funding of a Turkish Study Group, to occupied Cyprus and arrived at an occupied airport. Concerned that the State Department was permitting a blatant violation of international law and domestic Cypriot law, I raised this issue with the Secretary of State. I have now received a reply letter from Mr. Matthew Reynolds, Acting Assistant Secretary of State for Legislative Affairs, which I will submit for the RECORD.

The letter indicates that the State Department has ''authorize[d] U.S. Government officials to travel directly to northern Cyprus using tourist passports.'' It further states, ''[w]e have taken great care to ensure that our steps are consistent with U.S. and international law. Neither U.S. nor international law prohibits U.S. citizens from traveling directly to the area administered by Turkish Cypriots. . . . In fact, courts in the Republic of Cyprus have explicitly refused to penalize Greek Cypriots who have chosen to so travel.''

This position misses the mark on several levels. First, as I explained earlier, the Chicago Convention—to which the U.S. is bound—bars flights into a country's territory without the country's consent. Cyprus simply has not consented, and thus these flights are flatly inconsistent with applicable international agreements. Second, although international law does not penalize individuals for taking such unauthorized flights, that point is irrelevant—the Chicago Convention is directed at States, not individuals. Third, there can be no doubt that such trips are suspect—even the State Department seems to admit they cannot be undertaken on an official government passport. And finally, the decision by the government of Cyprus not to prosecute those who make illegal landings is a gesture of restraint, designed to promote the freedom of movement among the two communities. It is absurd to use this commendable restraint as a justification for encouraging further violations of the law.

As justification, Mr. Reynolds stated that ''we have taken [these] steps in support of the U.N. Secretary General's call on the international community to ease the isolation of the Turkish Cypriots.'' I agree this is a noble cause in principle, but it must be pursued in a way that is consistent with international norms, local Cypriot law, and broader U.S. and international efforts to bring together the two communities on the divided island. Several U.N. Security Council Resolutions—which the Secretary General's remarks did nothing to abrogate—confirm the sovereignty of the Republic of Cyprus.

Moreover, the economic isolation of the Turkish Cypriots is already being addressed effectively by the ongoing economic support and confidence-building measures sponsored or supported by the Republic of Cyprus. Flights that conflict directly with international and Cypriot law and divide the two communities on Cyprus serve only to discourage the government of Cyprus from undertaking such positive measures. Moreover, there is literally no reason to encourage such flights—the government of Cyprus permits, and is even prepared in appropriate circumstances to facilitate, free passage to the occupied territory for those who arrive at a legal airport of entry.

Cyprus joined the European Union in May 2004, and the EU has been very active on resolving the Cyprus problem, from providing a forum for resolving the dispute with Turkey to proposing direct economic assistance to the Turkish-occupied area. It is interesting to note, however, that the EU members respect Cyprus sovereignty—not one EU member country flies into the occupied airports. It is inappropriate for the U.S. to get ahead of the EU on the resolution of this conflict within its territory.

I hope that my colleagues and their staffs who may be asked to visit Cyprus through an occupied airport will note the concerns I address here today. I would respectfully ask them to consider whether they think it is appropriate for a member of the Cypriot legislature to visit the United States through an illegal point of entry. I would also ask them to consider why the State Department has indicated that travel to occupied Cyprus should not be on an official passport or in an official capacity. I also urge members to read the Chicago Convention and the U.N. Security Council Resolutions on Cyprus to see that these actions are in direct contravention to our international commitments. And I ask them to consider whether it is appropriate for a U.S. official to land at an airport that was built on land illegally taken from its lawful owners following Turkey's invasion of Cyprus.

While I have the floor, I would like to take a moment to review all the positive developments that we are witnessing in Cyprus, which continue despite the administration's divisive actions. It is undeniable that the situation in Cyprus is moving forward. The Republic of Cyprus has proposed measures to open new crossing points along the cease-fire lines; withdraw military forces from sensitive areas; increase the ability of Turkish Cypriot-owned trucks, tourist buses and taxis to cross the Green Line that divides Cyprus; increase trade across the Green Line, and open up ports to greatly facilitate trade. Further, the Republic of Cyprus is unilaterally clearing all land mines from the National Guard's minefields in the buffer zone.

The Republic of Cyprus is also ensuring the economic development in the occupied area. Since April 2003 (when the Turkish military relaxed its movement restrictions) there have been more than 2.3 million border crossing by Cypriots into the occupied area. These visits have contributed more than $57 million to the economy of occupied Cyprus. In 2003 and 2004, the Republic of Cyprus paid more than $43 million in social insurance for Cypriots in the occupied area. Turkish Cypriots have been provided by the Republic of Cyprus with more than $9 million in free hospital and medical care, and more than $343 million in free electricity. The Republic of Cyprus does not isolate its citizens living in the occupied area—more than 63,000 have been issued Republic of Cyprus birth certificates, more than 57,000 have been issued Republic of Cyprus identity cards, and more than 32,000 have been issued Republic of Cyprus passports.

It is also important to remember that the U.S. and Cyprus have always enjoyed a strong relationship. We have worked together on terrorism, the war in Iraq, suppressing money laundering, and other initiatives. For instance, in the lead up to the war in Iraq, Cyprus

approved overflight rights for U.S. and other Coalition military aircraft as well as use of Cypriot airports. Important areas of cooperation between the U.S. and Cyprus are spelled out by the U.S.-Cyprus Mutual Legal Assistance Treaty. The treaty has been in force since September 2002 and facilitates bilateral cooperation in the fight against global terrorism, organized crime, drug-trafficking and related violent crimes. Cyprus is the first European Nation to sign on to President Bush's Proliferation Security Initiative, which provides for shipping inspections and intergovernmental cooperation that is designed to stem the spread of weapons of mass destruction. The addition of Cyprus to the PSI is particularly significant because Cyprus has the sixth largest commercial shipping fleet in the world. It is plain that Cyprus and the United States share common goals and common values.

This is a critical time for Cyprus. The two communities of Cyprus are moving together, their economies and peoples forming links like never before. The actions of the U.S. must encourage and foster reunification, not push the communities apart with divisive actions that challenge the sovereignty of the legitimate government of Cyprus. All Americans, whether officials from the administration or from this body, should educate themselves about these important issues before considering a trip to Cyprus though an illegal port of entry.

I ask unanimous consent to print in the RECORD the following letter.

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

DEPARTMENT OF STATE,
Washington, DC, June 30, 2005.

Hon. OLYMPIA J. SNOWE,
U.S. Senate,
Washington, DC.

DEAR SENATOR SNOWE: Thank you for your letter of May 27 regarding the policy and legal basis for allowing U.S. citizens, including U.S. Government officials, to travel directly into northern Cyprus. Our policy approach is based on our assessment of what is most likely to produce progress toward the Cyprus settlement that we all want to see. The Turkish Cypriot community's vote in favor of the Annan Plan in April 2004 marked a historic shift by that community in favor of such a settlement, and thus fundamentally altered the situation on the island.

Denying the Turkish Cypriots direct links with the international community, despite the fact they have done what the world asked of them, would in effect punish them for the fact that the Annan Plan was not accepted by the majority of Greek Cypriots. Such an approach inevitably would weaken Turkish Cypriot support for a settlement. It would also hamper efforts to narrow the economic gap between the two communities, unnecessarily raising the cost to the Greek Cypriots and the world of any prospective settlement.

Based on this analysis, we have taken steps in support of the UN Secretary General's call on the international community to ease the isolation of the Turkish Cypriots. One of the steps we took was to authorize U.S. Government officials to travel directly to northern Cyprus using tourist passports, for the purpose of establishing the sorts of international links that we believe are appropriate. We regret that some view our limited steps vis-à-vis the Turkish Cypriot community to be in some way directed against the Republic of Cyprus. We continue to work diligently not only to maintain, but to enhance, our good relations with the Republic of Cyprus.

We have taken great care to ensure that our steps are consistent with U.S. and international law. Neither U.S. nor international law prohibits U.S. citizens from traveling directly to the area administered by Turkish Cypriots. Moreover, U.S. citizens are not alone in traveling to that area: Greek Cypriots, other EU nationals, and foreign nationals from non-EU countries regularly fly directly to and from Ercan (Tymbou) airport. In fact, courts in the Republic of Cyprus have explicitly refused to penalize Greek Cypriots who have chosen to so travel.

I hope this information is useful in understanding the policy and legal basis of our decisions and clarifies that our efforts are aimed solely at promoting a comprehensive solution to the Cyprus problem so that all Cypriots can live and work together in peace on a reunified island. If you have any further concerns on this matter, please do not hesitate to contact us.

Sincerely,

MATTHEW A. REYNOLDS,
Acting Assistant Secretary,
Legislative Affairs.

CNOOC

Mr. BAYH. Mr. President, great concern has been raised by this Senator, and others, in recent weeks regarding efforts by the China National Offshore Oil Corporation, known as CNOOC, to acquire the prominent U.S. oil company, Unocal, based in California. The Unocal Board has endorsed a takeover bid by Chevron, also a California company, which its shareholders will vote on in the coming days.

This Senate needs to be aware, however, that CNOOC, which is essentially an arm of the Chinese government, may well be planning to raise its bid to acquire Unocal, and what greatly disturbs this Senator are reports in the press that they are waiting for Congress to adjourn for August before making a renewed bid—a move that directly challenges the Congress and the authority granted to it by the Constitution to regulate foreign commerce.

Moreover, this renewed bid heightens my concerns about the heavily subsidized nature of CNOOC's financing. When foreign firms compete for assets in the U.S., it is essential that they do so on a level playing field with U.S. companies. Government subsidies tilt this playing field, and in doing so distort competition. This harms U.S. workers, companies and investors.

Congress recently approved an amendment to the Energy Policy Act that requires the Administration to study these issues and report to Congress and the President. This amendment reflects Congress' strong reservations about the PRC's role in financing the acquisition of U.S. energy assets, and about CNOOC bid for Unocal in particular.

CNOOC's decision to increase its bid would heighten my concerns about CNOOC's efforts. If anything, it reinforces my belief that subsidies of this sort raise serious economic policy concerns and leave U.S. firms at an unfair competitive disadvantage. You can be sure that I will not be alone amongst my colleagues, in the Senate and in the House, who will be paying attention to what happens in the coming days, and if need be, will be prepared to act when Congress returns in September.

THE NATIONAL BOY SCOUT JAMBOREE

Mr. COLEMAN. Mr. President, I would like to welcome over 30,000 young men to Washington D.C. for the 2005 National Boy Scout of America Jamboree. I would also like to give my sincerest condolences to the families of the four Boy Scout leaders who were tragically killed Monday afternoon in an accident while setting up camp.

Occurring every 4 years, the national jamboree is one of Scouting's grandest traditions. It is a chance for thousands of young men to come together and celebrate our shared values and traditions as Americans. In a world that too often celebrates our differences, the National Boy Scout Jamboree is a unique opportunity to celebrate the qualities we all share as Americans.

It is also a chance for these young men to visit our Nation's Capital to be inspired by the monuments, to learn from our Nation's artifacts, and to see democracy in action. To those of us who work in Washington it is sometimes easy to forget just how amazing it is that a place like this, where free men can gather, debate, and decide their own fates, even exists.

I was recently reminded of the significance of Washington by a young boy scout from Plymouth, MN, named Eyan R. Lason. In anticipation of his trip to the National Boy Scout Jamboree this week, Eyan wrote an essay on what the trip and Washington mean to him. Eyan did not write his essay as a requirement or to win a prize. In fact, until the other day Eyan didn't even know that I had read his essay. No, Eyan wrote his essay because he has a true appreciation for the values and spirit that this city represents.

Eyan began his essay by describing his trip as ''A journey back to where America was made, an expedition to see and feel everything that this country was based on, and is destined to become.''

Eyan is right. During his time here in Washington he will see our Nation's values. But he would not find them in the architecture of our buildings, or the history on display in the Smithsonian. No, Eyan will find our Nation's values in the hearts of his fellow Scouts.

These young men represent the heart and soul of the American people. They know that courage is not the absence of fear, but strength and capacity to go

ahead in spite of fear. They understand that you can not have justice for one without justice for all. They believe in the equality of opportunity, not results. And they know that freedom is not free.

Boy Scouts are our friends and family, but as Eyan's letter shows us, they are also our role models and leaders.

I ask unanimous consent that a copy of Eyan R. Lason's letter be printed in the RECORD.

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

NATIONAL JAMBOREE AND WHAT IT MEANS TO ME

(By Eyan R. Lason)

I start this paper staring at the ''Scout Guide'' to this trip that I will soon embark upon. I look at my watch and see the date, the time, and realize that my entire world is racing towards a stand still . . . no a start to a voyage which will be sure to last me the rest of my life. A journey back to where America was made, an expedition to see and feel everything that this country was based on, and is destined to become.

Scouting has been a part of my life for more than 10 years now. It has helped form me into the man that I am. Scouting has given me many of the best experiences of my life, many of which can never be forgotten. I have learned so much it is hard to put it into words. I have been fortunate enough to take pleasure in everything that scouting has to offer. From the basic skills of life, to our week long summer camp in Northern Minnesota, to Philmont's mountains in New Mexico, and now most of all the ability to spend two weeks in this Country's great capital.

I sit here in this chair wanting to express the true bewilderment that I feel. Trying to communicate the huge opportunity that has been granted to me in words, still there are too many racing through my head to fully explain what I am feeling. A teacher once told me that if you struggle explaining an object be it a person place or event try using a single word for the task, this time even that advice has rendered me speechless. There is no possible way to express my gratitude to the people who have simply handed me the single greatest opportunity of my life.

One word, a sentence, or even this paper that I am writing cannot express truly how grateful I am for the kindness of others who have given me this opportunity. Truthfully, with all my heart, I thank you.

Now is time for myself to try and explain what this expedition means to me. I have concluded that the best way for me to define this trip to you is use a symbol that every man, woman, and child can recognize, the very flag of this great country that we, the people, have proclaimed The United States of America.

The flag is it's own special kind of genius. You see the stars, stripes, and colors all inspire me in different ways. Fifty Stars, thirteen stripes, and three colors are all part of the master symbol of our country; all has given me more than significant inspiration. Thus I will explain.

Fifty bright white stars represent each and every state of this noble country. A National Jamboree is my destination therefore I will get a chance to meet people from each and every one of those states. An opportunity to experience cultures specific to each region of this country, for each state is represented by 1 of those fantastic stars on the flag of this country.

Thirteen stripes on the banner that is this country, thirteen stripes that embody the thirteen original colonies that formed this country. All of which helped bestow all Americans with the freedoms that we are blessed with. Those colonies fought for what they considered was right, they defended their freedoms. Who knew they were at the threshold of creating the world's greatest country. A country free from gross prejudice of one's ethnicity, beliefs, religion, likes and dislikes.

Nobody in that time had any idea of the immense change those thirteen colonies would make in the world, freedom that today is defended by the greatest fighting force in the world, the United States Armed Forces. The U.S. Armed Forces fight for our country protecting us from people who dislike our ability to be unrestrained in our everyday lives. The U.S. Armed Forces, like the people in those thirteen original colonies, are fighting for what the think is right. Why do they risk their lives? Simple their own, and others, belief in freedom is worth fighting for. After all freedom is not free.

Myself as an American hold my freedom on the highest pinnacle. Those thirteen colonies that started this whole country have granted all Americans with the greatest possible gift. So I am grateful for the ability to go back to many of these great colonies and see what they fought for, experience what they fought and hopefully get a glimpse of what it will become. I am so grateful to be given the opportunity to be able to see the naval ports, see the modern day defenders of our country and how they do what they do.

Red; the color that represents the hardiness and valor of this Nation, red is for the blood, sweat and tears that have gone into making this great country what it is. Hardiness for the millions who have served this Nation with pride. Hardiness for all of those who endured through the cannon blasts of the Revolutionary and Civil Wars, hardiness for the ones who spent hundreds of hours in the grueling trenches of World War One. Hardiness for the near Thirteen million United States Soldiers who, once again, proved to the world we will not sit quietly in World War Two, welldeserved valor for the individuals in Middle Eastern countries currently defending us from terrorism each day. All of which have proven to the world that we are the true protectors of freedom. Proved to me, and the world, what it means to be hardy and valorous. Red is the color that represents the millions of individual's sacrifices for me, for this Nation. And when I stand at this Nation's capital and look at Old Glory waving, I will remember those individuals and their sacrifices, and I will thank them.

Bright white stripes, six of them on the flag, hold the beliefs of purity and innocence of this Nation. Purity and innocence that in this modern day uphold America as a defender not as an aggressor. In this day America is a world power not a world conqueror. Purity is for those who hold themselves true by using their rights as a good citizen, by supporting their country in what it does, by participating in this country's democracy. We can show purity by respecting other citizens of this country, innocence by living our lives without regrets. Myself as a scout can obtain and uphold this Nation's purity and innocence by living the Scout Oath and Law. I can live the Scout Oath and Law and show others to take pride in themselves and in their country, by being able to go to Washington DC. I can demonstrate these actions and I can influence others to do so.

There is a field of blue on the flag for justice, perseverance, and vigilance. One's peers provide fair justice in this country. This country has for nearly 100 years served in protecting itself and others from assailants. Providing justice to where it is deserved. From the improper acts of Pre-Revolutionary War Britain, Nazi Germany, the Jungles of Vietnam, or Terrorist occupied Middle Eastern Countries America has proven its evenhandedness. Perseverance is surely this country's most pronounced value. If perseverance were not valued so highly in this country it would simply not exist. Perseverance made this country, made it and has kept it here for the past 229 years.

What if we had not persevered in the Revolutionary war? Would America still be here? The most likely answer is no. The Civil War without perseverance would have ended in the Confederate States of America. Not only in wars must we persevere in life we must. If people do not try hard to complete things, this country, this world would not be the great place it is. Vigilance is simply defined by Webster as ''Alert Watchfulness'' and I could not label it better myself. America has watched over its people and the world doing its best to keep all safe. In a single week I will see these values and all their meaning when I am in D.C. I will value them every day of my life as I always have as far back as I can remember. I can see the documents that made America free. As far as seeing perseverance, I cannot list all the sights and sounds that are supreme examples to me of that value. Justice can be seen in small things as someone stating their opinion of right and wrong to another individual, or a single person standing before a judge a twelve of his peers, however I will be able to see it on the grandest scale the supreme court of America. I can see vigilance as I will go to Pentagon City and for those opportunities that have been given to me I am truly grateful.

As I have stated in the above topics the values that are presented on the flag are the one's that I will value most on this trip to the United States Capital. The fifty states that hold the values true, thirteen colonies that made it all happen, hardiness, valor, purity, innocence, justice, perseverance, and vigilance are all valued highly by many but the ones who make values more than just a value are citizens of the United States of America. Boy Scouts, doctors, lawyers, auto mechanics, pilots, military personal are all people that make this country what it is, and that is the way it is supposed to be in a democracy. I am eternally grateful to be able to be an American and having this tour to the Nations Capital given to me just reinforces my strong beliefs in this country and the people who belong to it.

I would like to thank the complete organization of the Boy Scouts of America. I would also like to personally thank my Scoutmaster Mr. Jeff Radke, the whole Jungers family, Mr. Mike Simonet, and my parents for letting me go on such an endeavor.

Thank You All So Much.

To the members of the United States Armed Forces, nationwide Firefighters and Policemen and Women, I thank you for the sacrifices that you have made, and are willing to make on behalf of myself and this entire nation. Thank you.

Mr. COLEMAN. In closing, I thank Eyan and all of the Boy Scouts of America for their service not only to God and country, but also to their homes and committees.

IRAQ RECONSTRUCTION

Mr. LEAHY. Mr. President, I bring to the attention of Senators the troubling reality in Iraq that is described in two recent Government reports, one by the Government Accountability Office and the other by the Office of the Special

Inspector General for Iraq Reconstruction.

Documented in these reports are assessments of the precarious and deteriorating security situation on the ground, which has dramatically slowed the pace of reconstruction and resulted in significant additional costs. This picture is in stark contrast to the rhetoric coming from the administration that we are in the last throes of the insurgency and that reconstruction is moving forward at a rapid pace.

The reality is that because of the security problems in Iraq, the results of reconstruction are falling far short of what the administration optimistically predicted and what we were told to expect. While there has been important progress in building schools and hospitals and providing clean drinking water in some areas, exorbitant security costs are forcing the scale back or cancellation of reconstruction projects. Unfortunately, there is little reason to be optimistic that the situation will improve in the short term.

According to today's Washington Post, the GAO reported that ''in March, the U.S. Agency for International Development canceled two electric power generation programs to provide $15 million in additional security elsewhere. On another project to rehabilitate electric substations, the Army Corps of Engineers decided that securing 14 of the 23 facilities would be too expensive and limited the entire project to nine stations. And in February, USAID added $33 million to cover higher security costs on one project, which left it short of money to pay for construction oversight, quality assurance and administrative costs.''

Furthermore, the Office of the Special Inspector General for Iraq Reconstruction reported that after reviewing several reconstruction contracts, it determined that more money was going to Government contractors involved in the rebuilding process than was necessary. The formula used for disbursing special monetary awards, which are above and beyond basic fees, was producing excessively high awards. In some instances, contractors were paid hundreds of thousands of dollars despite not winning a contract or delivering a single service. Once again, these reports shed light on the lack of oversight and accountability given to contracts in Iraq.

Given the enormous amount of money the United States is spending in Iraq, the many reports of waste and profiteering by unscrupulous contractors, and the President's request for additional hundreds of millions of dollars for Iraq reconstruction in the fiscal year 2006 budget, it is incumbent on the administration to respond to these reports in a forthright manner so that Congress can make informed decisions about the use of these funds.

INTERNET GOVERNANCE AND THE UNITED NATIONS

Mr. COLEMAN. Mr. President, on July 14 the United Nations' Working Group on Internet Governance, WGIG, issued its final report. WGIG was formed following the December 2003 U.N. World Summit on Information Policy with the intention of simply developing a consensus definition for ''intent governance'' and identifying relevant public policy issues. Ultimately the task force exceeded its mandate and laid out four policy recommendations for the future of Internet governance. One unifying theme for all these options is that there should be ''a further internationalization of Internet governance arrangements'' because of WGIG's belief that ''no single government should have a pre-eminent role in relation to international Internet governance''.

In other words, this U.N. task force report suggests that the historic role of the United States in overseeing the Internet's growth and shepherding its development should be terminated and that Internet governance should be politicized under U.N. auspices. The most extreme of the options laid out by the WGIG would transfer the authority and functions of the Internet Corporation for Assigned Names and Numbers, ICANN, a respected nonprofit organization which is currently overseen by the U.S. Department of Commerce, to a new body linked to and controlled by the United Nations. This would put international bureaucrats in charge of the Internet and relegate the private sector to a mere advisory role. And it raises the very troubling possibility that the United States would have no more say over the future of the Internet than Cuba or China.

I am firmly opposed to any proposal to hand control of Internet governance over to the United Nations. The continuing investigation of the Permanent Subcommittee on Investigations into the scandal-ridden Oil-for-Food program has revealed management of the U.N. to have been at best incompetent and at worst corrupt. Any suggestion for a greater U.N. role over the Internet is hopelessly premature. The first priority for the United Nations must be fundamental reform of U.N. management and operations rather than any expansion of its authority and responsibilities.

The Internet was created in the United States and has flourished under U.S. supervision and oversight. The United States' fair and lighthanded role in Internet governance has assured security and reliability. While the roots of the Internet lie in the ARPANet project launched by the Department of Defense in 1969, the true birth of the modern Internet began 10 years ago, in 1995, when the National Science Foundation opened the Internet to commerce, and the Netscape browser became available so that the general public could ''surf'' the World Wide Web. The explosive and hugely beneficial growth of the Internet over the past decade did not result from increased Government involvement but, to the contrary, from the opening of the Internet to commerce and private sector innovation. Subjecting the Internet to the politicized control of the U.N. bureaucracy would be a giant and foolhardy step backwards.

The Internet today is an unprecedented and tremendously beneficial avenue for the free flow of information and commerce. Why would we want to even consider turning any degree of Internet control over to a politicized and failure- prone multinational bureaucracy that cannot possibly move at ''Net speed''? Some of the nations involved in the WGIG deliberations have established pervasive Internet censorship and monitoring systems to suppress the ability of their citizens to access the truth, and to stifle legitimate political discussion and dissent. Others maintain a state monopoly over telecommunications services, or subject them to excessive taxation and regulation. Allowing such nations a voice in fundamental Internet governance would be dangerous and imprudent.

The WGIG report also contemplates an expanded U.N. role on cybersecurity matters. This is also deeply troubling. We simply cannot risk a disruption of the information economy by cyberterrorists. One thing we have learned at the start of the 21st century is that some organized groups hate democracy and wish to inflict grave injury upon the people and economies of freedom-loving nations. It would be naive and foolhardy if we did not assume that some of the individuals active in these terrorist organizations possess the technical expertise to plan and execute crippling attacks on the Internet, and that they are pondering how to crash the net with the same diligence that Osama bin Laden gave to bringing down the World Trade Center. The Internet assumes greater economic importance with each passing year, both in the value of the commerce it facilitates as well as the functions it performs. Today, for example, traditional telephone service is making a rapid migration from dedicated proprietary circuits to Voice Over Internet Protocol, VOIP. It is true that the Internet was designed to be resilient against outside attacks, as ARPANet was conceived as a communications system that could survive the exchange of nuclear weapons. But we have learned in recent years that the greatest threats to Internet security are generated from within. The vital national security interests of the United States and our allies demand that we maintain an Internet governance regime capable of taking effective preventive measures against any attack that could wreak havoc upon us.

The continued assurance of competent and depoliticized Internet governance is clearly a matter of strategic importance to the security of the

United States and to the entire world economy. I was therefore pleased that the Bush administration announced on June 30 that the United States would maintain its historic role over the Internet's master ''root'' file that lists all authorized top-level domains. The U.S. Principles on the Internet's Domain Name and Addressing System issued last month are: (1) The U.S. Government will preserve the security and stability of the Internet's Domain Name and Addressing System, DNS. It will take no action with the potential to adversely affect the effective and efficient operation of the DNS. (2) Governments have a legitimate interest in the management of their own country code top level domains (ccTLD). The U.S. will work with the international community to address these concerns in a manner consistent with Internet stability and security. (3) ICANN is the appropriate technical manager of the Internet DNS. The U.S. will continue to provide oversight so that ICANN maintains its focus and meets its core technical mission. (4) Dialogue related to Internet governance should continue in relevant multiple fora. The U.S. will encourage an ongoing dialogue with all stakeholders around the world, and in the ensuing discussions the U.S. will continue to support market-based approaches and private sector leadership in the Internet's further development.

I applaud President Bush for clearly and forcefully asserting that the U.S. has no present intention of relinquishing the historic leading role it has played in Internet governance, and for articulating a vision of the Internet's future that places privatization over politicization. At the same time the administration has recognized the need for a continuing and constructive dialogue with the world community on the future of Internet governance.

I intend to closely monitor further U.N. actions in this area, especially the upcoming November meeting of the World Summit on the Information Society, WSIS, in Tunisia. I also plan to consult with experts and stakeholders regarding Internet governance, and will assess whether a legislative approach is needed to ensure the principles laid out by the administration remain the basis of discussion on this critical issue.

The growth of the Internet over the past decade, under the leadership and supervision of the United States, has been extraordinary. Over the next decade we can expect to see the global population with Internet access grow far beyond the 1 billion persons who presently enjoy that ability. The population of the developing world deserves the access to knowledge, services, commerce, and communication that the Internet can provide, along with the accompanying benefits to economic development, education, health care, and the informed discussion that is the bedrock of democratic self-government. Inserting the United Nations into Internet governance would be a dangerous detour likely to hinder, if not cripple, the fulfillment of the full promise of the most dynamic and important communications infrastructure in all of human history. We simply cannot afford the delay and diversion that would result from such an unfortunate deviation from the path that has brought the Internet to its present and almost miraculous state of success.

AMERICAN VETERINARY MEDICAL ASSOCIATION

Mr. President, I rise today to praise the American Veterinary Medical Association for their efforts in ensuring the highest standards for animal and public health in this country. Before coming to Congress, I practiced veterinary medicine, and I appreciate the AVMA's role in helping veterinarians excel and grow in their professions.

At this time, I would like to read for the record remarks recently given by the president-elect of the AVMA, Dr. Henry E. Childers, at their 142nd Annual Convention in Minneapolis:

Members of the House of Delegates, the World Veterinary Association, other international guests, friends and colleagues . . . I am honored to be a part of this historic gathering. I am especially pleased to welcome my fellow veterinarians from around the world and to be addressing those participating in the first gathering of the World Veterinary Association in the United States since 1934.

Seventy-one years ago, the AVMA and the World Veterinary Association met to discuss the hot issues of the day: poultry diseases, advances in food animal medicine, food safety and global disease surveillance. Today we are meeting once again and discussing the issues of our day: poultry diseases, advances in food animal medicine, food safety and global disease surveillance.

3,917 veterinarians attended that 1934 meeting in New York City at the Waldorf Astoria hotel, many from the same countries that are joining us today. To each I extend our most sincere welcome, especially to our colleagues from Afghanistan and Iraq. I hope you find this experience to be one of the most memorable of your career.

Well, here we are, 71 years later. And while we may have different languages and customs, different ways of communicating with our clients and treating our patients, we have come together once again precisely because we have more in common than ever before. We are united in our quest for a better world and better medicine for both animals and humans. We are united in our concerns, we are unified in our challenges, and we are unified in the celebration of our achievements. We are what veterinary medicine is all about.

When I told my wife Pat that I was giving this speech, she reminded me of something Muriel Humphrey once told her husband, Hubert, this country's vice president and a favorite son from this great State. She said, ''Hubert, a speech does not have to be eternal to be immortal.'' I will try to remember that.

I come before you today slightly imperfect. As many of you know, I just had a knee replacement.

My recent surgery got me thinking, do any of us truly appreciate our knees? Really appreciate the foundation they provide? I know I did not, not until they both gave out on me. I quickly came to realize, however, that my knees must work together in unity in order for me to complete the tasks I take for granted. I just assumed they would provide a solid foundation without much attention from me. I was sadly mistaken.

Paying attention to our profession's basic principles is what I would like to talk to you about today. We all assume that our professional unity and our rock solid foundation are perpetual. They are not. Without attention and care, our foundation can slowly begin to erode. That is why I am dedicating my presidency to the care and nurturing of our professional unity—the essential cornerstone of our great profession.

Traditionally, past AVMA presidents have used this time to present you with a roster of very specific recommendations for new programs and initiatives. Many of those recommendations have resulted in impressive and important changes within the AVMA.

But different times call for different approaches. I come before you today with a total commitment to spending my year at the helm of this great organization working to reaffirm our unity.

As president-elect, I have spent much of the past year speaking to a wide variety of veterinary associations and student organizations. In May, when I gave the commencement address at Auburn, I was reminded of my own graduation. I was reminded of my classmates and my professors. Of the long hours and challenges that we faced and survived. I think back to the unity we felt as a class and our coordinated effort to help each other. Doing whatever it took to ensure that each individual met the challenges of the curriculum and graduated.

Unity got us through school and a C+ mean average did not hurt.

And on our graduation day, we became veterinarians. Not equine veterinarians. Not bovine veterinarians. Not small-animal veterinarians. We became veterinarians—members of a select group of professionals that dedicate their lives to ensuring the highest standards in animal and public health.

Why is unity more important today than ever before? Aesop said it better than I ever could: ''We often give our enemies the means for our own destruction.''

Today our profession is facing challenges, the likes of which we have never seen before. From town hall to Capitol Hill, from the classroom to the laboratory, from the farm to the dinner table, our attention is being pulled in a myriad of directions. In light of those challenges, we must remain focused, we must stay united. While we may practice in different disciplines involving different species of animals, we must be of one vision, one voice. We must maintain the highest standards in medicine and public health, encouraging and assisting others in accomplishing the same. While we may practice in different parts of the world, we must foster unity with our fellow veterinarians from around the globe. Good medicine knows no boundaries, knows no borders. We must cooperate and collaborate with our fellow veterinarians worldwide to make this world a better place for animals and humans alike.

Has there always been perfect unity within the profession? If you look back in the annals of our convention or in the Journal of the American Veterinary Medical Association, you will see many instances where we did not all agree. We are a diverse profession, and there are bound to be differences in opinion. But I would argue that the French essayist, Joubert, was right when he said, ''the aim of argument, or of discussion, should not be victory, but progress.''

Some of the differences our profession is experiencing today may just be a reflection of what is happening to society as a whole.

For example, we have moved away from an agricultural society. In the past 20 years,

many of our colleagues have chosen a metropolitan setting, where they concentrate on companion animals. As a result, the number of food animal graduates has slowed to a trickle. The reality, however, is that food animal practitioners are more important to society than ever before. There is an acute shortage of food animal veterinarians during a time when the world is threatened by zoonotic and foreign animal diseases. At the same time, we are experiencing the same crisis level shortages of public health veterinarians. Most new graduates are not choosing a career in this essential segment of veterinary medicine. The profession must find ways to encourage undergraduates to enter food animal and public health practice.

In an attempt to resolve the critical food animal veterinary shortage, AVMA has been working on a number of strategies and initiatives.

For example, as many of you know, the AVMA helped fund a study to estimate the future demand and availability of food supply veterinarians and to investigate the means for maintaining the required numbers.

AVMA also approved and financially supported the development of benchmarking tools for production animal practitioners by the National Commission on Veterinary Economic Issues. These benchmarking tools are designed to provide our current practitioners with help in ensuring that their practices are financially successful. That, in turn, will assist in attracting future veterinarians to food animal practice.

The government relations division of the AVMA is diligently working to convince Congress to provide Federal funding for the National Veterinary Medical Service Act. If fully funded, that act could go a long way toward encouraging recent graduates to practice food animal medicine in underserved areas and provide veterinary services to the Federal Government in emergency situations. Just last month, the Senate Agriculture Appropriations Subcommittee approved $750,000 for a pilot program. We applaud the efforts of Representatives Pickering and Turner and Senators Cochran and Harkin, all of whom sponsored the original bill, and want to thank the Appropriations Subcommittee, especially Senator Brownback for his kind words and commitment to veterinary medicine.

AVMA is also lobbying our Federal legislators to pass the Veterinary Workforce Expansion Act—an important piece of legislation that will provide us with sorely needed public health and public practice veterinarians. Today's public health practitioners play an invaluable role in U.S. agriculture, food safety, zoonotic disease control, animal welfare, homeland security, and international standards and trade. Without an adequate number of public health veterinarians, the wellbeing of our Nation—yes, even the world—is at risk. Senator Allard has been invaluable and unwavering in his dedication to moving this act forward through the complicated legislative process. I intend to do everything I can as president to provide support to Senator Allard's effort to pass the Veterinary Workforce Expansion Act.

On the international education level, AVMA has been committed to the global unity of the profession for decades. The AVMA Council on Education has partnered with Canada since the accreditation system was developed and has accredited six foreign veterinary colleges. We are working with six additional schools. We are extremely proud of those colleges. As more inquiries come forward, it is self-evident that the world looks to us as the gold standard in educational goals and expectations.

At the same time, I will be supporting the efforts of our specialty organizations to attract and train the new practitioners they need. Currently, there are 20 veterinary specialty organizations comprising 37 distinct areas of expertise under the AVMA umbrella.

The AVMA economic report on veterinarians and veterinary practices has revealed a substantial difference between the incomes of specialists and nonspecialists practicing in similar disciplines. I will, as president, encourage the development of additional in-depth financial surveys that, hopefully, will motivate our undergraduates to further their education and achieve specialty status, thus helping ensure that public demands for advanced veterinary medical services are being met while, at the same time, increasing our economic base.

Hopefully, these additional specialists will serve as a resource for our veterinary colleges who are becoming increasingly understaffed.

In the past 15 years, we have seen a shift in the demographics of our profession. I will bet there were plenty of raised eyebrows when McKillips College, in 1903, and the Chicago Veterinary College, in 1910, graduated our country's first female veterinarians. It is hard to believe that as recently as 1963, the profession included only 277 female veterinarians.

We are proud of the fact that an increasing number of our graduates are women. Their contributions and leadership have strengthened our profession. However, the recent AVMA-Pfizer study confirmed lower mean female incomes within the profession. Now is the time to explore solutions to that problem, and I will do everything in my power to ensure that this issue is thoroughly investigated and addressed.

To achieve unity, I firmly believe that we must be inclusive, not exclusive. The public has always been well served by the diversity in our practice areas. Now, we must diversify our membership. The AVMA—with more than 72,000 members representing 68 constituent organizations in the House of Delegates—must now seek to represent every race, creed, and color. As a profession, we must mirror the public, and they us. We must become a profession more reflective of the population we serve.

Over 30 years ago, Dr. H.J. Magrane, then president of the AVMA, spoke often and passionately about the need for inclusion and equality in our profession. As a profession, we have still not made the advances in diversity that are necessary.

As the great social scientist, Margaret Mead said: ''In diversity . . . we will add to our strength.''

In order to achieve our diversity goals, we must initiate both practical and creative ideas to arrive at an enriched membership. It is up to us, all of us, to reach out to young people and to nurture their interests and talents so that we become the shining example of professional diversity. We need to be involved in youth groups, in churches and in our public schools, and united in our quest, so that others say: We must emulate the AVMA.

Once in veterinary school, our students, all our students, need to know that we, as a profession, are there to mentor and to help them through the special challenges they face. None of us got to where we are today without at least one special person—one special veterinarian—who took us under his or her wing and proved to be our own personal cornerstone. We can do no less for those who are striving today to become members of our profession.

In what programs is the AVMA currently involved concerning diversity? First, at its April 2005 meeting, the board approved the establishment of a task force on diversity. That task force will recommend steps that we must take to meet our goals in diversity.

But here is something you can do in the immediate future. Tomorrow, our convention will offer a full day diversity symposium, including an appearance by Dr. Debbye Turner, veterinarian, former Miss America, and contributor to the CBS Early Show. I hope many of you will plan on spending part of your day attending these important meetings, if time permits.

Diversity will also be an integral part of the 2006 Veterinary Leadership Conference. Each of these opportunities is designed to help us achieve the diversity we have talked about for so long.

So what is on our want list for 2005? As I have mentioned, critical shortages exist in food animal and public health veterinarians. But we also are desperately in need of teachers and researchers. We need policy experts and homeland security professionals. We need legislative leaders, and we need veterinarians who are visionaries and who can lead us in this era of globalization. There exists such critical shortages in so many areas that some days I wonder if our small numbers can, in fact, make a difference.

But then I am asked to speak somewhere. And I look at the enthusiastic faces in my audience—established veterinarians who are deeply involved in their State and local associations, students who live and breathe only to count off the days until they can touch their dream, high school students with straight A's who are anxious to know what else they have to do to make it into veterinary school, third graders with a commitment to animals that rivals the grit and determination of a Jack Russell terrier—and I know that we will not only survive but thrive.

As I have said, my presidency will be dedicated to re-energizing the unity that has always been our strength and foundation. As another President from the Northeast, John F. Kennedy, once said, ''Let us not be blind to our differences—but let us also direct attention to our common interests.''

Ladies and gentlemen, our common interests are so much greater than our differences. Like the society and world around us, we are changing. And change is never easy. But with your help, and our combined dedication and attention to preserving and protecting our unity of purpose, we will thrive and remain one of the most admired and respected professions in the world.

During the coming year, I will be looking to you for help. I will listen and I will participate. I will follow your lead and I will lead to enlighten. I implore each of you to participate in this great organization and make it your own. For you are the teachers, you are the visionaries, you are veterinary medicine.

CHANGE OF VOTE

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I ask unanimous consent that on rollcall vote No. 209, regarding the Central American Free Trade Agreement, I be recorded as having voted nay instead of my previous vote in favor of the measure. I understand this change will not affect the outcome of the vote. I thank the majority leader and the Democratic leader.

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

Mr. SPECTER. I thank the Chair.

40TH ANNIVERSARY OF THE VOTING RIGHTS ACT

Mr. SALAZAR. Mr. President, I rise to pay tribute to a piece of a landmark civil rights legislation on the occasion of its 40th Anniversary: the Voting Rights Act of 1965.

Before the passage of the Voting Rights Act, African Americans, Hispanics, Native Americans, and others were routinely prevented from voting. The various tactics used to impede and discourage people from registering to vote or turning out on election day ranged from literacy tests, poll taxes, and language barriers, to overt voter intimidation and harassment.

On August 6, 1965, when President Lyndon B. Johnson signed the Voting Rights Act of 1965, America took a critical step forward in its quest for inclusiveness. Just a year earlier, President Johnson had signed the Civil Rights Act of 1964, proclaiming that in America,

> We believe that all men are created equal, yet many are denied equal treatment. We believe that all men have certain unalienable rights, yet many Americans do not enjoy those rights. We believe that all men are entitled to the blessings of liberty, yet millions are being deprived of those blessings, not because of their own failures, but because of color of the skin.

President Johnson knew then what we still recognize today. The enactment of both of these critical pieces of legislation was only one step in our country's journey to become an inclusive America where all its citizens enjoy the rights and protections guaranteed by the U.S. Constitution.

When he recalled this day, Dr. Martin Luther King, Jr. wisely pointed out that ''the bill that lay on the polished mahogany desk was born in violence in Selma, AL, where a stubborn sheriff had stumbled against the future.'' Dr. King was, of course, referring to ''Bloody Sunday,'' the March 7, 1965, incident where more than 500 non-violent civil rights marchers attempting a 54-mile march to the state capital to call for voting rights were confronted by an aggressive assault by authorities.

In our country's history, we have stumbled, but great leaders such as Dr. King, and countless others who toiled and gave their lives, made certain that we got back up and continued on our path toward progress.

On the dawn of its 40th anniversary, Congress is preparing for the reauthorization of key provisions in the Voting Rights Act that will expire in 2007. I hope that the Senate can rise above the partisanship that often plagues this body to renew the promise of inclusiveness that the Voting Rights Act has sought to achieve since its inception. In the past, we have been able to accomplish this and the results have been truly extraordinary.

Since the passage of the Voting Rights Act, the doors to opportunity for political participation by previously disenfranchised groups have swung open. Their voices have been heard and counted. The result has been an America where the number of black elected officials nationwide has risen from 300 in 1964 to more than 9,000 today. In addition, there are over 5,000 Latinos who now hold public office, and there are still hundreds more Asian Americans and Native Americans serving as elected officials.

However, in order to continue to make progress, Congress will need to reauthorize and maintain its enforcement of the Voting Rights Act. Today, as we work to promote democracy in Iraq and other regions of the world, I wish to honor the legacy of this milestone in our own Nation's democracy and to thank all those who have been a part of the civil rights movements.

I thank the President and yield the floor.

AMERICANS WITH DISABILITIES ACT RESOLUTION

Mr. ISAKSON. Mr. President, I rise today on the 15th anniversary of the enactment of the Americans with Disabilities Act to commemorate its passage, commend its many authors, and suggest some actions we should take to protect, preserve, and advance its legacy as a vital component of our laws on civil rights.

Fifteen years ago, President George Herbert Walker Bush signed into law the Americans with Disabilities Act, a landmark piece of legislation that extended civil rights protections to individuals with disabilities.

Prior to the passage of the ADA, far too many of our fellow Americans with disabilities faced utterly unnecessary obstacles. Many lacked accessible transportation, reasonable workplace accommodations, and entree to government buildings.

Passionate reformers of all stripes sought to change this, and we cannot discuss the ADA without first mentioning the name Justin Dart, Jr. Never without his trademark cowboy hat, Justin Dart worked tirelessly for enactment of the act. His efforts came to national attention in 1981, when President Reagan appointed him to be the vice-chair of what is now known as the National Council on Disability. Mr. Dart and others on the council drafted a policy that called for civil rights legislation to end discrimination against people with disabilities, a policy that eventually would form the basis for the Americans with Disabilities Act of 1990. Widely respected and beloved by both sides, Justin Dart passed away in 2002.

Another champion for Americans with disabilities was, without question, our former colleague, Bob Dole. It was 1942 when, at the age of 19, Bob Dole joined the Army to fight in World War II. A year later, in the hills of Italy fighting the Nazis, Senator Dole was hit by gunfire. The shot shattered his right shoulder, fractured vertebrae in his neck and spine, paralyzed him from the neck down, and damaged a kidney.

Of course, he recovered to become one of the most influential legislators of the 20th century. Urging Congress to pass the ADA, he said, ''This historic civil rights legislation seeks to end the unjustified segregation and exclusion of persons with disabilities from the mainstream of American life.''

A study of the legislative history of the act reveals that it was, in every sense, a bipartisan accomplishment. The legislation supports a notion in which President Reagan deeply believed. He used to say that there is no limit to what you can accomplish if you don't care who gets the credit.

The act was then signed into law by another great American, President George H. W. Bush. In signing the legislation, President Bush spoke of what he felt the law would offer Americans with disabilities. He said ''This Act . . . will ensure that people with disabilities are given the basic guarantees for which they have worked so long and so hard: independence, freedom of choice, control of their lives, the opportunity to blend fully and equally into the rich mosaic of the American mainstream.''

Since the passage of the ADA, we have seen significant improvements in the employment and economic well-being of citizens with disabilities. In 2003, the U.S. Census Bureau reported that over the previous 15 years, the employment rate for working age men with a disability had increased by more than 25 percent. Other evidence of the ADA's impact was even more readily apparent. For instance, the barriers to mobility once posed by public transportation have been largely eliminated. Here in Washington, DC, for example, 95 percent of the Metro system is accessible to persons with disabilities.

However, anniversaries are not just for looking back and celebrating the achievements of the past. They must also be an occasion for looking forward to the challenges that still lie before us.

A report issued by the Institute for Higher Education Policy in 2004 revealed that less than two-thirds of youths with disabilities receive standard high school diplomas. Although this graduation rate represents a significantly higher rate than 15 years ago, it remains inadequate, and significantly behind the rate for individuals without disabilities.

We in Congress must maintain high expectations for all Americans. Americans with disabilities can compete and cooperate at the same level as Americans without disabilities. I was happy to work on the No Child Left Behind Act and the Individuals with Disabilities Education Act, both of which incorporated the principle of high expectations for all, regardless of race, gender, or disability.

We also must incorporate the latest technology to help further incorporate

Americans with disabilities into our workplaces. I was pleased to support President George W. Bush's New Freedom Initiative, which builds on the progress of the ADA by supporting new technologies that make communications easier, and thereby helping people with disabilities live full, active lives in their communities.

We in Georgia know that people with disabilities can realize their incredible potential and better our workplaces, our schools, and our society. For 6 years, we were represented in this body by Senator Max Cleland, a disabled Vietnam veteran.

No one knew the potential of Americans with disabilities better than Bobby Dodd, whom most Georgians would associate with Georgia Tech and his phenomenal years coaching, winning football teams. But after his retirement, he developed the Bobby Dodd Institute, which works to ensure that Atlantans with disabilities are given the opportunities to achieve economic self-sufficiency through employment.

Another name that comes to mind when we discuss heroes to Americans with disabilities is Tommy Nobis. Tommy was the first draft pick in the history of the Atlanta Falcons, taken No. 1 in the 1965 draft. A steady and reliable linebacker, Tommy was a five-time Pro-Bowler and NFL Rookie of the Year in 1966. Yet far more important than his football accomplishments are his accomplishments off the field. In 1975, he founded the Tommy Nobis Center to provide vocational training to persons with disabilities. Originally run out of a small, crowded trailer, the center now operates a $2 million state-of-the-art center in Marietta, GA. The center enables individuals to enter or return to employment and to enjoy productive and independent lifestyles while contributing to the greater business community. Over their proud 25-year history, the center has assisted over 11,000 individuals with disabilities.

Again, I am pleased to cosponsor today's resolution and offer my sincerest congratulations to all of those who have worked to ensure better lives for Americans with disabilities.

HONORING ALAN CHARLES SADOSKI

Mr. LEAHY. Mr. President, I rise today in honor of Alan Charles Sadoski, a loving husband, father, and friend whose lasting memory is continually celebrated by everyone who knew and loved him.

Alan's life was filled with family, friends, excitement, and laughter. He was one of what quickly became seven brothers and sisters growing up in Salem, MA. Everyone who knew him will tell you that his siblings were not only his best friends but also his biggest fans. He graduated from high school in 1967 and went on to become a standout soccer player at Salem State College, while at the same time serving in the Massachusetts National Guard.

After odd jobs throughout the summers in and around Salem, Alan took a job working as a teller for the Essex Bank. Little did he know at the time, but that job changed Alan's life. Not only did Alan find a career, but he also fell in love with a fellow teller, Claire McGuire. The two married and began their life together, ultimately moving to Washington, DC where Claire pursued her legal career and Alan took a job with the National Bank of Washington. Everyone who knew Alan can remember him on his way to work, the banker in his three piece suit.

On December 29, 1981 Claire and Alan had a son named Nicholas Alan. Shortly thereafter the family moved into their first home where Alan's love of fatherhood blossomed. Alan converted the boxes from their new appliances into little homes for Nick and the two of them spent countless hours playing together. When Nick had trouble sleeping at night, Alan would drive him around the neighborhood until he fell asleep. He even brought Nick back to Salem for his first haircut at the barbershop just down the street from his own childhood home. Everyone could see how much Alan enjoyed being a father.

Although Alan fought hard, his spirit and courage in the face of adversity never showing the effects of his illness, he sadly succumbed to his battle with cancer on August 12, 1985. He was troubled by the idea of leaving his wife and son behind, but he knew they would be taken care of and supported by both his family and the legion of friends he made over the years. Each of them made a special promise to Alan that in their own way they would always make sure Claire and Nick were okay. It is now 20 years later and Alan's friends and family have never let the two of them down.

Over the years the people closest to Alan have kept his spirit alive by thinking about him often and sharing their memories of him with others. His friends remember his tolerant and understanding nature. They remember his love of camping and how much he had hoped to take his son and nephews out on a true wilderness adventure. They talk about his fabled flapjacks, and how everyone would watch the pancake impresario perform his tricks. They remember how much fun it was to be around Alan; how he was always at the center of the crowd, telling some of his famous stories, somehow making the gathering better just by being there. Even the pharmacists at the local drugstore, who saw Alan during some of the worst days of his illness, thought the world of him and even made a donation to the American Cancer Society in his honor. He truly touched everyone he met.

Since then the family has remained close and they talk about Alan often. He has nieces and nephews now that he never had a chance to meet, but they have heard all about ''Uncle Al, the Kiddies' Pal.'' Alan would be happy to know that the people who meant the most to him in his life still gather and share their memories of him after his death. He would love to know that Claire and Nick are the best of friends. He would love to know that Nick enjoys hearing stories about his dad, and perhaps more than anything else, loves to hear people say, ''Your dad would be proud of you.''

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

Mr. KENNEDY. Mr. President, the Department of Transportation's Disadvantaged Business Enterprise Program is vital to ensuring that businesses owned by women and minorities have an equal opportunity to compete for Federal highway construction contracts, and I commend the conferees for supporting this important program in this year's highway bill.

Since the program was created in 1982 and expanded to include women in 1987, the construction industry has changed significantly. Although we still have far to go to fully address the effects of discrimination in the industry, the program has opened many doors of opportunity for women and minorities in what was once a virtually all-male, all-white construction industry. The program deserves high marks in combating the effects of discrimination in highway construction. But on the extensive information available to us in considering its reauthorization, it is also clear that the program is still very much needed to achieve a level playing field for all qualified contractors, regardless of race or gender.

Since Congress first began examining this problem, it has been clear that the construction industry generally, and highway construction in particular, have been predominantly an insiders' business that often exclude women and minorities for discriminatory reasons. The persistence of this festering problem has denied opportunities for African American-, Asian American-, Latino-, Native American-, and women-owned firms in the industry.

Our extensive hearings and other information gathered over the years made clear that women and minorities historically have been excluded from both public and private construction contracting. When Congress last reviewed the program in 1998, there was strong evidence of discriminatory lending practices that deny women and minorities the capital necessary to compete on an equal footing. Much of that information is cited and described in three leading rulings by Federal courts of appeals—the Eighth Circuit's opinion in Sherbrooke Turf. Inc. v. Minnesota Department of Transportation, the Tenth Circuit's opinion in Adarand Constructors v. Pena, and the Ninth Circuit's opinion in Western States Paving Company v. Washington State Department of Transportation, all of which upheld the program as constitutional, and found that it is narrowly

tailored to deal with the Government's compelling interest in remedying discrimination.

I will not detail all of the information previously considered, but a few examples illustrate the breadth of the problem. A bank denied a minority-owned business a loan to bid on a public contract worth $3 million, but offered a loan for the same purpose to a nonminority-owned firm with an affiliate in bankruptcy. An Asian-lndian American businessman in the San Francisco Bay area testified at a public hearing that he was unable to obtain a line of unsecured credit from mainstream banks until he found a loan officer who shared his heritage. A Filipino owner of a construction firm testified that he had difficulty obtaining bank financing, although white-owned firms with comparable assets could obtain similar loans.

Overt discrimination and entrenched patterns of exclusion prevented many female- and minority-owned businesses from obtaining surety bonds.

Minorities also have been consistently under-utilized in Government contracting. In 1996, the Urban Institute released a report documenting wide statistical disparities between the share of contract dollars received by minority- and women-owned firms compared to firms owned by white males. Minority firms received only 57 cents in Government contracts for every dollar they should have received based upon their eligibility.

For specific racial groups, the disparities were even more severe. African American-owned firms received only 49 cents on the dollar; Latino-owned firms, 44 cent; Asian-American owned firms, 39 cents; Native American-owned firms, 18 cents; women-owned firms, 29 cents.

These statistics are particularly troubling, because they exist despite affirmative action programs in many of the jurisdictions. Without such programs, their plight would have been far worse. The Urban Institute report found that the disparities between minority- and women-owned firms and other firms were greatest in areas in which no affirmative action program was in place.

When only areas and years in which affirmative action is not in place were considered, the percentage of awards to women fell from 29 percent to 24 percent. For African Americans, the percentage dropped from 49 percent to 22 percent; for Latinos, from 44 percent to 26 percent; for Asians, from 39 percent to 13 percent; and for Native Americans, from 18 percent to 4 percent. These figures show that affirmative action programs are not only effective, but are still urgently needed.

We also had extensive evidence of discrimination by prime contractors, unions, and suppliers of goods and materials, who expressly favored white males over minorities and women. In addition, the information we received established that exclusionary practices by State and local governments also contributed to the problem. As a result, female and minority contractors were disadvantaged in their efforts to compete fairly for both public and private construction projects.

The history of discrimination in contracting provides important context for the information that has been developed since the program was last reauthorized. We must not and do not assume that because the program was necessary in 1998, it must be reauthorized. Before deciding to continue the program, we have a constitutional duty to determine whether it is still needed today.

The information we have seen since then confirms that there is still a need for a national program. New studies completed since 1998 show that minority- and women-owned companies are underutilized in government contracting. The Department of Transportation identified 15 detailed studies of State and local governments showing significant disparities between the availability and utilization of minority- and women-owned firms in government contracting. Studies showed underutilization in Nebraska; in Maryland; in Colorado; in Georgia; in Kentucky; in Ohio; in Wilmington, DE; in Dekalb County, GA; in Broward County, FL; in Dallas, TX; in Cincinnati, OH; in Tallahassee, FL; and in Baltimore, MD. Several other studies have also been completed since 1998. Furthermore, expert evidence presented to the trial courts in Sherbrooke and in Gross Seed v. Nebraska Department of Roads included statistical evidence of underutilization of minority- and women-owned firms in Minnesota and Nebraska.

In the past, we have seen a striking reduction in participation in the regions where government programs designed to provide a level playing field in the construction industry are curtailed or eliminated. That pattern has continued in recent years. For example, in the State of Minnesota, during 1999, after a Federal court had enjoined the State department of transportation from implementing a previous program—participation dropped from over 10 percent to slightly more than 2 percent. In addition, the General Accountability Office, GAO, issued a 2001 study showing that contracting under the Federal program had ''dramatically declined'' when similar local programs were terminated in the jurisdictions it examined.

We also have received considerable new anecdotal evidence of discrimination in highway construction contracting:

Herta Bouvia, the female co-owner of a company that competes for building contracts and highway construction contracts in Nebraska, testified in Gross Seed v. Nebraska Department of Roads that she faced hostility, slurs, and other forms of harassment on construction jobs because of her gender.

Stanford Madlock, an African-American owner of a DBE trucking company in Nebraska, testified in the same case that he had suffered discrimination because of his race, including being denied contracts despite submitting the low bid for the work and being denied access to capital.

The Tenth Circuit's 2003 opinion in Concrete Works v. City and County of Denver included extensive anecdotal evidence of discriminatory behavior by lenders, majority-owned firms, and individual employees in the Denver metropolitan area, which the court characterized as ''profoundly disturbing.'' In that case, a senior vice president of a large, white-owned construction firm testified under oath that when he worked in Denver, he received credible complaints from minority- and women-owned construction firms that they were subject to different work rules than majority-owned firms; that he frequently observed graffiti containing racial or gender epithets on job sites in the Denver area; and that, based on his own experience, many white-owned firms refused to hire minority or women-owned subcontractors because of biased views that such firms were not competent.

Witnesses from minority- and women-owned firms testified that they were treated differently than their white male competitors in attempting to prequalify for public and private projects or to obtain credit. They also testified that prime contractors rejected the lowest bids on construction projects when those bids had been submitted by a minority or woman, and that female- and minority-owned firms were paid less promptly by prime contractors and were charged more for supplies than white male competitors on both public and private projects.

The case also included extensive evidence that Latino, African-American, and female contractors were subjected to verbal and physical abuse because of their race or gender. Even more disturbing was the testimony that minority and female employees working on construction projects were physically assaulted and fondled, spit on with chewing tobacco, and pelted with 2-inch bolts thrown by males from a height of 80 feet.

Disparity studies completed since the Disadvantaged Business Enterprise Program was last reauthorized also contain significant anecdotal evidence:

A disparity study by the State of Delaware described the difficulties of African-American firms in obtaining loans, including the experience of an African-American contractor who could obtain credit only after a white friend working at the bank interceded on his behalf.

The 2003 Ohio study also included the account of an African-American general contractor in the construction business whose ability to perform the work was questioned by an administrator for a project conducted by the State. The African-American contractor related that he ''had a lot of

problems out of that particular agency,'' and was told that Government affirmative action programs are ''a form of n—gger welfare.'' The same contractor found that he was expected only to work on projects that were part of an affirmative action program.

The study included anecdotal evidence that female construction contractors were often forced to justify their ability to do the job. One contractor related that she was frequently required to demonstrate her knowledge of the construction business. She said, ''You are challenged, no matter your age, no matter your position, you are challenged quite frequently and asked very simple construction quiz questions just to prove you [know] construction acumen.'' She said that male contractors assume women lack knowledge of the business. One female contractor stated that she was forced to answer basic questions about construction before being permitted to perform work on a job.

A 1999 study of contracting in Seattle includes accounts by a female contractor with 14 years' experience in construction. It found that general contractors assume minority-and women-owned firms do substandard work. It also includes information about women contractors subjected to sexually inappropriate or demeaning comments by men in the construction industry.

The 1999 Seattle study contained troubling anecdotal evidence of lending discrimination against minorities. A Latino construction contractor had difficulty obtaining credit for his business until his white employee began dealing with the bank and easily obtained the loan from the same loan officer who had previously ignored the Latino contractor's application. The Latino owner also said that he later tried to help six other minority contractors—two African Americans, two Latinos, and two Native Americans—obtain credit after his company expanded, and always had difficulty. He stated that bankers told him, ''Jeez, you know how much these types of firms fail?'' and that the African American and Native American contractors he sought to help were verbally mistreated by bank employees.

The same study noted that one Seattle bank placed so many increasing financial requirements on an Asian American construction contractor that the contractor was unable to get credit until he no longer needed it.

The study also included anecdotal evidence of bid shopping by prime contractors that disadvantaged minority firms and discriminated against African-American and Latino construction contractors in seeking bonding and insurance.

A 1999 study of contracting in Minnesota included the account of an African-American construction contractor, who stated that a white construction worker refused to report to an African-American worker, that there was racial harassment on job sites ''all the time,'' and that African Americans had been called ''monkeys'' on the job and had their work sabotaged.

The Minnesota study also included statements by an Asian contractor who endured racial slurs or harassment from others in his business ''at least once a month.''

In light of the extensive evidence of continuing discrimination in construction contracting, the additional information available to Congress since 1998 makes clear that the Disadvantaged Business Enterprise Program is still needed. Given the importance of this question, I will ask unanimous consent to include further evidence in the RECORD.

In reauthorizing the Disadvantaged Business Enterprise program, we are well aware that in seeking to expand inclusion in the American dream, we must not unduly burden any other group. The program achieves the proper balance. The Department of Transportation's regulations expressly prohibit the use of rigid quotas, and require States administering the program to use race-conscious measures only as a last resort when race-neutral efforts to combat discrimination have been shown to be insufficient. If a State finds that it can create a level playing field on which all contractors have a fair chance to compete without using race-conscious means, the regulations require it to set the race-conscious portion of its goal of minority participation at zero, so that no race-conscious measures are used at all. We know that the program is also flexible in fact, because some States have set the race-conscious portion of the goal at zero.

The process by which firms may be certified for the program does not rigidly classify firms based on race, ethnicity or gender. Instead, the certification process is designed to identify victims of discrimination. Although firms owned by women and minorities are presumed to be eligible to participate in the program, that presumption may be rebutted, and their owners must submit a notarized statement declaring that they are, in fact, socially and economically disadvantaged. Firms owned by white males who can show that they are socially and economically disadvantaged can also qualify to participate in the program.

Finally, the program is inherently flexible. It imposes no penalty on States for failing to meet annual goals for participation. It requires only that prime contractors exercise good faith in seeking to meet the DBE participation goals on individual contracts; no penalty is imposed if their good-faith efforts are unsuccessful.

Given the magnitude and pervasiveness of the historical exclusion of women and minorities from construction contracting, it is not surprising that this problem has not yet been fully corrected. But the difficulty of the problem does not absolve us of our duty to address the effects of discrimination, and to continue our effort to achieve a level playing field in government contracting. As the Supreme Court stated in Adarand Constructors v. Pena, ''[g]overnment is not disqualified from acting in response to the unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country.'' Indeed, we have a duty to ensure that federal dollars are not used to subsidize discrimination.

As President Kennedy stated in his landmark message to Congress on civil rights in June 19, 1963:

> Simple justice requires that public funds, to which all taxpayers of all races [and both genders] contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in . . . discrimination.

The Disadvantaged Business Enterprise program enables a diverse group of contractors to contribute to the important projects financed by this major legislation. Everyone benefits when the recipients of Federal opportunities reflect all of America.

The program ensures that all Americans have a fair opportunity to participate in the construction projects and other activities authorized in this legislation and that those who benefit from Federal contracting opportunities reflect our Nation's diversity, and I commend my colleagues on both sides of the aisle for including this still urgently needed program in this major legislation.

Mr. President, I commend to my colleagues the National Economic Research Associates Disadvantaged Business Enterprise Availability Study prepared for the Minnesota Department of Transportation.

I ask unanimous consent that several letters be printed in the RECORD.

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

MOLTER CORPORATION,
Frankfort, IL, March 29, 2004.

JOANN PAYNE,
Women First Natl Legislative Committee, Washington, DC.

DEAR MS. PAYNE: In 1987 I started my business. At that time, I was not married. I am married now. You ask if I feel there have been acts of discrimination, I most definitely feel that is the case.

When I started my company, I was involved in a specialty type of construction, and tried to work for industrial business. In 1987, rarely did you see women in plants, workers or business owners. I was mocked and ridiculed by my male counterparts. They blatantly said I did not know much about the business, and that I would not be in business in one year's time frame. (That was 16 years ago.)

When I went to the bank for a loan—and that is still happening, my husband has to sign all papers, though he is retired from the restaurant business and has never been involved in my business.

Prime contractors tend to take advantage of small minority or women business. They do not pay timely, do not process change orders in a proper time frame. This leads to a cash shortage for a small business.

If the goals were eliminated, general contractors would not use minority or women

business owners. That has been proven for those areas without goals. When they have a project, they will only solicit your bid up to the amount of the goal, and do not want to use me to any further limit.

There is a good ole boy's network, be it on the golf course, on trips, or dinner/lunch meetings.

Given the opportunity, my company has proven our exceptional capabilities. Just recently we were named subcontractor of the year by IDOT. We performed shotcrete work on a bridge over the river in Peoria, Illinois.

The DBB program has been good for my company when we are given the opportunity. It is extremely important that the program continue.

Sincerely,

LORETTA MOLTER.

LEAJAK CONCRETE CONSTRUCTION INC.,
Mountlake Terrace, WA, July 20, 2005.

U.S. CONGRESS,
Washington, DC.

DEAR SIR OR MADAM: I appreciate the opportunity to submit evidence of my company's experiences with the DBE program as it exists in Washington State.

Located in Washington State, Leajak Concrete Construction Incorporated has been in existence since 1992 and has been a certified DBE since its inception. Leajak Concrete Construction is a small general contractor specializing in structural concrete work suitable for commercial buildings, civil work, public works projects, transportation projects, and many others. As a small DBE business our revenues average approximately 3–3.5 Million, employing 8–10 full time employees and 6–7 part time employees.

Although the DBE program has assisted Leajak Concrete Construction Incorporated to access some opportunities, it is important to know that the barriers and obstacles that the program is suppose to mitigate still exist. We continue to encounter discrimination in the market place that keeps us from participating in competitive bidding, negotiated work, and receiving the necessary information we need to seek business. Leajak Concrete Construction Incorporated constantly pursues subcontracting work with Prime contractors, but it continues to be our experience that the Prime contractors do more to discourage us than to encourage us to bid. For example, we are constantly at a disadvantage because Prime contractors contact us at the last minute to bid on complex and substantial contracts. This is indicative of the ''Good Faith Effort'' we experience day in and day out. Furthermore, when we have asked for feedback on our bid and request post-bid reviews, we are ignored and disregarded.

Washington State has the dubious distinction of being only one of two states in the Union that have an anti-affirmative law on the books RCW 49.60.400 (aka I–100). As a result, spending with certified minority and women-owned businesses had decreased dramatically; 7.8% in 1998 for minority firms to 0.8% in 2003, and 6.1% in 1998 for women firms to 1.2% in 2003. I believe that the chilling effect of I–200 is event in a lack of commitment, responsiveness and concern by the state agencies responsible for managing and upholding the federal DBE program. It is correct to say that the recipients and sub-recipients of federal transportation dollars in Washington State take a very passive approach to promoting and communicating the DBE program to the affected parties.

To summary, the DBE program as contained in TEA–21 should be reauthorized, upheld, strengthened and improved. America's certified DBE firms deserve fair and equitable access to opportunities that are funded by our tax dollars, and the federal DBE program is an important underpinning.

Sincerely yours,

FREDELL ANDERSON,
President.

MD. WASHINGTON MINORITY CONTRACTORS' ASSOCIATION, INC.,
Baltimore, MD, July 21, 2005.

Re Reauthorization of DBE Program.

THE U.S. CONGRESS,
Washington, DC.

DEAR SIR OR MADAM: I address this correspondence to you on a matter of extreme importance. Discrimination against one's racial, ethnic and gender make-up is still the number one impediment for minority entrepreneurs starting and sustaining their businesses in America today. As the leader of a minority trade association in Baltimore, Maryland, I have witnessed and received testimony from many who have experienced first hand the evils of procurement discrimination in Government and private sectors.

The findings from disparity studies conducted throughout Maryland indicate that countless minority businesses are not being provided opportunities to grow their businesses because of a lack of capital, bonding and retained earnings. Upon attending a recent public hearing at the headquarters of the Washington Suburban Sanitary Commission (WSSC) on the subject of its recent disparity study, I heard a disadvantaged business testify that if the WSSC suspends the DBE program, his company would be out of business. This particular company supplies valves and manhole covers to WSSC. The owner of the business further stated that other water supply and treatment centers in the region who do not have DBE programs won't buy from him because he can't get the foundries to supply him. The foundries that do supply him do so only to satisfy WSSC's DBE program. If the DBE program is not reauthorized, the fate of the majority businesses doing business under the program is doomed. I urge you the continuance of the program without haste.

Sincerely,

WAYNE R. FRAZIER, Sr.,
President.

UNANIMOUS CONSENT REQUEST

Mr. CRAIG. Mr. President, I ask unanimous consent to insert the letters from the Fraternal Order of Police and the Law Enforcement Alliance of America in that section of the RECORD containing the debate on the Kennedy amendment relating to armor-piercing ammunition.

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

GRAND LODGE,
FRATERNAL ORDER OF POLICE,
Washington, DC, July 29, 2005.

Hon. LARRY CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: I am writing to advise you of our strong opposition to Amendment 1615, offered by Senator Kennedy to S. 397, the ''Protection of Lawful Commerce in Arms Act.''

Senator Kennedy will certainly present his amendment as an ''officer safety issue'' to get dangerous, ''cop-killer'' bullets off the shelves. Regardless of its presentation, the amendment's actual aim and effect would be to expand the definition of ''armor-piercing'' to include ammunition based, not on any threat to law enforcement officers, but on a manufacturer's marketing strategy.

The truth of the matter is that only one law enforcement officer has been killed by a round fired from a handgun which penetrated his soft body armor—and in that single instance, it was the body armor that failed to provide the expected ballistic protection, not because the round was ''armor piercing.''

It is our view that no expansion or revision of the current law is needed to protect law enforcement officers. To put it simply, this is not a genuine officer safety issue. If it were, Senator Kennedy would not be offering this amendment to a bill he strongly opposes and is working to defeat.

The Kennedy amendment was considered and defeated by the Senate Judiciary Committee in March 2003 on a 10–6 vote. We believe that it should be rejected again.

On behalf of the more than 321,000 members of the Fraternal Order of Police, I thank you for taking our views on this issue into consideration. Please do not hesitate to contact me, or Executive Director Jim Pasco, through our Washington office if I can be of any further assistance.

Sincerely,

CHUCK CANTERBURY,
National President.

THE LAW ENFORCEMENT ALLIANCE OF AMERICA,
JULY 29, 2005.

Hon. LARRY CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: Speaking on behalf of the 75,000 Members and Supporters of the Law Enforcement Alliance of America (LEAA), we wish to add our voice to the growing group of law enforcement representatives who strongly oppose efforts to gut or kill S. 397, the ''Protection of Lawful Commerce in Arms Act.''

Senator Ted Kennedy's effort to portray his poison pill amendment, number 1615, as a law enforcement safety issue by using the term ''cop-killer bullet'' is a thinly veiled fraud. Senator Kennedy opposes the effort to reign in runaway trial lawyers who are bent on driving the legitimate firearm industry out of business and this amendment has everything to do with killing a bill he opposes, not protecting cops.

The Kennedy amendment is an effort to label some bullets as ''bad'' while others are ''good;'' this is ill considered and misleading at best. Law enforcement officers are killed and assaulted by criminals. Criminals bent on attacking officers will use whatever tool they can to hurt and kill. There are no good bullets or bad bullets; in this case there are only bad amendments whose true intent is to be a ''poison pill'' to S. 397.

This amendment, along with other hostile amendments, should be identified for what they really are: an outright effort to kill S. 397 and they should be defeated.

Please know that many in the law enforcement community encourage you to continue steadfastly in support of America's gun manufacturers who provide our officers the tools to return home safely at the end of their shift.

Thank you for your unwavering support of America's brave men and women who wear a badge. Please do not hesitate to contact me or Ted Deeds if we can be of further assistance.

Sincerely,

JAMES J. FOTIS,
Executive Director.

MILITARY CAREER OF COLONEL WILLIAM A. GUINN, USA

Mr. SANTORUM. Mr. President, I rise today to offer remarks on the military career of Col. William A. Guinn,

U.S. Army, and to offer my appreciation to Colonel Guinn on his years of dedicated service to our country.

Col. William A. Guinn has made numerous and significant contributions to the U.S. Army in a career of over 27 years, culminating with his assignment as Commander, Letterkenny Army Depot from July 2002 to August 2005. During the past 10 years, Colonel Guinn distinguished himself through meritorious service while serving in positions of great responsibility. His leadership and support to members of the Armed Forces, the units and commands in which he served, and local communities mark him as an exceptional leader and contributor to the Armed Forces of the United States.

From 1996 to 1998 Colonel Guinn commanded the 123rd Main Support Battalion, MSB, 1st Armored Division Support Command, Dexheim, Germany. In July of 1996, the same month he took command, Colonel Guinn was ordered to begin redeployment of his unit while not losing any levels of support to the Multi-National Division-North. In less than 1 year, Colonel Guinn was again directed to deploy his units into Bosnia as part of the NATO lead stabilization force, SFOR. After 26 months of command duty, Colonel Guinn moved forward and became one of the select few chosen to attend the Industrial College of the Armed Forces.

In June 1999, Colonel Guinn reported to the headquarters, U.S. Pacific Command, as a member of the J4 staff. Within his first 90 days, he assumed the challenge of coordinating the United States' support in the emerging nation of East Timor. While assisting the U.S. commitment to Operation Stabilize, the Australia-led operation to bring peace and stability to East Timor by international forces, East Timor, lNTERFET, he planned and executed the first major deployment of contracted support to military forces. Within a year Colonel Guinn would be given another mission of international and U.S. strategic importance when Navy surveillance aircraft, the EP–3E BUNO 15651, was forced down in the Peoples Republic of China, PRC, after an in-air collision with a PRC Air Force fighter aircraft on April 1, 2001.

After the tragic events of September 11, 2001, Colonel Guinn was tasked to coordinate the regional U.S. response in the opening stages of the global war on terror. Colonel Guinn's knowledge of establishing forward logistics bases in remote locations was instrumental in establishing a base in Zamboanga for special forces units to train Philippine soldiers in tactics to resist terrorist insurgents.

In July 2002, Colonel Guinn took command of Letterkenny Army Depot, LEAD, in Chambersburg, PA. When he arrived, LEAD was still wrestling with the effects of the downsizing and reductions from the base realignment and closing, BRAC, actions. The infrastructure was being shed to comply with the BRAC 1995 realignment and Letterkenny was struggling to define its future.

Because of aggressive and progressive planning, Colonel Guinn has been able to more than double the workload and output of Letterkenny. He developed a strategy to grow the workload, which in turn made the depot a more competitive and efficient producer of materiel in support of global war on terror. First, he identified niche areas where the core capabilities of the depot and its skilled tradesmen could best utilize their strengths. Second, he went directly to nontraditional military customers such as the Special Operations Command, SOCOM, to show what the depot had to offer and how the depot could meet the needs of the warfighter. Finally, he built on the existing core depot work supporting air defense and tactical missiles to grow that part of the business in a competitive environment. During his tenure workload is up over 200 percent in dollars and over 100 percent in terms of manhours.

Colonel Guinn directed an analysis and a strategic plan for human resources and workforce replenishment at the depot. Recruitment targets and strategies of tying into technical schools were put in place. The first 4–year apprenticeship program was adopted under Colonel Guinn. Interns began to arrive for the first time in a decade. Colonel Guinn instilled a sense of importance in the everyday tasks of civilians at the depot. He demanded high standards in workmanship and in orderliness of the workplace. He began with the first levels of Lean, Six Sigma, 6S, to improve shop effectiveness and to instill pride in the workforce.

Following the BRAC 1995 round, there were challenges in merging the goals of BRAC and those of the depot. Under his leadership, Colonel Guinn looked for opportunities, was entrepreneurial, and he set the depot up to be a model of efficiency. In 2002, the Army launched its ''lean implementation'' initiative. Colonel Guinn decided LEAD would be at the forefront of this initiative. The activities undertaken under his leadership set the pace for lean implementation across all of Army Materiel Command.

The summary of a military career is the opportunity to command and transform an organization. Some officers will manage an organization; others lead and challenge the organization to excel. Colonel Guinn led Letterkenny Army Depot and its people to achieve more than they thought themselves possible. Colonel Guinn did what a great connnander should, he got all his organization was capable of doing.

GUATEMALA

Mr. LEAHY. Mr. President, I want to take a moment to speak about Guatemala, a country that receives too little attention by the Congress, where we have seen both progress and disturbing trends in recent years.

Guatemala is struggling to emerge from more than three decades of civil war in which tens of thousands of civilians, mostly Mayan Indians, were disappeared, tortured and killed. The majority of those atrocities were committed by the army.

A year and a half ago, Guatemala elected a new President, Oscar Berger, who pledged to support the implementation of the 1996 Peace Accords which his predecessors had largely ignored. President Berger's election offered hope for change, beginning with the downsizing of the military, his appointment of Nobel Peace Laureate Rigoberta Menchú as a Goodwill Ambassador, and his pursuit of corruption charges against former President Alfonso Portillo. I was among those who praised President Berger for those important and courageous initiatives.

However, I am concerned that after a promising beginning, corruption, organized crime, and human rights violations are getting worse.

In 2004, President Berger reduced the size of the Guatemalan military by 50 percent. However, to the consternation of many civil society organizations, the Interior Ministry announced that the Guatemalan military would continue to participate in joint law enforcement operations with the National Civil Police, in violation of the Peace Accords. This is also a concern because, according to the State Department, there are credible allegations of involvement by police officers in rapes, killings and kidnappings. Rather than prosecute these officers, they are often transferred to different parts of the country. Impunity remains a serious problem.

Organized crime is thriving in Guatemala, and the government faces an uncertain future if it is perceived as powerless against these wealthy criminal networks. In one day this year, 17 people were reportedly murdered in Guatemala City. Our Ambassador is reportedly confident that organized crime has not infiltrated the Berger administration, and President Berger deserves credit for removing Attorney General Carlos de Leon who was suspected of corruption. But he also needs to crack down on these violent gangs.

President Berger also deserves praise for his support of the proposed Commission for the Investigation of Illegal Armed Groups and Clandestine Security Organizations, CICIACS. His initial efforts ran into problems with the judiciary and continue to face opposition in the Guatemalan Congress. But the establishment of CICIACS would assist in the consolidation of democracy as well as in combating clandestine groups.

Reports of intimidation, kidnappings, and death threats remain all too frequent. In January and February of this year alone, Amnesty International documented that 26 human rights activists were threatened or attacked in Guatemala. More recently, on July 7, Mario

Antonio Godínez López, head of the Association for the Promotion and Development of the Community, an organization that opposes CAFTA, received a death threat. The next day, Alvaro Juárez, a human rights leader who worked with Alliance for Life and Peace and with the Association of the Displaced of the Petén, was assassinated. On July 11, five journalists were attacked with machetes by ex-civil patrol members. Ileana Alamilla, the President of the Association of Journalists of Guatemala, has warned that journalists are in increasing danger and that the government needs to take steps to protect them. These are only a few examples of the types of incidents that are common in Guatemala today.

A recent report indicates that the number of women murdered and sexually abused in Guatemala has also increased. As of mid-July, 326 women have been murdered this year in Guatemala, a country of only 14 million people. While the report suggests causes such as clandestine groups, ultimately it concludes that the lack of investigations and convictions, in other words, impunity, are at the root of the problem.

The Guatemalan Government also needs to more effectively address the agrarian conflicts by seeking greater input from indigenous and campesino organizations. I have been concerned with the government's support for land evictions, and the national police's role in the destruction of crops and houses of members campesino organizations. This explosive issue may worsen if President Berger does not find more effective ways to address the legitimate needs of landless people.

We should all be encouraged by the recent announcement that Anders Kompass will be heading the newly established office of the United Nations High Commissioner for Human Rights in Guatemala. Having gained wide respect for his work in OHCHR offices in Colombia and Mexico, Mr. Kompass brings a wealth of expertise to Guatemala. I would hope that the State Department provides funds to help support this office.

Since 1990, the Congress has prohibited foreign military financing assistance for Guatemala because of the military's involvement in gross violations of human rights, and the lack of accountability for heinous crimes. The Senate continued that prohibition recently due to ongoing concerns with the inadequate pace of military reform. It is all too apparent that despite the downsizing of the military, the attitude that the military remains above the law has yet to change.

However, we do provide the Guatemalan military with expanded international military education and training assistance. In addition, we continue to provide counter-narcotics assistance. And this year we released prior year military assistance funds to address urgent equipment needs for drug interdiction, such as spare parts for aircraft.

Guatemala is at a crossroads. No one should be under any illusions about the difficulties of the many political, economic and social challenges it faces. Reform of Guatemala's corrupt and dysfunctional judicial system alone will take many years. But while President Berger has made progress, the culture of violence and impunity continues to thrive in Guatemala. And until there is clear evidence that he is more vigorously and effectively confronting the powerful interests that are responsible for these problems, it will be difficult if not impossible for the United States to support the Guatemalan Government as strongly as we would like to.

COMBATING TRAFFICKING OF WOMEN AND CHILDREN

Mr. LEAHY. Mr. President, I rise to draw attention to the widespread problem of human trafficking. It is the world's fastest growing criminal enterprise. It is a modern-day form of slavery, involving victims who are forced, defrauded or coerced into sexual or labor exploitation. Annually, nearly 1 million people, mostly women and children, are trafficked worldwide, including nearly 18,000 persons into the United States.

The fact is that the violent subjugation and exploitation of women and girls is ongoing and not enough is being done by governments to address it. Take, for example, reports that in a marketplace in Skopje, Macedonia, women are forced to walk around a stage naked while brothel owners point their fingers to make a selection. Women are bought and sold like cattle and treated like slaves.

In Krong Koh Kong, Cambodia, 14-year-old girls stand outside a row of shacks where they charge the equivalent of $2 or $3 for sex, half of which goes to their pimps. These girls, many of whom have AIDS, are discarded when they become too sick to continue working.

Even in the United States, we are not immune to the scourge of human trafficking. Earlier this month, Federal agents raided brothels and businesses in San Francisco and arrested two dozen people allegedly operating an international sex-trafficking ring. Nearly 100 South Korean women were lured to illegally enter the United States; whereupon, they were held captive and forced to work as prostitutes.

Around the world, women and girls are sold as slaves and forced to engage in unprotected sex because clients offer more money for such acts. These women have no control over their lives, their health or their futures. Trafficking victims in the sex industry are exposed to HIV/AIDS at much higher rates than the general population, with no access to medical care. The fear of infection of AIDS among customers has driven traffickers to recruit younger girls, erroneously perceived to be too young to have been infected.

Last month, the State Department issued its fifth annual Trafficking in Persons report, which ranks the efforts of 150 countries to combat human trafficking. Some have observed that the United States has been soft on certain Asian countries thought to be lax on trafficking, such as Indonesia, the Philippines, India, and Thailand. Because these countries are vital allies in fighting terrorism, they may have been treated with greater leniency.

On the other hand, this year, the State Department identified four Middle Eastern allies—Kuwait, Qatar, Saudi Arabia, and the United Arab Emirates—as being among the worst offenders of human trafficking and whose governments are doing little to control it. Despite the fact that these countries have been important partners of the United States, their inadequate efforts on human trafficking demand a call to action by the United States.

Mr. President, this report is merely one first step in combating a growing international problem. We must call upon governments around the world to renew their efforts against this form of modern-day slavery.

We must rededicate our efforts to the prevention of human trafficking, protection of victims, and prosecution of traffickers. Nowhere on Earth should it be acceptable to deceive, abuse, and force a person into a life of enslavement. To deny a person their right to freedom, is an affront to the ideals established nearly 57 years ago in the Universal Declaration of Human Rights. We can and must do better.

HONORING THE LIFE OF STEPHEN STIGLICH

Mr. BAYH. Mr. President, today I wish to pay tribute to the life of a distinguished civil servant and friend, Stephen ''Bob'' Stiglich, who passed away early this morning. Bob's love for our State kept him involved in public service up until his death, working to help Hoosiers from all walks of life. I know that he will be greatly missed.

Bob was a good and decent man who dedicated his life to public service. From his time in law enforcement to his successes in business to his involvement in Democratic politics, his long career was filled with acts of conscientious service on behalf of friends, family members, and Hoosiers across Northwest Indiana. The contributions he made to the region touched countless lives and his presence and humor will be sorely missed.

Bob began his career as an East Chicago police officer, and he never stopped serving the people of Northwest Indiana. It is a rare man who can make such an impact on so many people over the course of one life. Hoosiers will miss Bob as a friend, a community leader, and colleague.

It is my sad duty to enter the name of Stephen ''Bob'' Stiglich in the official record of the United States Senate for his service to the State of Indiana. My thoughts and prayers are with his family.

RECOGNIZING THE SERVICE OF SERGEANT HUMPHREYS

Mr. WARNER. Mr. President, I rise today to recognize the 32 years of service to our Nation of Sergeant Edward Owen Humphreys, U.S. Capitol Police, as he retires from the force.

Edward Humphreys was born and raised in Chesapeake Beach, MD, the son of Louise and Edward Humphreys. Sergeant Humphreys attended Calvert County public schools, graduating from Calvert High School in June of 1967. Soon after graduation, in 1968, Humphreys voluntarily joined the U.S. Navy, and proudly served 4 years during the Vietnam war. During his service in the Navy, Second Class Petty Officer Humphreys served on the USS Kitty Hawk and was a member of the VF 213 Black Lions F–14 fighter squadron. He spent his Navy time in the Pacific, with service in Japan, China, Hong Kong, Australia, Hawaii, and the Philippines.

After returning home from duty in the Navy, it was not long before Humphreys decided to continue his service to country by joining the U.S. Capitol Police in August of 1973. During his many years of duty in the Nation's Capitol, Sergeant Humphreys has worked in the Rayburn House Office Building, Communications, Patrol Division, and is currently assigned to the Senate Chamber section.

Sergeant Humphreys will enjoy his well-earned retirement with his wife of over 30 years, Leslie, and their daughters Casey and Lindsey. Even in retirement, Sergeant Humphreys will continue to serve his local community as a member and administrator of the North Beach Volunteer Fire Department—which he joined at age 16.

On behalf of the Senate, I am pleased to thank Sergeant Humphreys for his service to country and wish him well in his future endeavors.

COMMEMORATING THE 25TH ANNIVERSARY OF POLISH SOLIDARITY

Mr. BROWNBACK. Mr. President, at the end of World War II, Poland, like other Central European countries, fell behind the Iron Curtain. As the country struggled to recover from the brutal ravages of war and occupation, Soviet-backed communist elements seized the reigns of power. For many decades, those who sought to be free fought what seemed to be a losing, even hopeless, battle. Many were sent to prison, others were murdered or executed.

The light of freedom in Poland was never truly extinguished. Year after year, decade after decade, disparate individuals pursued separate paths towards the same goal: a free Poland, a free people.

By 1980, these individuals had learned much. First, they had learned to build bridges, bridges that would unite disparate segments of society. By 1980, workers and intellectuals, who had separately fought for reform, and separately failed, came together: electricians and factory workers, writers and teachers. And they learned, following the historic visit of Pope John Paul II to his homeland, in 1979, to ''be not afraid.'' Together, Poles could carve out a space of independence from the regime that sought to control them. Together, in the shipyards of Gdansk, they gave birth to the Solidarity movement.

1980 was not, of course, the first time Polish workers had gone on strike, nor would it be the last. But it was the strike that, for Poland and beyond, demonstrated the capacity of a nonviolent movement to stare down a seemingly more powerful force.

Of course, the imposition of martial law on December 13, 1981, was a dark and shadowy detour on the path to freedom. Introduced to stave off a Soviet invasion, it could not, ultimately, stave off the inevitable march of democracy: Solidarity had let the genie out of the bottle, and there was no getting it back. In 1983, Lech Walesa, the electrician who bravely scaled the shipyard wall in August 1980, to join his fellow striking workers, was awarded the Nobel peace prize. Elsewhere in Central Europe, dissident movements intensified their demands for human rights. Economic reform moved from an option to a necessity. Even in Moscow, a pro-reform apparatchik, Mikhail Gorbachev, rose to lead his country.

By 1989, Solidarity leaders sat across the table from Wojtech Jaruzelski, the general who had imposed martial law. They negotiated what had seemed to most of the world impossible: the peaceful transition from communism to free and fair elections. In August of 1989, less than a decade after the Gdansk shipyard strikes that gave birth to Solidarity, Poland would elect its first non-communist prime minister since the fall of the Iron Curtain.

Today, we remember and honor those events, not only because of what it meant for Poland, but for what it means for all of us, and for people round the globe who continue to struggle to live in freedom and dignity. The Solidarity movement represented the culmination of enormous, powerful, even irresistible ideals, ideals that we must seek to spread to the dark corners of the globe that have yet to see their light.

40TH ANNIVERSARY OF THE HEAD START PROGRAM

Mr. SALAZAR. Mr. President, I rise to commemorate the 40th Anniversary of the Head Start Program.

In 1965, President Lyndon B. Johnson launched an 8-week summer program he called Project Head Start. Initially, funding was modest, but the charge was significant and admirable. In order to break the cycle of poverty, Project Head Start would provide comprehensive services to low-income children and their families to help these children prepare for school.

Project Head Start would ensure that low-income children were given the same opportunity to succeed in school that every child in America deserves. Since then, this project has evolved into a well-established national program that serves more than 1 million children across the Nation.

Head Start is a wise investment in our future with lasting, real effects. Research has shown that Head Start helps to reduce crime as former Head Start students are less likely to engage in criminal activity than their siblings who do not participate in the program. In addition, students enrolled in Head Start have better self-esteem and motivation, and are less likely to be held back a grade than similar children not in the program. Most importantly, the recently released ''Head Start Impact Study'' found that Head Start nearly cut in half the achievement gap between low-income Head Start children and more affluent, non-Head Start children.

Today in Colorado, close to 10,000 children attend the 62 Head Start and Early Head Start programs. Each of Colorado's programs is unique and tailored to meet the needs of the communities they serve. However, all Head Start programs, whether located in the rural San Luis Valley or downtown Denver, work to incorporate parents into their children's educational development. It is this critical component parental involvement that distinguishes Head Start from other early education and care programs.

In every region of Colorado, Head Start and Early Head Start programs work to provide comprehensives services from dental and medical care for students to educational and work training courses for their parents. Teachers and administrators create a stimulating educational environment. They make certain parents feel a part of their children's education by asking them to serve as teacher's aides or as members of Head Start policy committees. All of this is accomplished as the Federal government continually requires that Head Start improve the quality of their services.

As Head Start embarks on its fifth decade of service to America, I wish the program continued success. Because the Senate Health, Education, Labor, and Pensions Committee recently passed bi-partisan reauthorization legislation, I expect the Senate to consider this important bill in the coming months. I look forward to strengthening the Head Start program by passing strong reauthorization language. In addition, I hope to work with the Colorado Head Start community in the future to find mechanisms to improve our commitment to giving all

children an opportunity to achieve the American dream.

TRIBUTE TO JUDY ANSLEY

Mr. WARNER. Mr. President, I rise today to commend an outstanding public servant, Judy Ansley who for many years has worked as diligently and as ably as anyone with whom I have had the privilege of serving during my years in the Senate. Today Judy serves as the first woman staff director of the Senate Armed Services Committee. During my time as vice chairman of the Senate Intelligence Committee, Judy was the minority staff director.

How proud I am; how proud the Senate is that Judy Ansley has been selected for the position of Special Assistant to the President and Senior Director for European Affairs at the National Security Council. The administration could not have made a better choice for this important post, and I am confident that Judy will serve her country with dignity and honor, as she has done throughout her extensive career in public service.

My only regret is that Judy Ansley will be stepping down as the staff director for the Armed Services Committee after next week. Over the course of the last 6 years, Judy has dedicated her time, energy, and intelligence to the work of the Committee with great enthusiasm. As the deputy staff director and staff director, Judy has provided exceptional leadership to the committee during challenging times, and I am deeply grateful for her profound concern for the issues facing the men and women of our armed services. I am confident that my colleagues on the committee would agree that she has been an indispensable resource for our efforts.

In those instances where she had professional views in opposition to mine, she never hesitated to express them. I trust she will most respectfully continue to offer her candid assessments in her new job at the White House.

As the chairman of the Armed Services Committee, I have had the opportunity to observe closely Judy's indefatigable efforts. Before she joined the committee, Judy served as my national security advisor for 5 years, and her keen judgment and incisiveness were readily apparent throughout her work. Truly, while I am pleased that the administration will be gaining such a remarkable asset, I will miss Judy's wise counsel. I send my deepest gratitude to Judy as she begins her transition to the National Security Council, and I join with her wonderful family—husband Steve and daughters Megan and Rachel—in celebrating this achievement.

I also take this opportunity to announce Judy's successor as staff director for the Armed Services Committee. I have asked Mr. Charles S. Abell, the Principal Deputy Under Secretary of Defense for Personnel and Readiness, to become the new staff director, and it gives me great pleasure to note that he has accepted this responsibility.

A humble and devoted patriot, Charlie Abell has served his country with valor in every endeavor. Before joining the administration, Charlie was an exceptional member of the Armed Services Committee professional staff. During his years with the committee staff, Charlie was the lead staffer for the Subcommittee on Personnel, including issues of military readiness and quality of life. A highly decorated soldier, he retired from the Army as a lieutenant colonel after 26 years of distinguished service. I was privileged to work with this outstanding public servant during his previous term with the Committee, and I look forward to collaborating with him in the months ahead.

BLOODSHED IN CHECHNYA

Mr. BROWNBACK. Mr. President, the Romans, said Tacitus, ''created a desert and called it peace.'' The Russian Government has created a wasteland of death and destruction in Chechnya and called it ''normalization.''

Over 10 years since the beginning of the Chechen war in post-Soviet Russia, the carnage in Chechnya continues, taking the lives of Chechens and Russians alike. Moreover, the echoes of the conflict are now stretching across the entire North Caucasus region. Given the information blockade that the Russian Government has thrown up around Chechnya, the world hears little of the violence and suffering taking place in those mountains far away.

Nevertheless, some information does get out. As Chairman of the Helsinki Commission, I would like to share some of this information with my distinguished colleagues.

According to Agence France Press, on June 4, 2005, an estimated 200–300 armed men, arriving in jeeps, trucks and armored personnel carriers, staged an attack on the village of Borozdinovskaya, near the border with neighboring Dagestan. These villagers are not Chechen, but Avars, Dagestan's most numerous ethnic group. The raiders beat dozens of men and torched at least three houses. Eleven men vanished and are feared dead. The villagers have no idea who the assailants were, but evidence points to a battalion of amnestied former Chechen rebels allegedly operating under the command of Russia's military intelligence.

In fear of their lives, almost the entire village has fled to the Dagestan side of the border, camping out in tents in a field, fearing to return.

There has been no official explanation for the raid.

This is only one example of the violence that may engulf an unsuspecting village that comes into the crosshairs of the pro-Moscow Chechen militias that operate with impunity and unrestrained cruelty. A number of these militias are no more than marauding gangs only nominally under the authority of the pro-Moscow regime in the Chechen capital of Grozny.

In its March 2005 publication, ''More of the Same: Extrajudicial Killings, Enforced 'Disappearances', Illegal Arrests, Torture,'' the International Helsinki Federation reports:

> ''There are a few signs of peaceful life. Compensations for lost housing are slowly beginning to be paid (on rare occasions, even without kick-back to relevant officials), separate islands of reconstruction are appearing in Grozny, and many cars are visible on the streets. The central open-air market is ever so busy.
>
> But some other things have not changed at all: Abductions and illegal detentions of civilians by unknown armed persons dressed in camouflage are still pervasive. The only difference is that these people now do not arrive exclusively in military vehicles, but in regular cars as well. As a result, murders, torture, and beatings have remained unchanged. And the prosecutor's office is still unable or unwilling to provide effective investigation into these endless cases.''

Let me make it clear. I have no sympathy for Chechen partisans, or those purporting to sympathize with them, who have committed, and may yet commit, terrorist attacks against the innocent citizens of the Russian Federation, or against those Chechens who may not support the secessionist movement. When we speak of the terrorist attacks on New York, Washington, Madrid, London, Bali, and other cities around the world, we must not forget Moscow, Budennovsk, and Beslan. There must be no double standard in judging terrorism, nor is there any justification for people resorting to terrorism against innocent civilians.

But I refer to one of the most perceptive editorials written on the subject of Chechnya. In the November 11, 2002 issue of Newsweek, Fareed Zacharia wrote:

> ''[The Chechens] have been ruthless warriors for their cause, utterly unable to form a stable government, and have indeed resorted to terror. But Russia's actions have helped turn them into terrorists. Russia has destroyed Chechnya as a place, as a polity and as a society. Chechnya is now a wasteland, populated by marauding gangs Putin has spoken of Al Qaeda's presence in Chechnya, but none existed until recently when Chechens, devastated by the Russian onslaught, took help from wherever they could get it.

Some residents of Chechnya, having despaired of finding justice in the Russian judicial system and rejecting terrorism, have applied to the European Court of Human Rights in Strasbourg. They are seeking redress for human rights violations committed under cover of Moscow's ''anti-terrorism campaign.'' Many of these applicants have been harassed and detained by the authorities.

One applicant, Zura Bitieva, had filed an application with Strasbourg regarding the abuses at the notorious ''filtration'' prison at Chernokosovo. Subsequently, she was killed in May 2003 along with her husband and son during a raid on their home.

The world recoiled in horror from the murderous attack on children in

Beslan, North Ossetia. This is but one example of the spread of the cancer of violence emanating from Chechnya. A few days ago, President Putin made an unannounced visit to Dagestan to review the deteriorating security situation in that unquiet Russian republic. Unrest and violence have occurred also in Ingushetia and Kabardino-Balkaria.

Russia is entitled to protect its territorial integrity and to preserve order within its borders, but Moscow's methods hark back to the practices of the Middle Ages. It is as if the principles of the Geneva Accords, the UN, the Council of Europe and the OSCE are completely unknown let alone apply—in Chechnya.

To the best of my knowledge, no one in the Russian Ministry of Internal Affairs has had to answer for the brutality that has taken place at the Chernokosovo prison. When horrific practices at Chernokosovo became known to the international community, Moscow merely shifted the facility's jurisdiction to the Ministry of Justice. According to human rights activists, ''filtration'' procedures simply moved to smaller, less visible places.

Does no one in the Kremlin stop to consider that continued brutalization of the population and corrupt governance will likely increase the appeal of Islamic radicals in the region? Is Russia's policy in Chechnya the strategy of a serious partner in the war against international terrorism? Or is Russia fighting a fire with an extinguisher filled with gasoline?

Next year Russia will chair the G8. Many informed observers doubt whether Russia should remain a member of the G8, given the downward trajectory of human rights and civil liberties in Russia today.

The Russian Federation's policy in Chechnya reinforces those doubts.

FIRST ANNIVERSARY OF THE MURDER OF PAUL KLEBNIKOV

Mr. BROWNBACK. Mr. President, I would like to engage in a colloquy with my colleague from New York and fellow member of the U.S. Helsinki Commission, Senator CLINTON.

Mrs. CLINTON. Mr. President, I am pleased to join in a colloquy with the senior Senator from Kansas, and my chairman on the Helsinki Commission, Mr. BROWNBACK. We are united in believing the subject we will address is of great importance to this body. I appreciate my chairman's willingness to present these issues to our colleagues.

Mr. BROWNBACK. Mr. President, 1 year ago this month a tragic crime occurred on the streets of Moscow. On July 9, 2004, Paul Klebnikov, the 41-year-old American editor of Forbes Russia, was murdered in a gangland-style shooting near his Moscow office. His death was an enormous loss for investigative journalism and for efforts to establish the kind of transparent civil society that the Russian people so want and deserve.

Mrs. CLINTON. The most plausible explanation for his murder appears to be the power of his investigative journalism, which explored the connections between business, politics, and crime in Russia. His murder has galvanized those who care deeply about justice, as well as the fate of democracy and the rule of law in Russia.

Paul Klebnikov was a descendant of Russian émigrés and a New Yorker. His widow Musa Klebnikov and children still live in New York City. Paul's murder shows us in tragic terms one of the threats faced by the press and civil society in Russia. The silencing of Paul Klebnikov's voice is a direct challenge to independent journalism, democracy, and the rule of law.

Mr. BROWNBACK. Reading his reporting from Russia, one could tell that he was deeply troubled by the crime and corruption that plagued his ancestral homeland. His personal association with his subject, combined with an educational background in economics, his excellent command of the Russian language, and 15 years experience with the Forbes organization, made him uniquely qualified to report on the nexus of business, politics, and crime in today's Russia.

Paul Klebnikov's killing epitomizes the brazen lawlessness that still plagues Russia even after the ascension to power of a putatively ''law and order'' ex-KGB official. For all the talk about stability in Russia today, it is sometimes a stability based on not asking the wrong questions about the wrong people.

Mrs. CLINTON. Paul Klebnikov's widow Musa has explained that Paul, through his journalism, sought to foster hope in the hearts of the ordinary Russian citizen, bring corruption to light and focus attention on positive models of how a democracy ought to operate.

Chairman Brownback and I have sought to keep the attention of the United States Government focused on reinforcing with Russian authorities the vital need to hold to account all those responsible for Paul Klebnikov's murder. I was pleased to join with nine of my colleagues on the Helsinki Commission in writing to President Putin and calling for an aggressive investigation into the killing.

I also wrote to President Bush to ask him to raise the issue of Paul's murder with President Putin during their meeting in Bratislava, Slovakia on February 24th. That meeting with President Putin presented an opportunity to make clear that all those involved in instigating, ordering, planning and carrying out the murder should be prosecuted to the full extent of the law.

The Helsinki Commission and my office have been assured that representatives of the State Department have expressed to the Government of Russia the United States Government's desire to see a thorough and complete investigation of this murder.

Mr. BROWNBACK. Yes, State Department and other administration officials have raised the issue frequently with their Russian counterparts. Furthermore, State and other relevant Government agencies have formed an interagency working group to follow the case and consult on strategy. Secretaries of State Colin Powell and Condoleezza Rice met with Klebnikov family members to keep them informed on progress. In addition, Secretary Rice's public remarks during her February 5 visit to Warsaw are heartening. She said it ''is important that Russia make clear to the world that it is intent on strengthening the rule of law, strengthening the role of an independent judiciary, permitting a free and independent press to flourish. These are all the basics of democracy.''

Mrs. CLINTON. For their part, Russian law enforcement authorities have made arrests and filed charges. While Russian authorities should be commended for the energy they have shown to date, there are additional steps that would increase the chances that all those responsible are held to account. I hope that the United States Government will continue to make clear to Russian authorities that resources such as the Federal Bureau of Investigation are available to assist Russian authorities in the investigation.

Mr. BROWNBACK. Earlier this year, Russian authorities charged two Chechens, Musa Vakhayev and Kazbek Dukuzov, with killing Paul Klebnikov, and subsequently announced that the man who ordered the murder was one Khozh-Akmed Nukaev a former official of the rebel Chechen government. Klebnikov had interviewed Nukaev extensively in his book ''Conversations with a Barbarian,'' and supposedly Nukhayev wanted revenge for the journalist's critical portrayal of him in the book. Mr. Nukaev's present whereabouts are unknown. I should add that relatives and friends of Paul have expressed their doubts about this accusation, which raises more questions than it answers.

Mrs. CLINTON. These recent developments underline the fundamental importance of transparency. I hope the Russian authorities will share as much information as possible with Paul Klebnikov's family. Without a transparent process, doubt will remain that the person or persons truly responsible for ordering Paul's murder will be brought to justice.

Mr. BROWNBACK. Paul believed that the press was the last outpost of freedom of speech in Russia. The fear and self-censorship generated by killing journalists benefits corrupt government officials and businessmen, as well as organized crime figures.

Solving the murder no matter where the investigation leads—will send the signal to other malefactors who seek to muzzle free speech that the days of impunity and lawlessness are over. As we wrote to President Putin, this case is not just about one person, but about what he represented to a new and democratic Russia. I would note also

that at least two more journalists have been killed in Russia since Paul's death.

Mrs. CLINTON. Paul Klebnikov's work continues to serve the people of Russia and the cause of democracy. We should continue to press authorities to find everyone who was involved in Paul's murder and hold them to account.

Mr. BROWNBACK. I agree with my colleague from New York. And as Members of the Helsinki Commission, let us work to achieve the goal of freedom of the press, transparency and democracy in Russia.

Mrs. CLINTON. That would be an appropriate gesture in honor of Paul Klebnikov. I look forward to continuing my work with the senior Senator from Kansas and chairman of the Helsinki Commission, and I thank him for his leadership.

Mr. BROWNBACK. I commend the active interest the junior Senator from New York has taken in the Klebnikov case, and I look forward to our further collaboration on other vital OSCE issues before the Helsinki Commission.

DR. KENT AMES

Mr. SMITH. Mr. President, I rise on the floor today to express my thanks and appreciation to Dr. Kent Ames, who today completes his fellowship in my office, after 9 months of dedicated work with me, my staff, and my constituents in Oregon.

Dr. Ames is a distinguished member of two occupations: veterinary medicine and higher education. He was selected by the Association of American Veterinary Medical Colleges as the North American Outstanding Teacher in 1995. In 2001, Kent served as president of the American Association of Bovine Practitioners.

Kent's fellowship in my office was sponsored by the American Association for the Advancement of Science. During his time here in Washington, DC, Kent has provided a unique scientific perspective on a notable array of policy issues across the spectrum. In the Commerce Committee, he has worked on nanoscience, NASA authorization and the confirmation of the current NASA Administrator. It is thus only fitting that the last week of Kent's fellowship coincided with the successful launch of Shuttle *Discovery*.

Kent's passions seem to be sparked most when politics and science converge. There is no better arena to experience this than in natural resources, especially if one is a veterinarian. In a short time period, Kent has lent his scientific background and outlook to issues such as mad cow disease and international beef trade, foodborne disease, biosecurity, wolf reintroduction, and animal treatment. The management of feral horse populations in the West, which significantly affects Oregon, has been of particular interest to Kent. He developed an enthusiastic and widely recognized expertise in the issue, as well as the scientific and ethical implications of varying policy options.

More than all of this, however, my staff and I deeply value the friendship we have made with Kent Ames. We will miss his warm character and his stories, and wish him happy trails for the days ahead.

POLICIES RELATED TO DETAINEES FROM THE WAR ON TERROR

Mr. ALEXANDER. Mr. President, when the Senate reconvenes in September, one of the first orders of business will be the Defense authorization bill. During August, I respectfully suggest the President reconsider his opposition to legislation that would set the rules for the treatment and interrogation of detainees.

I have decided to cosponsor three amendments to the Defense authorization bill that clarify our policies relative to detainees from the war on terror. There has been some debate about whether it is appropriate for Congress to set rules on the treatment of detainees, but for me this question isn't even close.

The people through their elected representatives should set the rules for how detainees and prisoners under U.S. control are treated and interrogated. In the short term, the President can set the rules, but the war on terror is now nearly 4 years old. We don't want judges making up the rules. So, for the long term, the people should set the rules. That is why we have a independent Congress.

In fact, the Constitution says, quite clearly, that is what Congress should do: article I, section 8 of the Constitution says that Congress, and Congress alone, shall have the power to ''make Rules concerning Captures on Land and Water.''

So Congress has a responsibility to set clear rules here.

But the spirit of these amendments is really one that I hope the White House will decide to embrace. In essence, these amendments codify military procedures and policies, procedures in the Army Field Manual, policies regarding compliance with the Convention Against Torture signed by President Reagan, and policies the Defense Department has set regarding the classification of detainees.

That is right. All three of these amendments uphold or codify policies and procedures the administration says we are following today and intend to follow moving forward.

Senator GRAHAM's amendment No. 1505 authorizes the system the Defense Department has created—Combat Status Review Tribunals—which are there for determining whether a detainee is a lawful or unlawful combatant and then ensures that information from interrogating those detainees was derived from following the rules regarding their treatment. Senator GRAHAM's amendment also allows the President to make adjustments when necessary as long as he notifies Congress.

The first McCain Amendment No. 1556, prohibits cruel, inhuman, or degrading treatment or punishment of detainees. The amendment is in specific compliance with the Convention Against Torture that was signed by President Reagan. The administration says that we are already upholding those standards when it comes to treatment of detainees, so this should be no problem.

The second McCain amendment No. 1557 states simply that the interrogation techniques used by the military on detainees shall be those specified by the Army Field Manual on Intelligence Interrogation. The military, not Congress, writes that manual, and we are told that the techniques specified in that manual will do the job. Further, the manual is under revision now to include techniques related to unlawful combatants, including classified portions, that will continue to give the President and the military a great deal of flexibility.

If the President thinks these are the wrong rules, I hope he will submit new ones to Congress so that we can debate and pass them. I am one Senator who would give great weight to the President's views on this matter. It is quite possible the Graham and McCain amendments need to be altered to set the right rules, but it is time for Congress to act.

This has been a gray area in our law. In this gray area, the question is who should set the rules. In the short term, surely the President can. In the longer term, the people should, through their elected representatives. We don't want the courts to write the rules.

In summary, it is time for Congress, which represents the people, to clarify and set the rules for detention and interrogation of our enemies. During the next few weeks, I hope the White House will tell us what rules and procedures the President needs to succeed in this effort. That way we can move forward together.

VOTE CLARIFICATION

Mr. BIDEN. Mr. President, on the Craig amendment No. 1644 to S. 397, I was unavoidably absent. Had I been present I would have voted ''no'' on the Craig amendment.

VOTE EXPLANATION

Mr. ROCKEFELLER. Mr. President, on July 25 and 26, 2005, I was absent from the Senate because I was taking care of an important family matter. During those days, I missed the following six rollcall votes.

Rollcall vote No. 206, taken on July 26, 2005, on the motion to invoke cloture on S. 397, Protection of Lawful Commerce in Arms Act.

Rollcall vote No. 205, taken on July 26, 2005, on the motion to invoke cloture on S. 1042, National Defense Authorization Act for fiscal year 2006.

Rollcall vote No. 204, taken on July 26, 2005, on the Frist amendment No. 1342, as modified, ''to support certain youth organizations, including the Boy Scouts of America and Girl Scouts of America, and for other purposes.''

Rollcall vote No. 203, taken on July 26, 2005, on the Lautenberg amendment No. 1351, ''to stop corporations from financing terrorism.''

Rollcall vote No. 202, taken on July 26, 2005, on the Collins amendment No. 1377, as modified, ''to ensure that certain persons do not evade or avoid the prohibitions imposed under the International Emergency Powers Act, and for other purposes.''

Rollcall vote No. 201, taken on July 25, 2005, on S. Res. 207, ''a resolution recognizing and honoring the 15th anniversary of the enactment of the Americans with Disabilities Act of 1990.''

THE HEALTH CENTERS OF DELAWARE

Mr. CARPER. Mr. President, the Senate recently passed S. Res. 31, a resolution expressing the sense of the Senate that the week of August 7, 2005, be designated as ''National Health Center Week.''

In keeping with this resolution, I rise today to commend the work of the Mid-Atlantic Association of Community Health Centers and of all of the health centers of Delaware for the role they play in delivering quality, affordable health care to the people of Delaware.

Community health centers are community-run and open to all Americans regardless of their ability to pay. Delaware has a number of community health centers, including Westside Health in Wilmington and Newark, Henrietta Johnson in Wilmington, Delmarva Kent Community Health Center in Dover, and La Red Health Center in Sussex County. These centers and those across our Nation are extremely valuable, operating in both rural and urban medically underserved areas and providing care that might not otherwise be available to residents.

By serving as a point of access for affordable primary and preventive care, health centers also help patients stay healthier or, if they are ill, allow them to receive treatment earlier. This prevents patients from having to seek care in the most expensive setting—the emergency room—and therefore can save money for our health system as a whole.

Again, I wish to commend the health centers of Delaware for their dedication. I thank them for the valuable services they provide to all Delawareans.

ADDITIONAL STATEMENTS

RECOGNIZING DELEGATE GLENN M. WEATHERHOLTZ

● Mr. ALLEN. Mr. President, I am pleased today to recognize one of Virginia's most dedicated public servants, Delegate Glenn M. Weatherholtz, who is retiring this year after five terms in the Virginia House of Delegates.

Born and raised in Shenandoah County, Delegate Weatherholtz has made a career out of serving his country and his community. His public service includes a two year tour of duty in the U.S. Army. Later, he joined the Virginia State Police, where he served for over 10 years. And I was pleased during my term as Governor to appoint Glenn to be on the Hazardous Materials Commission in Virginia.

Much of Delegate Weatherholtz's career has been spent in law enforcement. In 1971, Glenn was elected sheriff of Rockingham County and Harrisonburg. He was subsequently reelected five times to the position. During his career, he has served as chairman of the Accreditation Committee for the Virginia Sheriffs' Association and the Virginia Chiefs of Police Association.

Glenn's law enforcement record is exceptional. He was named Outstanding Law Enforcement Officer of the Year by the Harrisonburg Moose Lodge, and Outstanding Lawman of the Year by the Harrisonburg Kiwanis Club. As sheriff, he was appointed to be an Honorary United States Deputy Marshal and received the Law Enforcement Commendation by the Sons of the American Revolution. He also graduated from the F.B.I National Academy.

In 1995, Glenn was elected to the Virginia House of Delegates. His committee assignments include: Agriculture, Chesapeake and Natural Resources; Courts of Justice; Militia, Police and Public Safety; and Counties, Cities and Towns. As a delegate, Glenn has shown a strong commitment to commonsense business practices, law and order, education, families, and support for those with mental illness.

Delegate Weatherholtz is married to the former Blanche Gordon. The couple has four children together and they are active in the Brown Memorial United Church of Christ, where Glenn sings in the choir; he is also a lay reader and an elder on the church governing board.

The 26th District, and indeed all of Virginia, will surely miss the leadership and talents that Delegate Weatherholtz displayed in the Virginia General Assembly and throughout his career of service. I thank Glenn for his commitment to improve the Commonwealth of Virginia. And I congratulate him on his retirement and wish him many more years of success and happiness.●

HONORING THE FIRST CHRISTIAN CHURCH, WEIRTON, WV

● Mr. ROCKEFELLER. Mr. President, it is with great honor that I rise today to publicly recognize the 175th anniversary of the First Christian Church in Weirton, WV. The church has ministered to the Ohio Valley since West Virginia was recognized as our country's 35th state.

The Christian Church, which is also known as the Disciples of Christ, is a Protestant denomination of approximately 800,000 members in the United States and Canada. It is one of the largest faith groups founded on American soil. The founders of the Christian Church were Thomas Campbell and his son Alexander Campbell. Both of these men and other distinguished leaders of the Disciples of Christ ministered at the First Christian Church in Weirton.

Members of the church have been faithful in serving their country. One of the church's original members, in fact, received a Congressional Medal of Honor in 1898. Mr. Uriah Brown received the award for his heroism in the Civil War, especially at the siege of Vicksburg.

Weirton is very much a city that reflects the struggles of the steel industry in our Nation. The city was once a booming steel town, employing up to 20,000 people. Unfortunately, the steel industry has had a very tough time recovering from the massive dumping of steel by our foreign competition in the late 1990s, and the church has had to adapt its ministries to meet the needs of the city's now dwindling population. The challenges that First Christian Church has faced reflect the difficulties faced by the city.

The church helped to create Weirton's Christians Helping Arrange New Growth Enterprises, or the CHANGE program, which encourages the integration of services, the building of partnerships, and the pooling of resources to empower families toward self-sufficiency. As Governor, I saw first-hand the work of the First Christian Church in helping establish Weirton Steel's Employee Stock Ownership Plan, or ESOP, in 1983. When the ESOP was in its beginning stages, First Christian Church provided financial support to the employees as they pulled together to prevent the city's primary business from closing. The church also provided food for those who were in need and assisted members of the congregation who were unemployed throughout this period.

As the church enters it 176th year, it remains an important part of the community, directly addressing the many needs of an aging steel town. Among the several ministries of the church, one includes the church's Food Cupboard, which provides financial and food aid for laid-off steel workers and their families living in the Upper Ohio Valley. The church also has a food relief fund, and it works with the Salvation Army.

The church has not only been influential in Weirton and the Ohio Valley but also in the world. It is a leader in the denomination's Reconciliations Ministry, which is a ministry designed to specifically fight racial prejudice. First Christian Church has been one of the top five financial givers to the Reconciliations Ministry. In addition, they work closely with St. Peter's AME

Church, which has an African American congregation. Even though St. Peter's is not the same denomination as the First Christian Church, the church considers it a sister church.

Since 1830, the First Christian Church has provided a place of hope, faith, shelter, and witness for the people of West Virginia. I join with them in celebrating its good works and wishing it all the best as it prepares for another century of service.●

TRIBUTE TO DONALD T. BUTLER

● Mr. SESSIONS. Mr. President, I recently had the opportunity to meet a wonderful American, Donald Butler, who served his country ably in Vietnam. His story is typical of so many Americans who have placed their lives and health at risk for their country.

Donald Butler was drafted 6 months after graduating from Straughn High School in Covington County, AL. After completing basic training and advanced infantry training, he left for Vietnam on April 17, 1966.

Having trained as an infantryman, he was slated to go with the Big Red One, the first division called to fight in Vietnam, but at the last minute became a replacement for the 25th Infantry Division and later went with the 27th Infantry, Tropic Lightening, Charlie Company in CuChi, Vietnam.

CuChi, Vietnam, as the world later learned, was home to the CuChi tunnel complex—130 miles of underground passageways started during the war against the French and expanded when the Americans arrived. Built by night over many years, the tunnels allowed the Vietcong to become invisible to the enemy, conceal snipers and move weapons silently. The G.I.'s that fought in the tunnels were a special breed, known by their peers as ''Tunnel Rats.'' They were fearless warriors. Donald Butler was one of them.

At a slight 100 pounds, Donald was able to do what many of his fellow soldiers could not, squeeze through the tight trap doors and crawl along the narrow passages of the clay tunnels with relative ease. Make no mistake, while his size aided him in his mission, it was his even temperament and inquisitive mind that made him a true ''Tunnel Rat''. It was not uncommon for him to crawl through narrow, pitch black tunnels for hours looking for the enemy.

Over a period of 9 months, Donald went out on 37 operations, most of which were search and destroy missions. He saw his fellow soldiers lose their limbs and, in many instances, their lives. He lived through air strikes and mortar attacks and somehow managed to return from the front lines of Vietnam without ever sustaining a direct hit. For that, many would say he was lucky.

Like so many of our veterans, Donald Butler returned from the war to face an uncertain future. ''When I got off the plane in Montgomery on April 18, 1967, I thought I was going to get shot because we had heard of the protests back in the U.S.'' he later recalled. To this day he suffers from post traumatic stress and severe hearing loss. He is an undecorated hero who should be applauded and thanked for his service and I rise to do that today.●

RECOGNIZING DELEGATE ALLEN L. LOUDERBACK

● Mr. ALLEN. Mr. President, I am pleased today to recognize one of Virginia's most dedicated public servants, Delegate Allen L. Louderback, who is retiring after serving three terms in the Virginia House of Delegates.

Delegate Louderback has been a strong advocate for lower taxes in Virginia, serving as the ranking majority member of the House Finance Committee, and as the chairman of both the House Subcommittee on Sales Tax Exemptions and the Subcommittee on Tax Preferences. From 2001 to 2003, he also served on the Joint Subcommittee to Reform Commonwealth Tax Structure.

In addition, Delegate Louderback served on the Agriculture, Chesapeake and Natural Resources Committee, where he chaired the Chesapeake Subcommittee, and sat on the House Committee on Militia, Police and Public Safety. In 2002, he was named Legislator of the Year for the 140-member Virginia General Assembly by the Family Foundation. And in 2003, Allen was awarded the same honor by the Commissioners of Revenue Association. Delegate Louderback is also a member of the Commonwealth Competition Council, the State Procurement Commission, and the State Water Commission, where he chairs the Karst Subcommittee.

Prior to his small business entrepreneurship and public service in Luray, VA, Allen worked in Washington, DC, as an investigator and manager for the U.S. General Accounting Office for 18 years. As a manager at GAO, he was the recipient of the Director's Award for his ''outstanding managerial skills'' in 1979.

Delegate Louderback earned his B.S. from Virginia Polytechnic Institute and State University. He is a past president of the Luray Rotary Club and the Luray Kiwanis Club. His wife, Nadia, and two sons attend Leaksville United Church of Christ.

The 15th District, and indeed all of Virginia, will surely miss the leadership and talents that Delegate Allen Louderback displayed in the Virginia General Assembly. I would like to recognize and thank Allen for his commitment to bettering the Commonwealth of Virginia. I congratulate him on his retirement and wish him many more years of success and happiness.●

RECOGNIZING MAYOR RALPH H. DEAN

● Mr. ALLEN. Mr. President, I am pleased today to recognize Mayor Ralph Dean of Luray, VA, as he celebrates his silver anniversary this month as the town's highest elected official. Since 1980, Mayor Dean has worked to make the town of Luray a better place to work and live, and I applaud him for such dedicated public service.

For 25 years, Mayor Dean has been a successful advocate for lower taxes and business growth in Luray. His policies have helped to attract industry and investment, which have in turn created more jobs for the local citizens. He has also helped develop recreational opportunities for his town, such as Lake Arrowhead and Luray Recreational Park. And, in 2004, Ralph oversaw the beautiful new renovation of Luray Town Hall. The expansion and revitalization of Luray under Mayor Dean's leadership has helped the town become a more prosperous and enjoyable place to call home.

The mayor has also built a great family with his wife Billie. They have a daughter named Dixie Dean Foltz, and a grandson named Patrick Foltz. Mayor Dean is a member of the Luray Christian Church. He has also been a member of the Luray Lions Club for over 30 years and a Boy Scout Leader for over 20 years. Prior to his tenure as mayor, Ralph served on the Luray town council from 1974 until 1980.

Mayor Dean is an effective leader in Luray because he genuinely enjoys what he does and cares about the citizens of Luray. I congratulate the mayor on 25 years of dedication to public service in Luray, VA, and wish him and his family many more years of happiness and success. Our Commonwealth is fortunate to have a man of his character and leadership leading the way in the town of Luray.●

RECOGNIZING COL HENRY MITNAUL

● Mrs. DOLE. Mr. President, Henry Mitnaul of the U.S. Air Force has served as the Military Assistant in the Office of the Assistant Secretary of Defense for Legislative Affairs for the past 2 years. As the principal military contact for the Directors of Legislative Liaison of the Services, the Joint Chiefs of Staff, and the Office of the Secretary of Defense, he played a critical role in ensuring that all defense-related legislative issues were addressed.

During this period, Colonel Mitnaul dealt with congressional requests for information and the chief coordinator for military travel requests. Colonel Mitnaul's expertise and experience with the Department's Travel Program certainly made him into an invaluable asset to Congress, White House staff, and national security personnel. During his time in office, Colonel Mitnaul planned and coordinated over 650 congressional and White House travel requests.

I understand that Colonel Mitnaul's proficiency in the congressional process helped him become an admired and

respected member of the Military Assistant's office. His nature and professionalism served him well, as he capably worked alongside Members of Congress and congressional staffers, executive branch officials, and those in private sector organization. Colonel Mitnaul's accomplishments reflect highly upon himself, the U.S. Air Force, and the Office of the Secretary of Defense.

I am proud that Colonel Henry Mitnaul is a fellow North Carolinian. I am grateful for his lengthy and distinguished career in public service, as I am for all who serve.●

TRIBUTE TO DUANE JOHNSON

● Mr. SESSIONS. Mr. President, I first met Duane Johnson when he came on the baseball field at Wilcox County High School in 1965. We were a small school. I was a senior in a class of 30 and Duane, a junior, had just moved to town. Though we had a competitive team, winning our division of the Black Belt Conference that year, we were not particularly talented. While we knew a good bit about baseball, we had not grown up as kids do today, playing well-coached and competitive baseball from elementary school on up. Duane, however, impressed us at once with his skill and knowledge of the game. I liked the way he handled first base and he could hit too. More importantly, he was never showy but played within himself. We were impressed and liked him.

That was quite a few years ago and we have not seen one another since, I don't think. So it was with real pleasure that I read that my old teammate, now the head coach of Patrician Academy in Butler, Alabama, had just completed a sterling season with a 25–7 record, winning the AISA State Championship. Further, Duane was named AISA ''Coach of the Year''. He has been the head coach at Patrician for 20 years and has been a part of 6 state championships as a Saint. This year's team produced two All-State players, Bo Meeks and Brent Bonner, and an honorable mention, Brandon Mosely. Quick to give credit to others, Duane praised assistant coach Jim Archibald to the Choctaw Sun saying, ''We couldn't have done it without him.'' After graduating from Wilcox County High School in 1966, Duane attended Livingston University, now the University of West Alabama, where he played baseball. He is married to the former Nara Gyles, a Choctaw County native, and has three children. Typical of so many of Alabama's teachers and coaches, Duane was a member of the Alabama National Guard and was a veteran of ''Desert Storm''. Our country is deeply indebted those civilians who serve in the Guard and Reserve and who are prepared to respond when called upon. Coaches mean a lot to young people and I know that the consistent record of success that Duane has had at Patrician demonstrates his ability to positively impact these young people. All over this country, coaches give their time and attention to boys and girls, introducing them to the thrill of victory and the agony of defeat. More importantly, they teach them teamwork. Teamwork is a very important strength of Americans. We have the ability to quickly organize ourselves and function as one whether in business or combat. Such character traits are largely developed on the athletic field. Great teamwork comes from great coaches.

Let me close by giving my sincerest congratulations to Coach Johnson and his state championship Saints. They have had a most memorable season and they will be able to savor their achievement for the rest of their lives.●

BICENTENNIAL OF THE BIRTH OF HIRAM POWERS

● Mr. JEFFORDS. Mr. President, today, July 29, 2005, is the bicentennial of the birth of Hiram Powers, an American neoclassical sculptor whose works are admired in museums throughout this Nation and in this beautiful Capitol. Yesterday, today, and tomorrow lovers of art and students of history are gathering in Woodstock, VT, the town of Hiram Powers birth and his early years, to celebrate and rediscover his contributions to American art and sculpture.

I sincerely wish I could join the Hiram Powers Celebration Committee in Woodstock this weekend. However, to enjoy Hiram Powers work, I only have to walk a few steps out of this Chamber. At the foot of the East Staircase, just outside the Senate Chamber, stands a statue of Benjamin Franklin sculpted by Hiram Powers. That statue, commissioned by President James Buchanan in 1859, was delivered to its present location in 1862. In the corresponding location in the House Wing of the Capitol stands a statue of Thomas Jefferson, completed by Hiram Powers in 1863. Also here in the Capitol, a bust of Supreme Court Chief Justice John Marshall by Hiram Powers resides, fittingly, in the Old Supreme Court Chamber.

The Smithsonian American Art Museum collection includes 70 works by Hiram Powers. The Corcoran Gallery of Art and the National Gallery of Art, both located here in Washington, also include works by Hiram Powers in their distinguished collections. In other U.S. cities—including New York City, Boston, Cincinnati, and Milwaukee, to name a few—museums of fine arts hold Hiram Powers' works.

Hiram Powers' most well-known sculpture is ''The Greek Slave,'' first completed in 1843. One rendition from 1846 sits today at the Corcoran, and a later rendition from 1873 can be found at the Smithsonian. To quote a curator of American Art at the corcoran, ''The Greek Slave,'' the first publicly exhibited, life-size American sculpture depicting a fully nude human figure, met with unprecedented popular and critical success. Arguably the most famous American sculpture ever, the Slave not only won Powers enormous international acclaim but also enhanced the overseas reputation of American art and culture.'' Hiram Powers was an outspoken abolitionist in the decades preceding the Civil War. ''The Greek Slave'', which depicts a Greek Christian woman, captured during the Greek War of Independence, awaiting her sale in the slave market, became a symbol of the savagery of slavery in the United States. Scholars note that it was the most widely viewed statue of its time thanks to its tour of Eastern and Midwestern States.

Hiram Powers died in 1873, leaving behind the richest legacy of art of, perhaps, any American sculptor. I close today by thanking the Hiram Powers Celebration Committee. I wish them success during this weekend's events to remember Hiram Powers, his contributions to American art, and his Vermont heritage.●

TRIBUTE TO THE LIFE OF L. D. ''DICK'' OWEN, JR.

● Mr. SHELBY. Mr. President, I rise today to pay tribute to a long time friend and lifelong Alabamian who recently passed away. Mr. L. D. ''Dick'' Owen, Jr. died at the age of 86 following a life dedicated to service, family, his community and his State.

Dick has led a remarkable life. As a war hero, he received six Bronze Stars and an Arrowhead. He served as a U.S. Paratrooper during World War II in North Africa and Europe, and in the Far East during the Korean Conflict. As a public official, he was devoted to the environment, agriculture and education. And as a member of the Bay Minette community, Dick was a dedicated public servant to his hometown and served in numerous volunteer positions throughout his life.

Born in Baldwin County on April 10, 1919, he attended Baldwin County Schools and graduated from the University of Alabama in 1941. Upon college graduation, he was commissioned as a 2nd Lieutenant in the U.S. Army Reserve and entered Active Duty on June 27, 1941.

In August 1942, Dick attended Airborne School, and after completion of training at Fort Benning, GA, he was assigned to the 504th Paratroop Infantry Regiment, 82nd Airborne Division at Ft. Bragg, NC.

He served overseas from May, 1943, until November, 1945, and it was during his service in Europe that he received six Bronze Stars and an Arrowhead for his participation in the invasions into Sicily, Naples, Rome (Anzio), Rhineland, the Aredenes (Battle of the Bulge) and Central Europe. He was awarded the highest Dutch military decoration, the Militaire Willems Order, and also the Belgium Citation Fourogere, while his unit, the 504th, received the Distinguished Unit Citation.

Upon his separation from Active Duty, Dick served in the Army Reserves and was recalled to Active Duty in November, 1950, serving at Ft. Jackson, SC, and deploying to Japan and Korea with the 187th Airborne Regimental Combat Team. He retired as a Lt. Colonel from the U.S. Army Reserve in 1963.

Upon retirement from the Army, he settled back in Bay Minette serving on the School Board, as President of the Bay Minette Chamber of Commerce, and as an active participant in the United Fund, the American Red Cross and the American Cancer Society. In 1950, he was elected State Commander of the V.F.W.

He was appointed to the Alabama Battleship Commission in 1963, a position he held for the remainder of his life. He was also a member of the Bay Minette City Council, was Probate Judge in Baldwin County, and was one of two Alabama members on the Gulf Marine Fisheries Commission.

It was not until my time in the Alabama Legislature that I was really able to get to know Dick Owen. He was extremely committed to his positions in both the State House and State Senate, and his constituents were well served by his dedication to them and his devotion to the issues. He was elected to the House in 1965 and served two terms before being elected to the Senate in 1970 where he also served two terms.

In the Senate, he was Chairman of the Finance and Taxation Committee and Chairman of the Conservation Committee. He also served as a member of the Commerce, Transportation and Common Carriers Committee; the Insurance Committee; the Constitution and Elections Committee; the Agriculture Committee; and the Local Legislation No. 1 Committee. He also held positions on the Interim Insurance Study Committee and was Chairman of the Fishing Reef Committee.

During his career, Dick focused his energy on a number of issues. Whether it was agriculture, education, conservation or prison reform, he recognized the importance of these issues to his constituency and the entire State of Alabama.

As a member of the Senate Agriculture Committee, he supported development, growth and protection of Alabama's agriculture and forestry industry. He led the fight to keep farm truck prices low, and he favored expansion of the Farmer's Market Authority. In addition, he sponsored a number of bills relating to conservation, forestry, agriculture and law enforcement. Among these were the $43 million State Parks Program and the Anti-water Pollution Act.

As a Representative and Senator, Dick Owen was a strong advocate for educational opportunities for all people, and he recognized the need to make improvements to the education system in Alabama. Before his election to the Alabama legislature, he was proud to help bring Faulkner State Community College to Bay Minette.

He sponsored many bills in both houses to conserve our natural resources and ensure continued growth of renewable resources. He received the ''Governor's Conservation Legislator off the Year'' award in 1971 from the Alabama Wildlife Federation.

Dick was also active in prison reform work and was recognized by law enforcement and prison officials for legislation he authored regarding this issue.

Year after year, he was a champion for his constituents.

Well after Dick left politics and public life, he continued to serve his community and State well. He owned Builders Hardware and Supply and was active in the Bay Minette Rotary Club. He was a devoted alumnus of the University of Alabama, contributing his time and energy to the growth of the Alumni Association. He was also a Mason, Shriner and active in the Baptist Church.

A devoted family man, he is survived by his beloved wife, the former Annie Ruth Heidelberg of Mobile; his son L.D. Owen III of Bay Minette; his brother James R. Owen of Bay Minette; and his sister, Nell Owen Davis of Gulf Breeze, Florida. He also has three grandchildren and two great-grandchildren.

I cannot say enough about the impact this man had on so many lives. As a war hero, a legislator, a community advocate, a husband and a father, Dick Owen spent his life making Alabama and this country a better place. He will be greatly missed by all who knew him.●

RETIREMENT OF DR. ROBERT H. BARTLETT

● Mr. LEVIN. Mr. President, I would like to take this opportunity to recognize Dr. Robert H. Bartlett, an accomplished surgeon, professor and inventor, who recently retired from seeing patients at the University of Michigan Medical Center. Dr. Bartlett, who earned his bachelor's degree from Albion College and graduated cum laude from the University of Michigan Medical School, was honored by his peers during a ceremony on June 23, 2005.

Dr. Bartlett is admired across Michigan for his dedicated service to his patients and his contributions to the advancement of medicine. His excellence in the practice of medicine has been demonstrated throughout his exemplary career, which spans more than 40 years. In particular, his work in developing a heart-lung bypass technique called extracorporeal membrane oxygenation, or ECMO, has saved the lives of over 30,000 infants, children, and adults.

Dr. Bartlett began his work on ECMO in 1965 while an assistant resident at Boston's Brigham and Children's Hospital. After his residency, Dr. Bartlett received a series of surgical teaching and research fellowships at Harvard to continue his research. In 1970 Dr. Bartlett became an assistant professor of surgery at the University of California in Irvine, while also practicing medicine at the Orange County Medical Center. Five years later the first successful use of ECMO in an infant would take place at the Orange County Medical Center. Over the next 5 years, Dr. Bartlett would use this technique successfully 25 times.

In 1980, Dr. Bartlett returned to the University of Michigan Medical Center to continue to conduct research and treat patients until his retirement earlier this year. It was there that ECMO transistioned from being an experimental procedure to becoming standard practice at more than 90 medical facilities worldwide. In addition to this work, Dr. Bartlett continued to treat patients and served as chief of critical care medicine at the University of Michigan. Dr. Bartlett plans to continue his groundbreaking medical research.

Dr. Bartlett has published numerous articles, monographs, chapters, and books throughout his illustrious career. In 2003, he was awarded the prestigious Jacobson Innovation Award from the American College of Surgeons. He was also elected to the Institute of Medicine and was the recipient of the Medal of Special Recognition from the National Academy of Surgery of France. Dr. Bartlett has served as president of both the American Society for Artificial Internal Organs and the International Society for Artificial Organs. Dr. Bartlett has been married for more than 30 years to his college sweetheart, Wanda, with whom he has 3 children and 4 grandchildren.

I know my colleagues join me in congratulating Dr. Bartlett on his success and achievements in the field of medicine. I am pleased to offer my best wishes on his retirement from seeing patients and his continued efforts to advance medical research.●

TRIBUTE TO THE HON. CHARLES R. ''RANDY'' BUTLER, JR.

● Mr. SESSIONS. Mr. President, I will to make some remarks today about a very valuable public servant, Judge Charles R. ''Randy'' Butler, Jr., U.S. District Judge for the Southern District of Alabama.

Judge Butler was born in New York. He earned a B.A. degree from Washington and Lee University in 1962, and a law degree from the University of Alabama School of Law in 1966. He served as an assistant public defender for Mobile County, Alabama, from 1969 to 1971; as district attorney for Mobile County from 1971 to 1975; and, he was engaged in the private practice of law in Mobile from 1975 until October 15, 1988, when he was appointed by President Ronald Reagan as a U.S. District Judge for the Southern District of Alabama. He served as chief judge from July 9, 1994 to February 20, 2003, and served on the Judicial Conference, the principal policy-making body for the Federal court system, from 1999 through 2003.

As the U.S. Attorney for the Southern District of Alabama from 1981 until 1992, I had the opportunity to practice before Judge Butler and saw first hand that his experience gained from having been a former prosecutor, a former public defender, and a former private practitioner were extremely valuable to him.

During several years of Judge Butler's service, the Court was understaffed by one or more judges. During this time, Judge Butler worked very hard not only handling his own caseload, but handling a great deal of extra work caused by the shortage. While doing all of that, he also found time for the many demanding duties of his position as chief judge and as a member of the Judicial Conference of the United States.

In describing his service to the Southern District, I would like to quote from his letter of nomination for the 2003 Judicial Award of Merit, which he received: ''Despite the overwhelming demands on his time, Judge Butler worked tirelessly to reasonably maintain the civil and criminal docket of the Court. Judge Butler routinely held hearings on criminal matters before civil trials commenced, during his lunch hour, and after civil trials concluded for the day. As Chief Judge, Judge Butler further worked to improve the administrative efficiency and user-friendliness of the Court. During his tenure, court rooms have been updated with cutting edge trial presentation technology.

''All the while, Judge Butler has served with the dignity and decorum deserving of our Federal courts and he has given his undivided and thoughtful attention the myriad and varied matters routinely presented to him.''

Judge Butler brought a natural courtesy to the courtroom that made all feel at ease. While he was a strong judge who never, ever lost control of his courtroom, his ease of manner facilitated a courtroom atmosphere most conducive to fair outcomes. His strong faith and character reflect the essence of who he is. He was raised right and his faith has deepened over the years. While he routinely imposes sentences according to the guidelines on wrongdoers, he is compassionate and felt for those he sentenced. Indeed, he is an active backer of his wife, Jacque, and her faith-based outreach to women prisoners and their families. They are active Episcopalians and strong believers that every human being is precious and worthy of compassion.

I also have been pleased and proud to watch Judge Butler's active and important leadership role on the Judicial Conference of the United States. He has served as a member and on its executive committee. Judge Butler's experience in a wide variety of trials and his personal knowledge of a working courtroom have been most valuable to the Judicial Conference.

Finally, I would like to commend him for his stewardship of and leadership of my courthouse and its remarkable family. For many years, the court family, in which I include the Magistrates, the Clerk, the Probation Officers, and the security personnel, has worked together closely and harmoniously over the years, committed always to the highest ideals. Judge Butler inherited an excellent court family and has raised their teamwork for justice to an even higher level. I wish all courts could operate so harmoniously. The U.S. District Court for the Southern District of Alabama has a proud record of integrity, industry, legal skill and collegiality. Judge Butler has been an outstanding judge under some demanding circumstances. His dedication and commitment to duty have greatly benefitted this court.

My appreciation and respect for the service of Judge Butler is unbounded. He has served the people of the United States and the rule of law with fairness and integrity. I am glad that he remains fit and active. While he deserves to catch his breath, I am sure that he will continue to reward the citizens of this great country by carrying an active caseload. That will be a blessing indeed.

On March 28, 2005, Judge Butler took senior status and on June 17, 2005, his portrait presented by the Mobile Bar Association, was unveiled in the ceremonial courtroom of the John A. Campbell Courthouse in Mobile, Alabama. I was honored to have a place on that program.●

TRIBUTE TO SID HARTMAN

● Mr. COLEMAN. Mr. President, while the Senate is in recess next month, a remarkable event will take place in Minnesota, the Sid Hartman ''Close Personal Friends'' Celebration. It is worth a few moments of the Senate's time for me to honor this great Minnesota personality.

They say that history is just the biography of very significant people. Individuals create history with their words, their style, and their accomplishments. Sid Hartman never ran a company or held elective office. But he has had an impact on Minnesota just by being who he is: a hardworking, opinionated, and irrepressible sports journalist for more than 50 years.

Sid's life began the way most great lives start: with humble beginnings and hard work. He worked his way up from being a newspaper delivery boy, to copy boy to reporter. He helped run the original Minneapolis Lakers NBA team. He had a hand in the start of two of Minnesota's other major sports franchises: the Twins and the Vikings.

And to this day, his column appears in the Minneapolis Star Tribune every Sunday, Monday, Tuesday, and Saturday. It is full of news, speculation and prophesies about the world of sports, and everything that touches it.

Sid Hartman's popularity and impact comes from three sources we should all tap into:

First, he works harder than anyone else. He frequently reminisces that he develops news stories the way he sold newspapers: start early, keep moving and be aggressive.

Second, he understands the power of relationships. He is a ''Google'' of first hand sports information about the main figures of sports over the last 50 years. Just mention Bud Grant or Bobby Knight or George Steinbrenner or any famous player to him and you get a fascinating personal download. He builds and maintains relationships.

And third, Sid is just who he is: nothing more, nothing less. I don't know if Bill Cosby is a ''close personal friend'' but he sure describes his life with this quotation: ''I don't know the key to success, but the key to failure is trying to please everybody.'' In an era of carefully measured words and hypersensitivity, Sid Hartman just speaks his mind.

Half the fun of sports is talking about the games after they are over and anticipating them before they begin. Sid has livened up the conversation. He has made us laugh, made us angry and some times made us wonder where in the world he was coming from. But he always added spice to our lives.

Sid Hartman is being honored on August 7, 2005, in Minneapolis. But the event is not about him: it is about bringing people together to support the scholarship fund of the University of Minnesota, Sid's great love. Despite his sometimes gruff exterior, Sid has a soft spot in his heart for the athletes of the U and all Gopher sports. His love and support and his encouragement, public and private, has made a big difference in hundreds of young lives.

Growing up, I heard the expression: ''Hearts that are tender and kind and tongues that are neither make the finest company of all.'' Sid has been great company for thousands of ardent and casual sports fans of the Upper Midwest. He has helped make Minnesota the fun, interesting place it is today.

Congratulations, Sid Hartman, for your example and your contribution to the quality of life of our State—and Go Gophers!●

CONGRATULATING MR. EDWARD BROWN

● Mr. BUNNING. Mr. President, I rise to congratulate Mr. Edward Brown of Albany, KY. In the winter of 2005, Edward won the Kentucky competition for the 2005 Voice of Democracy Patriotic Audio Essay Contest.

This nationwide competition is sponsored by the Veterans of Foreign Wars and is now in its 58th year. The competition requires high school student entrants to write and record a 3- to 5-minute essay on an announced patriotic theme. The theme for 2005 is ''Celebrating Our Veterans' Service.''

Mr. Brown's accomplishment has also earned him the ''$1,000 Department of Wyoming and its Ladies Auxiliary

Scholarship Award.'' A student of Clinton County High School, Edward also finds time to pursue academic and cultural interests such as political science, music, and art.

The Albany Veterans of Foreign Wars Post 1952 and its Ladies Auxiliary can be proud to sponsor Mr. Edward Brown. Being recognized by this organization is truly an honor. I congratulate Edward for his hard work and achievement.●

TRIBUTE TO LIEUTENANT COLONEL JOHN D. WASON

● Mr. INHOFE. Mr. President, I rise today to pay tribute to an exceptional officer of the United States Army, Lieutenant Colonel John D. Wason, upon his retirement after more than 20 years of distinguished service.

Throughout his career, Lieutenant Colonel Wason has personified the Army values of duty, integrity, and selfless service across the many missions the Army provides in defense of our Nation. During his time as—a Congressional Legislative Liaison Officer in the office of the Secretary of the Army, many of us on Capitol Hill have enjoyed the opportunity to work with Lieutenant Colonel Wason on a wide variety of Army issues and programs, and it is my privilege to recognize his many accomplishments. I commend his superb service to the U.S. Army and this great Nation.

Lieutenant Colonel John D. Wason was commissioned as a Second Lieutenant, Field Artillery, after graduating from California State University-Sacramento in 1985. His first assignment was as a Company Fire Support Officer, Battery Fire Direction Officer, and Battery Executive Officer for the 3rd Battalion, 19th Field Artillery, 5th Infantry Division at Ft. Polk, LA from 1985 to 1989. He commanded B Battery, 5th Battalion, 3rd Field Artillery in the Federal Republic of Germany from 1990 to 1992. Following his assignment in Germany, LTC Wason spent 28 months as a Recruiting Company Commander in Northern California from 1992 to 1994. In 1994, LTC Wason was selected as a member of the Army Acquisition workforce. From 1994 to 2001 LTC Wason served in a variety of Army Acquisition positions at White Sands Missile Range, NM and Picatinny Arsenal, NJ working on major Army weapons programs such as the Army Tactical Missiles System, Crusader, and the LW 155 Artillery system.

In 2001, LTC Wason was selected as a Department of Defense Congressional Fellow. His selection was followed by a 1 year assignment working on my personal staff. Following his Fellowship, LTC Wason served in Programs Division, Office of the Chief of Legislative Liaison. Lieutenant Colonel Wason maintained a constant liaison with Professional Staff Members of the Senate and House Armed Services Committees on issues relating to Army Procurement programs focusing on Army Aviation, Weapons and Tracked Combat Vehicles.

Throughout these varied and demanding assignments, Lieutenant Colonel Wason provided outstanding leadership, advice, and sound professional judgment on numerous critical issues of enduring importance to both the Army and Congress. John's counsel and support were invaluable to Army leaders and Members of Congress as they considered the impact of their decisions on these important issues.

On behalf of Congress and the United States of America, I thank Colonel Wason, his wife Betsy, and his entire family for the commitment, sacrifices, and contribution that they have made throughout his honorable military service. I congratulate Lieutenant Colonel John Wason on completing an exceptional and extremely successful career, and wish him blessings and success in all his future endeavors.●

TRIBUTE TO DR. MARY CLUTTER, NSF

● Mr. BOND. Mr. President, I rise to honor Dr. Mary E. Clutter who will be retiring in August from the National Science Foundation, NSF. To say that Dr. Clutter has had a distinguished career at the NSF would be an understatement due to her countless achievements in the area of biological science. Today's biological science has not only been assisted by Dr. Clutter but in many respects, it has been defined by Dr. Clutter, and her leadership in this important scientific area.

Dr. Clutter personifies the model public servant with a career at the NSF that spanned almost three decades. Dr. Clutter began her career as a temporary program officer at the NSF. Over the ensuing years, she has served with distinction in many important leadership roles at NSF: as the division director of Cellular Biosciences, Senior Science Advisor to the NSF Director, acting deputy director, and assistant director for the Directorate for Biological Sciences. She has served four Presidential administrations beginning with President Ronald Reagan to our current President George W. Bush. As a member of the Senior Executive Service, Dr. Clutter has received numerous awards, including the Meritorious and Distinguished Executive Presidential Rank Awards from Presidents Ronald Reagan, George H.W. Bush, and William Clinton.

During her career, Dr. Clutter has worked to develop a long-term and forward-thinking strategic vision for the biological sciences within NSF covering plant biology, environmental biology, computational biology, biodiversity research, long-term ecological research, and nonmedical microbiology. Further, these areas of research have influenced other scientific research areas and will continue to influence the biological sciences for years to come.

In my opinion, Dr. Clutter's most important achievement has come in the area of plant genome research. It is without question that what we now know and will know about plant genome research would not have occurred without Dr. Clutter's vision, leadership, and hard work. In 1997, I asked the Office of Science and Technology Policy, OSTP, to create an interagency working group to develop a new national plant genome initiative. OSTP wisely appointed Dr. Clutter to cochair the working group and, under her leadership, a plan for the national plant genome program was born in June 1997. Under the new National Plant Genome Initiative, Dr. Clutter brought together key Government research personnel from NSF, the Department of Agriculture, the National Institutes of Health, and others to develop and implement the plant genome program.

The plant genome research program at NSF has grown from an initial $40 million in fiscal year 1999 to $95 million today and Dr. Clutter has ensured that every penny has been spent wisely and, with this investment, the United States is the world leader in plant genome research. The plant genome program has already yielded tremendous results that will eventually contribute to better agricultural products that will improve human health and nutrition. For example, Dr. Clutter's leadership has contributed to the completion of the Multinational Arabidopsis Sequencing Project. This project was completed 3 years ahead of schedule and produced the first complete sequence of a higher organism. This work has further contributed to the sequencing work of other plants such as maize, soybeans, and other economically significant crops.

With this research, scientists are now beginning to understand the basic mechanisms underlying important plant traits such as cold tolerance, disease resistance, and seed development. Dr. Clutter's leadership has created a new scientific foundation on plant biotechnology that will eventually yield major breakthroughs in our understanding of plants, which will eventually lead to the development of new advances in agriculture, energy, and the environment. I strongly believe that the impressive research being done with plant genomics, led by Dr. Clutter, can eventually be a very powerful tool for addressing hunger in many developing countries such as those in Africa and Southeast Asia.

While Dr. Clutter's contributions to plant biology and genomics are extremely distinguished and too numerous to list in this tribute, I do want to emphasize the role she has played in broadening the participation of women and minorities in the fields of science. Countless number of today's scientists and our future scientists have been positively influenced by Dr. Clutter. She has promoted and emphasized international research collaboration between U.S. and foreign scientists and

provided opportunities for international research experiences for young scientists.

As the former chairman of the VA-HUD and Independent Agencies Appropriations Subcommittee, my staff and I have found Dr. Clutter to be an invaluable resource and ally in advancing plant genome research. I especially enjoyed her professionalism and passion for science, which never waned or wavered during the years I worked with her.

Finally, on a personal level, in addition to being a leading intellect, she is warm, engaging, enthusiastic, and has a high tolerance for the less knowledgeable. Dr. Clutter's new liberties are well deserved but her departure will be a major loss to the NSF and the Federal Government. She will clearly be missed by the science community, and I will definitely miss her in this capacity, both as a friend and a public servant. I wish Mary and her family all the best.●

A TRIBUTE TO CLARENCE WANZER

● Mr. ROCKEFELLER. Mr. President, I rise today to recognize and honor Clarence Wanzer, a resident of Coal Branch Heights, Charleston, WV, who has devoted his life to leadership and service in his community.

Mr. Wanzer, who will turn 95 on September 4, was born in Charleston, WV. In 1919, Mr. Wanzer joined Simpson Church but soon moved to Columbus, OH to be raised by his grandmother. Mr. Wanzer did not return to Charleston until the 1930s.

After Mr. Wanzer returned to his birthplace, he took a job with the U.S. Postal Service. Later, he purchased a piece of property in Coal Branch Heights, a residential community in Charleston. The community received its first glimpse of Mr. Wanzer's personal determination and conviction when he began construction on his home. Without outside help and during his spare time, Mr. Wanzer hand-dug the basement and completed construction on his block house.

Since the 1930s, Mr. Wanzer, working tirelessly to better his community, has participated in numerous community organizations. These activities have benefited the residents of Charleston and West Virginia as a whole.

In 1950, Mr. Wanzer's life forever changed. He assisted Rev. Ernest Smith, a local pastor, by polling the residents of Coal Branch Heights as to which Christian denomination they would like to belong. The residents chose the Methodist faith, and a developer donated land to the Methodist Conference for the construction of a new Methodist church.

Although Mr. Wanzer helped to build St. Stephens Methodist Church, the Methodist district superintendent refused him the right to worship within the building's walls. At that time, half of Coal Branch Heights' population was Black and the other half was White. Mr. Wanzer, an African American, was not permitted to worship with St. Stephens' all-White congregation. In response to this injustice, Mr. Wanzer purchased a small parcel of land, and he courageously constructed a second building in which all people of color could worship.

In 1965, the Methodist district superintendent invited Coal Branch Heights' Black families, the same families he had once turned away, to join the St. Stephens' parish. Mr. Wanzer's family joined St. Stephens in 1965, and he was able to enjoy the fruits of his decade-old labor.

Since 1965, Mr. Wanzer has touched the lives of those around him by holding a variety of leadership offices as well as inspiring other community members to become activists of the Christian faith. Today, he continues to serve his community. He recently, in his early 90s, undertook the task of seeking funds to fix a large sinkhole on Twilight Street.

I thank Mr. Wanzer for his unswerving loyalty and dedication to his community. Additionally, I wish him good health as he continues to serve the people of West Virginia. He serves as an inspiration to all of us as he continues to rely on his faith to do good works.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FOR THE HOUSE DURING ADJOURNMENT

ENROLLED BILLS SIGNED

Under authority of the order of the Senate of January 4, 2005, the Secretary of the Senate, on July 28,2005, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 45. An act to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes.

S. 571. An act to designate the facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, as the ''Congresswoman Shirley A. Chisholm Post Office Building'' .

S. 775. An act to designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, as the ''Boone Pickens Post Office''.

S. 904. An act to designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, as the ''Brian P. Parrello Post Office Building''.

S. 1395. An act to amend the Controlled Substances Import and Export Act to provide authority for the Attorney General to authorize the export of controlled substances from the United States to another country for subsequent export from that country to a second country, if certain conditions and safeguards are satisfied.

H.R. 3045. An act to implement the Dominican Republic-Central America-United States Free Trade Agreement.

H.R. 3423. An act to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees.

The enrolled bills were subsequently signed today, July 29, 2005, by the President pro tempore (Mr. STEVENS).

MESSAGES FROM THE HOUSE

At 9:45 a.m., a message from the House of Representatives, delivered by Mr. Croatt, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 226. Concurrent resolution providing for a correction to the enrollment of H.R. 3.

At 10:41 a.m., a message from the House of Representatives, delivered by Ms. Chiappardi, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5. An act to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

H.R. 3512. An act to provide an extension of administrative expenses for highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

At 11:58 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 3 authorizing funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 2:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following bills and joint resolution:

H.R. 2985. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes.

H.R. 2361. An act making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year

ending September 30, 2006, and for other purposes.

H.J. Res. 59. Joint resolution expressing the sense of Congress with respect to the women suffragists who fought for and won the right of women to vote in the United States.

The enrolled bills and joint resolution were signed subsequently by the President pro tempore (Mr. STEVENS).

At 7:54 p.m., a message from the House of Representatives, delivered by Mr. Croatt, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3512. An act to provide an extension of administrative expenses for highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

The enrolled bill was signed subsequently by the Majority Leader (Mr. FRIST).

MEASURES REFERRED

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

H.R. 5. An act to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery; to the Committee on the Judiciary.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on July 29, 2005, she had presented to the President of the United States the following enrolled bills:

S. 45. An act to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes.

S. 571. An act to designate the facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, as the ''Congresswoman Shirley A. Chisholm Post Office Building''.

S. 775. An act to designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, as the ''Boone Pickens Post Office''.

S. 904. An act to designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, as the ''Brian P. Parrello Post Office Building''.

S. 1395. An act to amend the Controlled Substances Import and Export Act to provide authority for the Attorney General to authorize the export of controlled substances from the United States to another country for subsequent export from that country to a second country, if certain conditions and safeguards are satisfied.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3306. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to Russia and Kazakhstan; to the Committee on Foreign Relations.

EC–3307. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to Luxembourg; to the Committee on Foreign Relations.

EC–3308. A communication from the Chairman, Dwight D. Eisenhower Memorial Commission, transmitting, pursuant to law, the Fourth Report of the Dwight D. Eisenhower Memorial Commission to the Committee on Rules and Administration.

EC–3309. A communication from the Chief, Regulatory Development Division, Mine Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners'' (RIN1219-AB29) received on July 27, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3310. A communication from the Director, Office of Workers' Compensation Programs, Department of Labor, transmitting pursuant to law, the report of a rule entitled ''Regulations Implementing the Longshore and Harbor Workers' Compensation Act and Related Statutes'' (RIN1215-AB38) received on July 27, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3311. A communication from the Acting Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Direct Final Rule—List of Approved Spent Fuel Storage Casks: NAC-UMS Revision 4'' (RIN3150-AH75) received on July 27, 2005; to the Committee on Environment and Public Works.

EC–3312. A communication from the Acting Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''NRC Bulletin 05–02: Emergency Preparedness and Response Actions for Security-Based Events'' received on July 27, 2005; to the Committee on Environment and Public Works.

EC–3313. A communication from the Offices of Inspector General of the Departments of Commerce, Defense, Energy, Homeland Security, State, Agriculture, and the Central Intelligence Agency transmitting, pursuant to law, a report entitled ''Interagency Review of the Licensing Process for Chemical and Biological Commodities''; to the Committee on Armed Services.

EC–3314. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a list of officers authorized to wear the insignia of rear admiral (lower half); to the Committee on Armed Services.

EC–3315. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–3316. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of lieutenant general; to the Committee on Armed Services.

EC–3317. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (11 subjects on 1 disc beginning with ''Clarifications on Wright-Patterson AFB BRAC Questions'') relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3318. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (7 subjects on 1 disc beginning with ''Briefing to the Commission on COBRA Reports on DFAS'') relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3319. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (4 subjects on 1 disc beginning with ''Inquiry Response Regarding Air Sovereignty Alert Locations'') relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–166. A resolution adopted by the Senate of the Commonwealth of Pennsylvania relative to the recommended closure of the Naval Air Station Joint Reserve Base Willow Grove; to the Committee on Armed Services.

Whereas, the Naval Air Station Joint Reserve Base Willow Grove, commonly referred to as the Willow Grove Naval Air Station, located in Horsham Township, Pennsylvania, has been recommended for closure by the Secretary of Defense; and

Whereas, the Willow Grove Naval Air Station, first commissioned in 1943 as a naval air base with 196 acres, now covers 1,100 acres and includes a joint reserve base, the only one in the Commonwealth of Pennsylvania, that is home to Navy, Air Force, Army, Marine and Air National Guard units; and

Whereas, the Willow Grove Naval Air Station is one of only three military facilities in the United States that brings together branches of the armed forces to prepare for joint operations and is considered a model facility by some defense analysts; and

Whereas, the Willow Grove Naval Air Station is strategically located near all major metropolitan and part areas in the Northeast corridor, enabling fighters to be deployed within minutes to Philadelphia, New York, Baltimore and Washington, DC, which is critical to homeland defense; and

Whereas, its modern 8,000-foot runway can accommodate any military aircraft, incldung Air Force One, and land commercial aircraft from Washington, DC, to New York in emergencies; and

Whereas, the Willow Grove Naval Air Station has a state-of-the art radar system which is one of four digital air control systems in the United States; and

Whereas, the Willow Grove Naval Air Station is home to the 913th Airlift Wing of the Air Force Reserve, which brains and equips reservists to perform aerial resupply and also provides air logistic support for active and reserve Navy units; and

Whereas, the Willow Grove Naval Air Station is also home to the 111th Fighter Wing of the Pennsylvania Air National Guard, that has the honor of being the oldest flying unit within Pennsylvania and has had many unit members deployed worldwide to support

operations against terrorism since the September 11, 2001, terrorist attacks on the United States; and

Whereas, the Willow Grove Naval Air Station employs people from the Berks, Bucks, Montgomery, Chester, Delaware and Philadelphia County areas, and the closure of this base will result in the loss of economic activity and jobs; and

Whereas, a study commissioned by the Suburban Horsham-Willow Grove Chamber of Commerce determined that closure of the Willow Grove Naval Air Station will result in the area losing $375 million in economic activity annually and more than 10,000 area jobs, including more than 7,000 jobs on the base; and

Whereas, closure of the Willow Grove Naval Air Station will result in the Commonwealth of Pennsylvania losing nearly $7.2 million in State law revenue and $2.4 million in local tax revenue; and

Whereas, the surrounding communities support the mission and operations of the base; and

Whereas, the Commonwealth of Pennsylvania has lost a greater percentage of positions in the four prior rounds of the Base Realignment and Closure Commission than any other State, with a total loss of 16,033 jobs consisting of 3,009 military and 13,024 civilian positions; therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania support maintaining the Naval Air Station Joint Reserve Base Willow Grove and urge the President and the Congress of the United States and all members of the 2005 Base Realignment and Closure Commission to support the same; and be it further

Resolved, That the Senate urge the President and the Congress and all members of the commission to remove the Naval Air Station Joint Reserve Base Willow Grove from the list of military base closures recommended by the Department of Defense; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress, to each Member of Congress from Pennsylvania and to all members of the 2005 Base Realignment and Closure Commission.

POM–167. A resolution adopted by the Senate of the Commonwealth of Pennsylvania relative to the recommended closure of 13 military installations in Pennsylvania by the Department of Defense; to the Committee on Armed Services.

Whereas, the United States Department of Defense recently recommended numerous military base closings and realignments to the Base Realignment and Closure (BRAC) Commission; and

Whereas, the recommendation included 13 military installations in the Commonwealth of Pennsylvania; and

Whereas, the Pittsburgh International Airport Air Reserve Station, located in Moon Township, Pennsylvania, and the Charles E. Kelly Support Center, with facilities located in Oakdale and Neville Island, Pennsylvania, were among those recommended for closure; and

Whereas, the Department of Defense recommended moving the 99th Regional Readiness Command, located in Moon Township, to Fort Dix, New Jersey; and

Whereas, Allegheny County and western Pennsylvania will lose more than 850 civilian and military jobs if these bases close or are realigned; and

Whereas, the biggest potential loss will be the closing of the Air Reserve Station, home of the 911th Military Airlift Wing; and

Whereas, the Air Reserve Station has been based at the Pittsburgh International Airport since 1942; and

Whereas, since 1963, the base has been home to the 911th Military Airlift Wing; and

Whereas, the 911th Military Airlift Wing is an Air Force Reserve wing that flies the C–130 cargo plane; and

Whereas, approximately 1,220 Air Force reservists are assigned to the Air Reserve Station, which also employs 320 civilians; and

Whereas, it is estimated that closing the Pittsburgh International Airport Air Reserve Station will eliminate 44 military and 278 civilian jobs; and

Whereas, it is estimated that closing the Pittsburgh International Airport Reserve Station will cost the local economy approximately $94 million a year; and

Whereas, land constraints were cited as one reason for including the Air Reserve Station on the closure list; and

Whereas, the Pittsburgh International Airport has made available, through a Memorandum of Understanding, an additional 53 acres at the airport facility that were not considered in the Air Force/BRAC review of the facilities; and

Whereas, additional acreage exists upon which the facility can expand to address the needs of the Department of Defense; and

Whereas, the Charles E. Kelly Support Center provides logistical support to active and reserve Army units in the Middle Atlantic Region, including a transportation office that facilitates travel for Army reservists to and from active duty; and

Whereas, according to the Department of Defense, closing the Charles E. Kelly Support Center would result in the loss of an estimated 174 military and 136 civilian jobs; and

Whereas, closing the Charles E. Kelly Support Center and its commissary would affect an estimated 100,000 active and retired military members in Pennsylvania, West Virginia and Ohio; and

Whereas, the 99th Regional Readiness Command oversees more than 20,000 Reserve soldiers in 185 units in five states and the District of Columbia; and

Whereas, the 99th Regional Readiness Command has approximately 220 full-time positions; and

Whereas, the Army estimates that this unit contributes about $100 million to the local economy each year; and

Whereas, all three of these military installations are critical to national defense and homeland security; and

Whereas, the Commonwealth of Pennsylvania has already lost more than 16,000 military and civilian jobs over the previous four rounds of base closings; therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania strongly urge the President and Congress of the United States and the members of the 2005 BRAC Commission to remove the Pittsburgh International Airport Air Reserve Station and the Charles E. Kelly Support Center from the list of proposed military base closures and to remove the 99th Regional Readiness Command from the list of proposed base realignments; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress, to each member of Congress from Pennsylvania and to all members of the 2005 BRAC Commission.

POM–168. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to requiring financial institutions to notify consumers prior to publication of negative credit information and to allow adequate time for correction; to the Committee on Banking, Housing, and Urban Affairs.

A CONCURRENT RESOLUTION

To memorialize the United States Congress to take such actions as are necessary to require financial institutions to notify consumers prior to publication of negative credit information and to allow adequate time for correction.

Whereas, consumer credit scores help to determine the cost of financing consumer purchases including the purchase of vehicles and homes; and

Whereas, some insurance companies use credit scores to determine risk and establish the price of insurance premiums; and

Whereas, the accuracy of consumer credit scores is essential to control the rising cost of credit, financing consumer purchases, and insurance premiums; and

Whereas, the Federal Fair Credit Reporting Act allows financial institutions to release negative credit information without prior notice to consumers but provides for consumer notification no later than thirty days after such negative credit information has already been released to consumer credit reporting agencies (15 USC 1681s–2(a)(7)); and

Whereas, this delayed notification requirement allows for the dissemination of incorrect credit scores without giving consumers adequate time to determine if there was a credit reporting error or take necessary steps to correct the inaccurate information; and

Whereas, only Congress has the authority to change this consumer notification requirement because the Federal Fair Credit Reporting Act specifically preempts state law with respect to this subject matter which is regulated by this Federal law (15 USC 1681t(b)(1)(F)).

Therefore, be it resolved that the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to require financial institutions to notify consumers prior to publication of negative credit information and to allow adequate time for correction.

Be it further resolved that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–169. A joint resolution adopted by the Legislature of the State of Maine relative to the continued funding for the Community Development Block Grant Program; to the Committee on Banking, Housing, and Urban Affairs.

JOINT RESOLUTION

We, your Memorialists, the Members of the One Hundred and Twenty-second Legislature of the State of Maine now assembled in the First Special Session, most respectfully present and petition the Congress of the United States as follows:

Whereas, the Community Development Block Grant program has helped communities throughout the nation since 1974, and is one of the oldest programs in the United States Department of Housing and Urban Development; and

Whereas, the Community Development Block Grant program provides annual grants on a formula basis to many different types of grantees through several programs as entitlement grants, loans and disaster relief grants; and

Whereas, the Community Development Block Grant program has helped Maine families, businesses and communities and Maine's neediest citizens over the years, and this program is now being severely cut back due to federal budget constrictions; and

Whereas, more than $314,000,000 in Community Development Block Grant funds was granted in Maine for the years 1982 to 2004, and from 1998 to 2004 $23,400,000 in funds created or retained 3,764 jobs for Maine workers, including 656 jobs still being created; and

Whereas, from 1998 to 2004, more than $54,400,000 in Community Development Block Grant funds was spent in Maine and benefited more than 132,000 Maine residents, or more than one in every 10 citizens of Maine, outside the large population centers of Portland, Lewiston, Auburn and Bangor; and

Whereas, those cities, along with South Portland and Biddeford, receive Community Development Block Grant funds directly from the Department of Housing and Urban Development by way of the Entitlement Communities Grants program, which is slated for elimination; and

Whereas, Community Development Block Grant funding is often the only extra funding to allow communities a chance to finance such projects as water infrastructure projects, wastewater infrastructure projects, fire station construction, downtown revitalization and low-income housing improvement projects such as the Maine Home Repair Network, Americans with Disabilities Act accessibility modifications, senior activities programs, medical services programs and economic development and planning programs; and

Whereas, during 2005, 8 grants in the amount of $2,994,000 were awarded in Maine for public infrastructure while 19 applications were left unfunded, and 9 grants in the amount of $1,917,000 were awarded for public facilities while 13 applications were left unfunded; now, therefore, be it

Resolved: That We, your Memorialists, respectfully urge that the Federal Government continue full funding for the Community Development Block Grant program as important needs continue to exist throughout Maine and the nation; and be it further

Resolved: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of the Maine Congressional Delegation.

POM–170. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to condemning the National Football League's recent actions restricting the availability of televised games; to the Committee on Commerce, Science, and Transportation.

A RESOLUTION

Whereas, the Commonwealth of Pennsylvania is home to two professional National Football League (NFL) teams; and

Whereas, the substantial fan base within the Commonwealth of Pennsylvania for each of these teams is due to each team's legacy of excellence on and off the field; and

Whereas, revenues from these professional football teams exceed more than $1.2 billion; and

Whereas, the Commonwealth of Pennsylvania and its citizens have invested substantial amounts of money in the construction of stadiums for these professional football teams and have supported their efforts during the preseason, regular season and playoff season through ticket purchases, concession sales and other direct economic impacts; and

Whereas, the National Football League has recently used its monopoly status to institute national television arrangements which has the practical effect of removing this substantial fan base from everyday enjoyment of professional football; and

Whereas, this recent action to move ''Monday Night Football'' from a free national television network (ABC) to cable television (ESPN) will directly result in a large number of Pennsylvanians being unable to watch ''Monday Night Football'' in 2006; and

Whereas, ''Monday Night Football'' on ABC has been an institution and a pillar in the sports fan community since 1970; and

Whereas, while the move of ''Monday Night Football'' from ABC to ESPN may have some positive impact on the bottom line of The Walt Disney Company due to its ownership rights in both, it should not come at the expense of the citizens of the Commonwealth of Pennsylvania; and

Whereas, while the additional six-year deal the NFL entered into with another national television network, NBC, whereby Sunday night football games will be televised starting in 2006, is a step in the right direction, such action would not contemplate the marquee contests scheduled by the NFL for ''Monday Night Football''; and

Whereas, removal of ''Monday Night Football, coupled with archaic local market television rules, is systematically distancing the football fan who cannot afford to buy cable or attend a game in person from the game of professional football; and

Whereas, the NFL was created with the general public in mind, and bringing professional football to the masses via national television networks is the most viable means to satisfy this end; and

Whereas, expensive cable channels, season television packages or wholly owned cable networks such as the NFL Network do not deliver professional football to the masses; and

Whereas, it is often said that it is the fans for whom all professional sports are played; and

Whereas, currently there are still 10% of households in the Commonwealth of Pennsylvania without basic cable television; and

Whereas, Federal law allows the NFL to make television programming changes without further review by any court or regulatory body; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania condemn this most recent practice in particular and the trends in the telecasting of football games generally; and be it further

Resolved, That the House of Representatives urge the NFL to reconsider the effect of its actions to narrow the access of high-profile football games for the average fan; and be it further

Resolved, That the House of Representatives urge the NFL to respond to these concerns; and be it further

Resolved, That copies of this resolution be transmitted to the commissioner of the National Football League, Paul Tagliabue, 410 Park Avenue, New York NY 10022, and to the members of the Pennsylvania Congressional Delegation.

POM–171. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to advocating changes in the Federal Motor Carrier Safety Regulations, specifically 49 C.F.R. 383.3; to the Committee on Commerce, Science, and Transportation.

A CONCURRENT RESOLUTION 103

To memorialize the United States Congress to take such actions as are necessary to advocate changes in the Federal Motor Carrier Safety Regulations, specifically 49 C.F.R. 383.3, relative to issuance of restricted commercial drivers' licenses, which currently prohibit aerial applicators from qualifying for issuance of such licenses.

Whereas, aerial applicators provide a valuable and necessary service to farmers by crop-dusting their fields in order to prevent crops from being destroyed or harmed by pests; and

Whereas, crop-dusting, like farming, is seasonal work with its top season lasting no more than four months; and

Whereas, since crop-dusters are small planes which are heavily weighted with crop protection products, it is necessary for a fuel source to be near the farm which the crop-duster is servicing in order to maximize the time and efficiency of the aerial applicator; and

Whereas, since most farmers are not equipped to provide fuel service to crop-dusters on site and most farms are located miles away from fuel service stations, it is necessary for trucks to carry aviation kerosene, also known as Jet A, or Avgas fuel to the crop-duster on site; and

Whereas, trucks used to transport aviation kerosene and Avgas fuel are considered commercial trucks; therefore, the drivers of such vehicles are required to possess a commercial driver's license; and

Whereas, since most farm workers are seasonal employees, it is a very difficult and expensive proposition to burden aerial applicators and farmers with the requirement of educating workers to pass the knowledge and skills tests for issuance of a commercial driver's license; and

Whereas, according to the Federal Motor Carrier Safety Regulations, specifically 49 C.F.R. 383.3, authority is granted to allow a state to waive the required knowledge and skills tests and to issue restricted commercial drivers' licenses to employees for certain farm-related service industries; and

Whereas, holders of restricted commercial drivers' licenses are prohibited from having any endorsements on such licenses, and holders of such licenses are prohibited from operating a commercial vehicle beyond one hundred fifty miles from the place of business or the farm currently being served; and

Whereas, aerial applicators who participate in crop-dusting activities for rural farmers had previously been eligible for issuance of the restricted commercial driver's license; and

Whereas, as a result of the terrorist attacks launched upon the United States on September 11, the federal government has closely guarded waivers to the commercial drivers' license requirements because of the potential for terrorists to once again breach the confidence of this nation; and

Whereas, as a result, changes have been made in federal regulations to more closely regulate transportation of hazardous materials; and

Whereas, aviation kerosene, or Jet A fuel, and Avgas are classified as hazardous materials according to federal regulations; however, a holder of a restricted commercial driver's license is permitted to carry placardable quantities of hazardous materials such as diesel fuel so long as the quantity does not exceed one thousand gallons; and

Whereas, aviation kerosene, or Jet A, and Avgas, which are used as fuel for crop-dusting planes, are chemicals very similar to diesel fuel which is already recognized as an exception to the transportation of hazardous materials endorsement; and

Whereas, while farmers and aerial applicators can understand why the federal government is attempting to regulate the transportation of hazardous materials, the current waiver allowed in the Federal Motor Carrier Safety Regulations for issuance of restricted drivers' licenses is written so narrowly, legitimate groups are prevented from utilizing the exemption and are being penalized; and

Whereas, changes can be recommended to the Federal Motor Carrier Safety Regulations such as reclassifying aviation kerosene, or Jet A fuel, and Avgas as non-hazardous materials, or adding aviation kerosene, or Jet A, and Avgas in the exception currently recognized for diesel fuel, which changes would allow farmers and aerial applicators to qualify for issuance of restricted commercial drivers' licenses.

Therefore, be it resolved that the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to advocate changes in the Federal Motor Carrier Safety Regulations, specifically 49 C.F.R. 383.3, I relative to issuance of restricted commercial drivers' licenses, which currently prohibit aerial applicators from qualifying for issuance of such licenses because the fuel they need to transport in order to conduct crop-dusting activities is classified as a hazardous material.

Be it further resolved that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–172. A concurrent memorial adopted by the House of Representatives of the Legislature of the State of Arizona relative to protecting the citizens of the State of Arizona by enacting legislation to ensure reasonable rates; to the Committee on Commerce, Science, and Transportation.

A CONCURRENT MEMORIAL

Urging the Congress of the United States to protect the citizens of the State of Arizona by enacting legislation to ensure reasonable rates.

Whereas, the Legislature of the State of Arizona is committed to our nation's free market economic model and believes, specifically, that markets subject to competition should not be regulated by the local, state or federal governments but that those markets that are not subject to competition and yet supply important commodities, products or services to the citizens of Arizona must be subject to effective local, state or federal government regulation; and

Whereas, important commodities, such as coal for electric generating facilities and grain for dairy and beef cattle production, are dependent on railroad transportation into the State of Arizona; and

Whereas, dairy and beef cattle producers in Arizona are dependent on the railroad to import seventy-five percent of the grain necessary to produce milk and beef in Arizona; and

Whereas, the coal that is brought by rail into the State of Arizona to be consumed by Arizona electric generating facilities often is dependent on a single railroad for transportation, such that normal market forces are not present to constrain the price charged Arizona electric generators or the transportation service that they receive; and

Whereas, coal brought into the State of Arizona by Arizona electric generating facilities is used to generate forty percent of the electricity produced in the state and all of this imported coal is delivered by a class 1 railroad in a ''captive'' relationship; and

Whereas, the cost to transport coal to an electric generating facility in the State of Arizona where there is no effective rail competition present is often at least twice the cost of transporting coal where effective rail competition exists, even though the cost to the railroad of such transportation is no higher than for transportation where competition exists; and

Wheres, the unreasonably high rail rates of captive coal are passed through to the Arizona consumers of electricity, thus increasing the price of electricity to the families and businesses of Arizona and decreasing the disposable income available for other family and business needs; and

Whereas, the Congress of the United States, in 1980, deregulated railroad transportation where rail competition exists but directed a federal agency, now the Surface Transportation Board, to ensure that ''captive'' rail customers not be charged higher rates than are appropriate; and

Whereas, the Surface Transportation Board, in implementing its responsibilities under the deregulation act, has allowed the railroads to increase their market power through mergers and acquisitions and has allowed the railroads to avoid rail-to-rail competition wherever possible; and

Whereas, the Surface Transportation Board has developed a process that ensures ''captive'' rate are reasonable and that places all burdens of proof on the rail customer in rate cases that, according to recent Congressional testimony, cost the rail customer at least $3 million to prosecute and take at least two years for resolution and rarely result in victory for the rail customer; and

Whereas, the Surface Transportation Board implementation of its responsibilities under the deregulation act is not constraining captive rail rates and is resulting in unreasonably high costs for the electricity consumers of Arizona; and

Whereas, despite the inadequacy of the current federal regulatory regime for captive rail rates, the American railroad industry continues to be the only American industry that is exempt from major portions of the nation's antitrust laws.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the Congress of the United States protect the citizens of the State of Arizona by enacting legislation that ensures that the Surface Transportation Board will facilitate rail-to-rail competition wherever possible, that the Surface Transportation Board will develop a cost-effective and time-effective process that ensures that captive rail customers pay reasonable rates and that the American railroad industry is subject to all provisions of the nation's antitrust laws.

2. That Congress enact legislation similar to the Railroad Competition Act of 2003, S. 919 and H.R. 2924, from the 108th Congress.

3. That the Members of Congress from the State of Arizona support this legislation.

4. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

POM–173. A joint resolution adopted by the Legislature of the State of Maine relative to avoiding sole-sourced shipbuilding; to the Committee on Commerce, Science, and Transportation.

JOINT RESOLUTION

We, your Memorialists, the Members of the One Hundred and Twenty-second Legislature of the State of Maine now assembled in the First Special Session, most respectfully present and petition the Congress of the United States as follows:

Whereas, the State of Maine has a long shipbuilding tradition, going back to colonial times when our vast forests supplied timber to build ships in shipyards large and small along the 3,500-mile-long coast; and

Whereas, Maine is still home to Bath Iron Works, a major shipbuilder of this Nation, a major employer of our State that has a century-long tradition of building the best ships in the world; and

Whereas, our Nation has an equally long tradition of encouraging competition among businesses to ensure efficiency, equality, cost-containment and fair play; and

Whereas, Federal officials have recently indicated that government contracts to build ships may be sole-sourced, or given to one shipyard only, in effect ending competitive bidding among shipbuilders in this country; and

Whereas, sole-sourced production creates unfair monopolies that hurt the taxpayers of this Nation by not allowing the best price and best shipyard to do the work; and

Whereas, our national security depends on having the most effective military in the world, and United States, Navy effectiveness requires having a superior fleet, a fleet that needs to be built with the highest quality and at the best cost; now, therefore, be it

Resolved: That We, your Memorialists, respectfully urge the Congress of the United States to disavow sole-sourcing of shipbuilding contracts and to encourage competitive bidding among the qualified shipyards of the Nation; and be it further

Resolved: That suitable copies of this resolution, duly authenticated by the Secretary of State be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of the United States Navy and each Member of the Maine Congressional Delegation.

POM–174. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to urging the Congress of the United States to refrain from taking action in developing legislation that would have the effect of preventing or hindering the exploration, drilling, development and production of natural gas in the Great Lakes; to the Committee on Energy and Natural Resources.

A RESOLUTION

Urging the Congress of the United States to refrain from taking action in developing legislation that would have the effect of preventing or hindering the exploration, drilling, development and production of natural gas in the Great Lakes.

Whereas, the Congress, in recognition of the need for a comprehensive energy policy for this nation, is currently in the process of developing legislation to establish the framework for this policy; and

Whereas, while a vast majority of the issues relating to this potential energy policy is of a broad nature, affecting each state and commonwealth broadly and with similar consequences, certain matters of national interest are uniquely applicable to an individual state or commonwealth because the immediate impact of the regulated activity will be felt almost entirely by that state or commonwealth; and

Whereas, these activities, to the extent they occur within the borders of a state or commonwealth, have been long and successfully regulated by the impacted state or commonwealth, and there is no national interest served by broadening the powers of the Federal Government to regulate these activities; and

Whereas, geologic and geophysical indicators show that substantial oil and gas reserves underlying that portion of Lake Erie within the boundaries of the Commonwealth of Pennsylvania may be available for development to assist in meeting the nation's energy needs; and

Whereas, the exploration, drilling, development and production of natural gas lying under the water bodies within the boundaries of each state and commonwealth are activities that meet the criteria set forth in this resolution; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the Congress, in developing legislation to establish an energy policy, to refrain from taking action that would have the effect of preventing or hindering the exploration, drilling, development and production of natural gas in the Great Lakes, including, but

not limited to, Lake Erie, so long as the state or commonwealth in which the activity is conducted provides a regulatory system for the conduct of operations; and be it further

Resolved, That copies of this resolution be transmitted to the members of Congress from Pennsylvania, to the members of the Committee on Energy and Commerce of the United States House of Representatives, to the members of the Committee on Resources of the United States House of Representatives, to the members of the Energy and Natural Resources of the United States Senate, to the members of the Committee on Environment and Public Works of the United States Senate and to others holding leadership positions on committees developing national energy policy legislation.

POM–175. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to enabling Louisiana to receive its appropriate share of revenue received from oil and gas activity on the Outer Continental Shelf; to the Committee on Energy and Natural Resources.

A CONCURRENT RESOLUTION

To memorialize the United States Congress to enable Louisiana to receive its appropriate share of revenue received from oil and gas activity on the Outer Continental Shelf.

Whereas, in an effort to preserve federal ownership of public lands while still allowing the mining of minerals and enabling the states where those lands and minerals were located to continue receiving revenues from mineral extraction, the Mineral Leasing Act of 1920 grants states a share of revenue derived from minerals extracted from federal lands within those states' borders; and

Whereas, the original Mineral Leasing Act provided that twelve and one-half percent of the royalty revenue would be shared with the states from which the minerals were extracted, which percentage was increased in 1976 to fifty percent for onshore royalty payments; and

Whereas, although all states benefit from this increased share of royalty payments, the oil, gas, and coal extracted from below the ground in Wyoming and New Mexico accounts for the largest share, and those two states received eighty percent of the $1.16 billion paid in 2004; and

Whereas, in addition to the revenue sharing from royalty payments, another forty percent of the revenues have been directed to the federal Reclamation Fund, which has financed over $30 billion in water and energy projects in seventeen western states; and

Whereas, Louisiana produces more than eighty percent of the nation's offshore oil and gas supply with more than one-third of the oil and gas consumed in this country, both foreign and domestic, passing through the state's fragile coastal wetlands by tanker, barge, or pipeline; and

Be it further resolved, that a copy of this Resolution be sent to the presiding officer of the United States House of Representatives and to the presiding officer of the United States Senate.

POM–176. A resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to enabling Louisiana to receive its appropriate share of revenue received from oil and gas activity on the Outer Continental Shelf; to the Committee on Energy and Natural Resources.

A RESOLUTION

To memorialize the United States Congress to enable Louisiana to receive its appropriate share of revenue received from oil and gas activity on the Outer Continental Shelf.

Whereas, in an effort to preserve federal ownership of public lands while still allowing the mining of minerals and enabling the states where those lands and minerals were located to continue receiving revenues from mineral extraction, the Mineral Leasing Act of 1920 grants states a share of revenue derived from minerals extracted from Federal lands within those states' borders; and

Whereas, the original Mineral Leasing Act provided that twelve and one-half percent of the royalty revenue would be shared with the states from which the minerals were extracted, which percentage was increased in 1976 to fifty percent for onshore royalty payments; and

Whereas, although all states benefit from this increased share of royalty payments, the oil, gas, and coal extracted from below the ground in Wyoming and New Mexico accounts for the largest share, and those two states received eighty percent of the $1.16 billion paid in 2004; and

Whereas, in addition to the revenue sharing from royalty payments, another forty percent of the revenues have been directed to the federal Reclamation Fund, which has financed over $30 billion in water and energy projects in seventeen western states; and

Whereas, Louisiana produces more than eighty percent of the nation's offshore oil and gas supply, with more than one-third of the oil and gas consumed in this country, both foreign and domestic, passing through the state's fragile coastal wetlands by tanker, barge, or pipeline; and

Whereas, Louisiana is losing its coastal wetlands at the alarming rate of over twenty-four square miles per year, or more than a football field each day, largely due to policies and practices implemented by the federal government through the years to encourage and manage mineral extraction or to control flooding in the lower Mississippi River basin; and

Whereas, our coastal wetlands are essential to the well-being of the nation as a whole because not only does a large portion of the oil and gas supply either come from Louisiana or travel through our wetlands, but Louisiana's coast is home to one of the nation's premier commercial and recreational fisheries, a fishery that accounts for nearly one-third of the commercial fisheries production of the lower forty-eight states and that is second in the nation in total recreational harvest of saltwater fish; and

Whereas, although Louisiana has repeatedly demonstrated its intention and willingness to share in the cost of preserving this vital ecosystem, preservation of Louisiana's coast will necessitate an amount of funding that the state cannot provide by itself, nor should the state be expected to fund this fight on its own since the problems which have resulted in the dramatic coastal loss were not problems created by the state on its own; and

Whereas, an appropriate and available source for the revenues needed to address our coastal land loss is royalties from oil and gas development on the Outer Continental Shelf, which could and should be shared with Louisiana in much the same manner and at the same level as the revenue sharing that was afforded the Western states; and

Whereas, Louisiana, like the Western states, should receive compensation for infrastructure and environmental impacts associated with mineral production from its contributions to the federal treasury; and

Whereas, the energy bill currently before Congress offers far less to coastal states than the amount of revenue sharing given inland states even though the impact of oil and gas production is far greater in the sensitive and fragile wetlands of the coastal states.

Therefore, be it Resolved, That the House of Representatives of the Legislature of Louisiana does hereby memorialize the United States Congress to enable Louisiana to receive its appropriate share of revenue received by the United States from oil and gas activity on the Outer Continental Shelf.

Be it further resolved, that a copy of this Resolution be sent to the presiding officer of the United States House of Representatives and to the presiding officer of the United States Senate.

POM–177. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the release of funds to the states from the Leaking Underground Storage Tank Trust Fund; to the Committee on Environment and Public Works.

A RESOLUTION

Encouraging the Congress of the United States and the Environmental Protection Agency to release funds to the states from the Leaking Underground Storage Tank Trust Fund.

Whereas, in 1989 the Commonwealth of Pennsylvania passed the act of July 6, 1989 (P.L. 169, No. 32), known as the Storage Tank and Spill Prevention Act, becoming one of the largest industrial states to regulate underground storage tanks to protect ground and surface water and to comply with a Federal mandate to regulate these tanks; and

Whereas, there are now more than 56,300 underground storage tanks in Pennsylvania owned by service stations, farmers, local governments, petroleum product distributors, convenience stores, small businesses, truck stops and food merchants; and

Whereas, the owners of underground tanks pay more than $3.8 million in fees every year to support the Storage Tank Program of the Department of Environmental Protection and now face fee increases that would in most cases triple the existing rates; and

Whereas, the Storage Tank Advisory Committee has offered to work with the Department of Environmental Protection to help reduce the administrative costs of the Commonwealth's Storage Tank Program; and

Whereas, Pennsylvania underground tank owners also pay more than $29 million in fees for leak cleanup insurance every year to the Underground Storage Tank Indemnification Fund in response to a Federal mandate to have spill cleanup coverage; and

Whereas, Pennsylvania gasoline and diesel fuel consumers pay more than $6.4 million to the Leaking Underground Storage Tank Trust Fund of the Federal Government every year, and Pennsylvania receives only $1.8 million in return to help fund the Commonwealth's Storage Tank Program; and

Whereas, the Leaking Underground Storage Tank Trust Fund now has a balance of more than $2 billion that could be allocated to states to offset the administrative costs of their storage tank programs; and

Whereas, the Congress of the United States is now considering changes to Federal requirements covering underground storage tanks that may impose additional unfunded mandates on states responsible for administering Federal storage tank regulations; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania strongly encourage the Congress of the United States and the Environmental Protection Agency to take the steps necessary to redistribute more of the $2 billion already in the Leaking Underground Storage Tank Trust Fund of the Federal Government to states for the purpose of helping to offset the administrative costs of the federally mandated program; and be it further

Resolved, That such actions be accomplished as soon as practicable to help the

Commonwealth of Pennsylvania avoid unnecessary increases in fees on the owners of underground storage tanks; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress, to each member of Congress from Pennsylvania and to the Administrator of the Environmental Protection Agency.

POM–178. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to the Storage Tank and Spill Prevention Act; to the Committee on Environment and Public Works.

Whereas, in 1989 the Commonwealth of Pennsylvania passed the Storage Tank and Spill Prevention Act, becoming one of the largest industrial states to regulate underground storage tanks to protect ground and surface water and to comply with a Federal mandate to regulate these tanks; and

Whereas, there are more than 56,300 underground storage tanks in the Commonwealth of Pennsylvania owned by service stations, farmers, local governments, petroleum product distributors, convenience stores, small businesses, truck stops and food merchants; and

Whereas, the owners of underground tanks pay more than $3.8 million in fees every year to support the Storage Tank Program of the Department of Environmental Protection and now face fee increases that would in most cases triple the existing rates; and

Whereas, the Storage Tank Advisory Committee has offered to work with the Department of Environmental Protection to reduce administrative costs of the Storage Tank Program; and

Whereas, underground tank owners in the Commonwealth of Pennsylvania pay more than $29 million in fees for leak cleanup insurance every year to the Underground Storage Tank Indemnification Fund in response to a Federal mandate to have spill cleanup coverage; and

Whereas, while Pennsylvania gasoline and diesel fuel consumers pay more than $6.4 million to the Leaking Underground Storage Tank Trust Fund every year, the Commonwealth of Pennsylvania receives only $1.8 million in return to help fund the Storage Tank Program; and

Whereas, the Leaking Underground Storage Tank Trust Fund now has a balance of more than $2 billion that could be allocated to states to offset the administrative costs of the Storage Tank Program; and

Whereas, the Congress is now considering changes to Federal requirements covering underground storage tanks that may impose additional unfunded mandates on states responsible for administering Federal storage tank regulations; therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania strongly encourage the Congress and the United States Environmental Protection Agency to take the steps necessary to redistribute more of the $2 billion in the Leaking Underground Storage Tank Trust Fund to states to offset administrative costs of the federally mandated program; and be it further

Resolved, That these actions be accomplished as soon as practicable to help the Commonwealth of Pennsylvania avoid unnecessary fee increases for owners of underground storage tanks; and be it further

Resolved, That copies of this resolution be transmitted to the administrator of the Environmental Protection Agency, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–179. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to Medicaid; to the Committee on Finance.

Whereas, Medicaid is the Nation's largest health care program, providing health and long-term care services to 53 million low-income pregnant women, children, individuals with disabilities and seniors; and

Whereas, Medicaid is a vital health care safety net and provides important services to those persons who can get care from no other source; and

Whereas, Federal and State spending in Medicaid has experienced a dramatic increase over the past five years because of increases in caseloads and an increase in costs of health care services; and

Whereas, States devote 22 percent of their budgets to Medicaid, and this increasing cost is unsustainable; and

Whereas, Congress has passed a budget resolution that may reduce Federal financial participation in the Medicaid program; and

Whereas, States' experiences with Medicaid place them in unique positions to utilize ways to modernize the provision of benefits while protecting recipients and curtailing overuse and abuse; and

Whereas, the National Governors Association has indicated that cost-sharing, varying benefit packages, improving prescription drug plans, changing asset transfer rules, instituting comprehensive waiver reforms, providing for local management of optional Medicaid categories, coordinating chronic care management, providing tax breaks and credits for purchase of long-term care insurance and creating long-term care partnerships would help modernize and sustain the Medicaid program; therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize the Congress to review and consider the National Governors Association recommendations which would allow States to utilize greater flexibility in their provision of Medicaid services; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each Member of Congress from Pennsylvania.

POM–180. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to supporting and enacting legislation placing reasonable requirements on the reporting of publicly funded clinical trials; to the Committee on Health, Education, Labor, and Pensions.

A RESOLUTION

Urging the President and the Congress of the United States to support and enact legislation placing reasonable requirements on the reporting of publicly funded clinical trials.

Whereas, there have been several cases over the past few years of leading pharmaceutical companies concealing information derived from publicly funded clinical trials about the safety and effectiveness of some of their drugs; and

Whereas, the National Institutes of Health pursues fundamental knowledge about health and illness by supporting basic and clinical biomedical research activities, including clinical trials; and

Whereas, research in humans that is sponsored and funded by the National Institutes of Health must undergo several levels of approval, including review by a panel of authorities in the field of the scientific merit of a proposed study, and all protocols must be evaluated for proper ethical conduct and assurance of patient safety by institutional review boards, with studies of investigational drugs being reviewed and approved by the Food and Drug Administration; and

Whereas, the Food and Drug Administration has primary responsibility for regulating and enforcing the conduct of publicly funded clinical trials and review and approval of investigational drug studies; and

Whereas, under Federal law only certain clinical research data must be reported to the Food and Drug Administration, other health agencies and various oversight bodies, such as institutional review boards; and

Whereas, other data regarding study results are simply reported at. scientific conferences and through peer-reviewed biomedical journals, which may not be accessible to physicians or the public; and

Whereas, many citizens of the Commonwealth of Pennsylvania are suffering needlessly because physicians and patients do not always have access to full information about the drugs prescribed and taken; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the President and Congress of the United States to support and enact legislation requiring all negative and positive information regarding all publicly funded clinical trials and investigational drug studies to be submitted to www.ClinicalTrials.gov as a single-point clearinghouse so the public, including physicians, may be made fully aware of the safety and efficacy of these drugs; and be it further

Resolved, That the Department of Health of the Commonwealth of Pennsylvania be urged unless comprehensive information on all publicly funded clinical trials and investigational drug studies is provided to www.ClinicalTrials.gov within six months of adoption of this resolution, to withhold all grant money supporting the Commonwealth Universal Research Enhancement Program established under Chapter 9 of the act of June 26, 2001 (P.L. 755, No. 77), known as the Tobacco Settlement Act, until such time as proof of compliance has been provided to the General Assembly of the Commonwealth of Pennsylvania; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officer of each House of Congress and to each member of Congress from Pennsylvania.

POM–181. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the Violence Against Women Act; to the Committee on the Judiciary.

A RESOLUTION 346

Memorializing the Congress of the United States to pass and the President of the United States to sign Violence Against Women Act reauthorization legislation and to reaffirm our commitment to helping victims of violent crimes.

Whereas, domestic violence and sexual assault are pervasive crimes directly affecting one in four women and touching the lives of everyone in the community; and

Whereas, The Violence Against Women Act of 1994 (VAWA) and VAWA reauthorization and enhancement under the Violence Against Women Act of 2000 have proven instrumental in building increasing awareness that domestic violence is a crime that occurs in every community; and

Whereas, VAWA has made immeasurable contributions in communities across the country in providing programs, services and protection for victims of domestic violence and sexual assault and by raising attention to services and interventions that can help battered women, their children and other victims of violent crimes; and

Whereas, VAWA has significantly improved the response of the criminal justice

system to victims of domestic violence and sexual assault through increased training for law enforcement personnel and officers of the court; and

Whereas, VAWA has helped victims of violent crimes rebuild their lives while encouraging community responsibility for prevention; and

Whereas, VAWA continues to further the safety and stability of the lives of survivors of domestic violence, dating violence, sexual assault and stalking in the Commonwealth of Pennsylvania and throughout the nation: and

Whereas, The Violence Against Women Act of 2000 expires in 2005 unless reauthorization legislation is enacted: and

Whereas, without the critical programs and community services that are made possible under VAWA, victims of domestic violence and sexual assault may be less likely to seek the professional counseling and assistance services they need: therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress of the United States to pass and the President of the united States to sign the Violence Against Women Act of 2005 and to reaffirm our commitment to helping victims of violent crimes; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–182. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to enacting federal legislation to ensure that deserving victims of asbestos exposure receive compensation; to the Committee on the Judiciary.

A RESOLUTION

To memorialize the members of the United States Senate from Louisiana, Senator Mary Landrieu and Senator David Vitter, to continue to work toward enacting federal legislation to ensure that deserving victims of asbestos exposure receive compensation.

Whereas, asbestos, a mineral processed and used in thousands of construction and consumer products, is a dangerous substance and has caused thousands of people to develop serious and often fatal diseases and cancers; and

Whereas, millions of workers have been exposed to asbestos, and the economic toll resulting from litigation related to exposure to asbestos could run into the hundreds of billions of dollars; and

Whereas, many companies, in order to avoid bankruptcy and to compensate victims with manifest injuries from exposure to asbestos, have attempted to set aside sufficient resources to compensate such victims; and

Whereas, the new claims are resulting in a depletion of the funds available to compensate victims who have sustained serious injuries and who are in desperate need of compensation; and

Whereas, the United States Supreme Court has noted that federal and state courts have been inundated by an enormous number of asbestos cases that defies customary judicial administration and calls for national legislation; and

Whereas, the United States Senate Judiciary Committee, under the bipartisan leadership of Republican Senator Arlen Specter and Democratic Senator Patrick Leahy, have crafted a bipartisan piece of legislation that creates a fair and equitable system to deal with the asbestos litigation crisis; and

Whereas, this bipartisan legislation creates an asbestos trust fund that will ensure that victims of asbestos exposure will receive just and fair compensation.

Therefore, be it resolved, that the Louisiana House of Representatives does hereby memorialize the members of the United States Senate from Louisiana, Senator Mary Landrieu and Senator David Vitter, to continue to work toward enacting federal legislation to ensure that deserving victims of asbestos exposure receive compensation and to continue to work with Senators Specter and Leahy to pass meaningful and fair asbestos litigation reform legislation.

Be it further resolved, That a copy of this Resolution be transmitted to United States Senator Mary Landrieu and United States Senator David Vitter and to each member of the Louisiana congressional delegation.

POM–183. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to recognizing the need for an apology to the victims of lynching and their descendants by the United States Senate for the Senate's failure to enact anti-lynching legislation; to the Committee on the Judiciary.

A RESOLUTION

To recognize the need for an apology to the victims of lynching and their descendants by the United States Senate for the Senate's failure to enact anti-lynching legislation.

Whereas, the crime of lynching succeeded slavery as the ultimate expression of racism in the United States following Reconstruction; and

Whereas, lynching was a widely acknowledged practice in the United States until the middle of the twentieth century, occurring in documented incidents in all but four states; and

Whereas, at least four thousand seven hundred forty-two people, predominately African-Americans, were reported as being lynched in the United States between 1882 and 1968; and

Whereas, at least four hundred people, predominately African-Americans, were reported as being lynched in Louisiana between 1882 and 1968; and

Whereas, ninety-nine percent of all perpetrators of lynching escaped punishment by state or local officials; and

Whereas, lynching prompted African-Americans to form the National Association for the Advancement of Colored People (NAACP) and members of B'Nai B'rith to found the Anti-Defamation League; and

Whereas, nearly two hundred anti-lynching bills were introduced in the United States Congress during the first half of the twentieth century; and

Whereas, between 1890 and 1940, the United States House of Representatives passed three strong anti-lynching measures; and

Whereas, protection against lynching was the minimum and most basic of federal responsibilities, and the United States Senate considered but failed to enact anti-lynching legislation despite repeated requests by civil rights groups, presidents, and the United States House of Representatives to do so; and

Whereas, the recent publication of *Without Sanctuary: Lynching Photography in America* helped to bring greater awareness and proper recognition to the victims of lynching; and

Whereas, it is only by coming to terms with history that the United States can effectively champion human rights abroad; and

Whereas, a resolution is being introduced by Senator Mary L. Landrieu that apologizes to the victims of lynching for the failure of the United States Senate to enact anti-lynching legislation, expresses the Senate's sympathies and regrets to the descendants of lynching victims, and remembers the history of lynching to ensure that the tragedies surrounding the crime will neither be forgotten nor repeated; and

Whereas, an apology offered in the spirit of true repentance would move the United States towards reconciliation and become central to a new understanding on which improved racial relations can be forged.

Therefore, be it resolved, That the House of Representatives of the Legislature of Louisiana does hereby recognize the need for an apology to the victims of lynching and their descendants by the United States Senate for the Senate's failure to enact anti-lynching legislation.

Be it further resolved, That a suitable copy of this Resolution be transmitted to the members of the Louisiana congressional delegation.

POM–184. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to a constitutional amendment banning the desecration of the American flag; to the Committee on the Judiciary.

A CONCURRENT RESOLUTION

To memorialize the United States Senate to take such actions as are necessary to pass the constitutional amendment banning the desecration of the American flag which was passed by the United States House of Representatives on June 22, 2005.

Whereas, in 1989 the United States Supreme Court ruled in a five to four decision that burning of the American flag is a protected free-speech right; and

Whereas, the Supreme Court's ruling overturned a 1968 Federal statute as well as preempting flag-protection laws in forty-eight States; and

Whereas, the United States House of Representatives on June 22, 2005, by a vote of two hundred eighty-six to one hundred thirty, passed a constitutional amendment banning the desecration of the American flag; and

Whereas, since 1995, the United States Senate has failed to pass five similar constitutional amendments which were previously passed by the United States House of Representatives; and

Whereas, the United States Senate should not continue to prevent each of the United States from having a voice in whether or not to ratify this constitutional amendment; therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to pass the constitutional amendment banning the desecration of the American flag which was passed by the United States House of Representatives on June 22, 2005; be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–185. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to enacting legislation establishing English as the official language of the United States; to the Committee on the Judiciary.

A CONCURRENT RESOLUTION

To memorialize the Congress of the United States of America to take such actions as are necessary to enact legislation establishing English as the official language of the United States.

Whereas, English is currently the national language of the United States by custom but not by law; and

Whereas, the United States is comprised of individuals from many ethnic, cultural, and

linguistic backgrounds and benefits from this rich diversity; and

Whereas, these individuals, while keeping their own backgrounds alive, are encouraged to take advantage of our nation's educational system that teaches the English language and American history; and

Whereas, throughout the history of the United States, the common thread binding individuals of differing backgrounds has been the English language; and

Whereas, English was established as the official language of Louisiana as a condition of statehood in 1812; and

Whereas, command of the English language is necessary to participate in and take full advantage of the opportunities afforded by American life.

Therefore, be it resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States of America to take such actions as are necessary to enact legislation establishing English as the official language of the United States.

Be it further resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–186. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to making permanent the increases in Servicemembers' Group Life Insurance coverage and the Death Gratuity benefits to provide financial security of survivors of members of the Louisiana National Guard and other servicemembers who make the ultimate sacrifice with their lives while serving our country and the state of Louisiana; to the Committee on Veterans' Affairs.

A CONCURRENT RESOLUTION

To memorialize the United States Congress to take such actions as are necessary to make permanent the increases in Servicemembers' Group Life Insurance coverage and the Death Gratuity benefits to provide financial security of survivors of members of the Louisiana National Guard and other servicemembers who make the ultimate sacrifice with their lives while serving our country and the state of Louisiana.

Whereas, members of the Louisiana National Guard (LANG) have been asked to serve extended periods of active duty in combat areas and in recognition of the invaluable contributions that the members of LANG make to this country and to the state of Louisiana, members of LANG should receive assistance with their premiums for coverage under the federal Servicemembers' Group Life Insurance program; and

Whereas, the 256th Infantry Brigade is not scheduled to return from Iraq until October 2006, and there is always the possibility that if any conflict arises overseas that members of LANG will be deployed in combat areas; and

Whereas, under the FY 2005 Emergency Supplemental Appropriations bill (H.R. 1268) of the 109th Congress adopted by both houses of congress and enrolled, members of LANG will be eligible for one hundred thousand dollars in death gratuity benefits and life insurance policies with limits up to four hundred fifty thousand dollars through the federal Servicemembers' Group Life Insurance program; and

Whereas, the Secretary of Defense is authorized to pay the cost of premiums for the increased coverage under federal Servicemembers' Group Life Insurance program; however, the increased coverage and authority to pay the costs of premiums terminates on September 30, 2005.

Therefore, be it resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to make permanent the increases in Servicemembers' Group Life Insurance coverage and the Death Gratuity benefits to provide for financial security of survivors of members of the Louisiana National Guard and other servicemembers who make the ultimate sacrifice with their lives while serving our country and the state of Louisiana.

Be it further resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–187. A resolution adopted by the Miami-Dade County Board of County Commissioners, Miami-Dade County, Florida relative to the support for $385 Million in funding for Housing Opportunities for Persons Living with AIDS (HOPWA) Program for fiscal year 2006; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 1291. A bill to provide for the acquisition of subsurface mineral interests in land owned by the Pascua Yaqui Tribe and land held in trust for the Tribe (Rept. No. 109–116).

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 518. A bill to provide for the establishment of a controlled substance monitoring program in each State (Rept. No. 109–117).

By Mr. MCCAIN, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1231. A bill to amend the Indian Self-Determination and Education Assistance Act to modify provisions relating to the National Fund for Excellence in American Indian Education (Rept. No. 109–118).

By Mr. CHAMBLISS, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 1566. An original bill to reauthorize the Commodity Exchange Act, and for other purposes (Rept. No. 109–119).

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1567. An original bill to reauthorize and improve surface transportation safety programs, and for other purposes (Rept. No. 109–120).

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions:

Report to accompany S. 288, a bill to extend Federal funding for operation of State high risk health insurance pools (Rept. No. 109–121).

By Mr. SHELBY, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

H.R. 804. A bill to exclude from consideration as income certain payments under the national flood insurance program.

S. 1047. A bill to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively to improve circulation of the $1 coin, to create a new bullion coin, and for other purposes.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

[Treaty Doc. 107–18 Inter-American Convention Against Terrorism (Exec. Rept. No. 109–3)]

TEXT OF RESOLUTION OF RATIFICATION AS RECOMMENDED BY THE COMMITTEE ON FOREIGN RELATIONS

Section 1. Senate Advice and Consent Subject to Understanding.

The Senate advises and consents to the ratification of the Inter-American Convention Against Terrorism (the ''Convention''), adopted at the thirty-second regular session of the General Assembly of the Organization of American States meeting in Bridgetown, Barbados, and signed by the United States on June 3, 2002 (Treaty Doc. 107–18), subject to the understanding in Section 2.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the United States instrument of ratification:

The United States of America understands that the term ''international humanitarian law'' in paragraph 2 of Article 15 of the Convention has the same substantive meaning as the law of war.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. BOND:

S. 1553. A bill to amend the Internal Revenue Code of 1986 to enhance tax incentives for small property and casualty insurance companies; to the Committee on Finance.

By Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. 1554. A bill to establish an intergovernmental grant program to identify and develop homeland security information, equipment, capabilities, technologies, and services to further the homeland security of the United States and to address the homeland security needs of Federal, State, and local governments; to the Committee on Homeland Security and Governmental Affairs.

By Ms. CANTWELL (for herself, Ms. COLLINS, Mr. BINGAMAN, Mrs. MURRAY, Ms. MIKULSKI, Mr. KOHL, and Mr. CORZINE):

S. 1555. A bill to amend the Farm Security and Rural Investment Act of 2002 to reform funding for the Seniors Farmers' Market Nutrition Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WYDEN:

S. 1556. A bill to amend the Specialty Crops Competitiveness Act of 2004 to increase the authorization of appropriations for grants to support the competitiveness of specialty crops, to amend the Agricultural Risk Protection Act of 2000 to improve the program of value-added agricultural product market development grants by routing funds through State departments of agriculture, to amend the Federal Crop Insurance Act to require a nationwide expansion of the adjusted gross revenue insurance program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. COBURN (for himself and Mr. DEMINT):

S. 1557. A bill to amend the Public Health Service Act to provide for a program at the National Institutes of Health to conduct and support research in the derivation and use of human pluripotent stem cells by means that do not harm human embryos, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. 1558. A bill to amend the Ethics in Government Act of 1978 to protect family members of filers from disclosing sensitive information in a public filing and extend the public filing requirement for 5 years; to the Committee on Homeland Security and Governmental Affairs.

By Ms. LANDRIEU:

S. 1559. A bill to amend the Internal Revenue Code of 1986 to provide taxpayers a tax check-off to designate certain annual contributions to the Armed Forces Relief Trust for an above-the-line deduction not to exceed $1,000, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM:

S. 1560. A bill to establish a Congressional Commission on Expanding Social Service Delivery Options; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, and Ms. LANDRIEU):

S. 1561. A bill to amend title 36, United States Code, to grant a Federal charter to the Irish American Cultural Institute; to the Committee on the Judiciary.

By Mr. ENZI (for himself, Mr. JOHNSON, Mr. ALLARD, and Mr. HAGEL):

S. 1562. A bill to provide for the merger of the bank and savings association deposit insurance funds, to modernize and improve the safety and fairness of the Federal deposit insurance system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DEWINE (for himself and Mrs. LINCOLN):

S. 1563. A bill to amend title XIX of the Social Security Act to protect and strengthen the safety net of children's public health coverage by extending the enhanced Federal matching rate under the State children's health insurance program to children covered by medicaid at State option and by encouraging innovations in children's enrollment and retention, to advance quality and performance in children's public health insurance programs, to provide payments for children's hospitals to reward quality and performance, and for other purposes; to the Committee on Finance.

By Mr. SARBANES:

S. 1564. A bill to provide for the disposition of the Federal property located in Anne Arundel County, Maryland, a portion of which is currently used by the District of Columbia as the Oak Hill juvenile detention facility; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEVIN (for himself, Mr. COLEMAN, and Mr. OBAMA):

S. 1565. A bill to restrict the use of abusive tax shelters and offshore tax havens to inappropriately avoid Federal taxation, and for other purposes; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 1566. An original bill to reauthorize the Commodity Exchange Act, and for other purposes; from the Committee on Agriculture, Nutrition, and Forestry; placed on the calendar.

By Mr. STEVENS:

S. 1567. An original bill to reauthorize and improve surface transportation safety programs, and for other purposes; from the Committee on Commerce, Science, and Transportation; placed on the calendar.

By Mr. BROWNBACK (for himself, Mr. INHOFE, and Mr. ROBERTS):

S. 1568. A bill to enhance the ability of community banks to foster economic growth and serve their communities, and for other purposes; to the Committee on Finance.

By Mr. CRAIG (for himself and Mr. BAYH):

S. 1569. A bill to amend title XIX of the Social Security Act to facilitate the establishment of additional long-term care insurance partnerships between States and insurers in order to promote the use of long-term care insurance; to the Committee on Finance.

By Mr. ROBERTS (for himself and Mr. KENNEDY):

S. 1570. A bill to promote employment of individuals with severe disabilities through Federal Government contracting and procurement processes, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 1571. A bill to amend title 38, United States Code, to establish a comprehensive program for testing and treatment of veterans for the Hepatitis C virus; to the Committee on Veterans' Affairs.

By Mr. JOHNSON (for himself and Mr. BINGAMAN):

S. 1572. A bill to amend title XIX of the Social Security Act to clarify the application of the 100 percent Federal medical assistance percentage under the medicaid program for services provided by the Indian Health Service or an Indian tribe or tribal organization directly or through referral, contract, or other arrangement; to the Committee on Finance.

By Mrs. DOLE (for herself and Mr. CORZINE):

S. 1573. A bill to amend the Internal Revenue Code of 1986 to encourage the funding of collectively bargained retiree health benefits; to the Committee on Finance.

By Ms. CANTWELL (for herself, Mr. BINGAMAN, Mr. ROCKEFELLER, Mrs. LINCOLN, Mrs. MURRAY, and Mr. CORZINE):

S. 1574. A bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. CORNYN, Ms. MIKULSKI, Ms. COLLINS, Mr. JEFFORDS, Mrs. MURRAY, Mr. REED, Mr. NELSON of Nebraska, Ms. CANTWELL, Mr. DURBIN, Mr. CORZINE, Ms. LANDRIEU, Mr. KERRY, Mr. LAUTENBERG, and Mr. INOUYE):

S. 1575. A bill to amend the Public Health Service Act to authorize a demonstration program to increase the number of doctorally-prepared nurse faculty; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH (for himself and Mr. WYDEN):

S. 1576. A bill to authorize early repayment of obligations to the Bureau of Reclamation within the Rogue River Valley Irrigation District or within the Medford Irrigation District, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHNSON (for himself and Mr. THUNE):

S. 1577. A bill to facilitate the transfer of Spearfish Hydroelectric Plant Number 1 to the city of Spearfish, South Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ALLARD (for himself, Mr. BENNETT, Mr. HATCH, and Mr. SALAZAR):

S. 1578. A bill to reauthorize the Upper Colorado and San Juan River Basin endangered fish recovery implementation programs; to the Committee on Energy and Natural Resources.

By Mr. BURNS (for himself, Mr. DORGAN, Mr. JOHNSON, Mr. DAYTON, Mr. BAUCUS, and Mr. CONRAD):

S. 1579. A bill to amend the Federal Insecticide, Fungicide, and Rodentcide Act to permit the distribution and sale of certain pesticides that are registered in both the United States and another country; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. AKAKA (for himself, Mr. REID, Mr. DURBIN, Mr. BINGAMAN, Mr. CORZINE, Mrs. MURRAY, Mr. KENNEDY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. INOUYE, Mr. PRYOR, Ms. MIKULSKI, Mr. OBAMA, Mr. DODD, Mr. LIEBERMAN, and Mrs. CLINTON):

S. 1580. A bill to improve the health of minority individuals to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. BUNNING):

S. 1581. A bill to facilitate the development of science parks, and for other purposes; to the Committee on Finance.

By Mr. CHAMBLISS (for himself and Mr. ROBERTS):

S. 1582. A bill to reauthorize the United States Grain Standards Act, to facilitate the official inspection at export port locations of grain required or authorized to be inspected under such Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SMITH (for himself, Mr. DORGAN, and Mr. PRYOR):

S. 1583. A bill to amend the Communications Act of 1934 to expand the contribution base for universal service, establish a separate account within the universal service fund to support the deployment of broadband service in unserved areas of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH (for himself, Mr. CRAIG, Mr. BURNS, Mr. SMITH, Mrs. LINCOLN, and Mr. SCHUMER):

S. 1584. A bill to amend the Internal Revenue Code of 1986 to provide for a nonrefundable tax credit against income tax for individuals who purchase a residential safe storage device for the safe storage of firearms; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. INOUYE):

S. 1585. A bill to amend title XIX of the Social Security Act to reduce the costs of prescription drugs for enrollees of medicaid managed care organizations by extending the discounts offered under fee-for-service medicaid to such organizations; to the Committee on Finance.

By Mr. HAGEL (for himself, Ms. SNOWE, and Mr. REED):

S. 1586. A bill to allow all businesses to make up to 24 transfers each month from interest-bearing transaction accounts to other transaction accounts, to require the payment of interest on reserves held for depository institutions at Federal reserve banks to repeal the prohibition of interest on business accounts, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BINGAMAN (for himself, Mr. DOMENICI, Mrs. MURRAY, Mr. JEFFORDS, Mr. ALEXANDER, Ms. CANTWELL, Mr. AKAKA, Mr. REED, Mr. CHAFEE, Mr. LEAHY, Mr. DODD, and Mr. DAYTON):

S. 1587. A bill to amend title XXI of the Social Security Act to permit qualifying States to use a portion of their allotments under the State children's health insurance program for any fiscal year for certain medicaid expenditures; to the Committee on Finance.

By Mrs. LINCOLN:

S. 1588. A bill to amend title XVI of the Social Security Act to clarify that the value of certain funeral and burial arrangements are not to be considered available resources under the supplemental security program; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. ROCKEFELLER, Mr. FEINGOLD, Mr. CORZINE, Mr. KOHL, Ms. MIKULSKI, Mr. DURBIN, and Mr. HARKIN):

S. 1589. A bill to amend title XVIII of the Social Security to provide for reductions in the medicare part B premium through elimination of certain overpayments to Medicare Advantage organizations; to the Committee on Finance.

By Mr. BAYH:

S. 1590. A bill to amend the Internal Revenue Code of 1986 to increase participation and savings in cash or deferred plans through automatic contribution and default investment arrangements and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 1591. A bill to amend the Internal Revenue Code of 1986 to modify the rules relating to the suspension of interest and certain penalties where the taxpayer is not contacted by the Internal Revenue Service within 18 months; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. CONRAD, Mrs. LINCOLN, and Ms. COLLINS):

S. 1592. A bill to amend title XIX of the Social Security Act to permit States to obtain reimbursement under the medicaid program for care or services required under the Emergency Medical Treatment and Active Labor Act that are provided in a nonpublicly owned or operated institution for mental diseases; to the Committee on Finance.

By Ms. SNOWE (for herself and Mr. BINGAMAN):

S. 1593. A bill to amend title XVIII of the Social Security Act to enhance the access of Medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits at Federally qualified health centers; to the Committee on Finance.

By Mr. CORZINE:

S. 1594. A bill to require financial services providers to maintain customer information security systems and to notify customers of unauthorized access to personal information, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. CANTWELL:

S. 1595. A bill to amend the Internal Revenue Code of 1986 to provide for a 3-year recovery period for depreciation of qualified energy management devices; to the Committee on Finance.

By Ms. CANTWELL:

S. 1596. A bill to amend the Public Utility Regulatory Policies Act of 1978 to require electric utilities to provide net metering service; to the Committee on Energy and Natural Resources

By Mr. ENZI:

S. 1597. A bill to award posthumously a Congressional gold medal to Constantino Brumidi; to the Committee on Banking, Housing and Urban Affairs.

By Mr. HATCH (for himself, Mr. CRAIG, Mr. BURNS, Mr. SMITH, Mrs. LINCOLN, and Mr. SCHUMER):

S. 1598. A bill to amend the Internal Revenue Code of 1986 to provide for a nonrefundable tax credit against income tax for individuals who purchase a residential safe storage device for the safe storage of firearms; to the Committee on Finance.

By Mr. McCAIN (for himself, Mr. ENSIGN, and Mr. KYL):

S. 1599. A bill to repeal the perimeter rule for Ronald Reagan Washington National Airport, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE (for herself and Mr. HATCH):

S. 1600. A bill to amend the Communications Act of 1934 to ensure full access to digital television in areas served by low-power television, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRAIG:

S. 1601. A bill to extend temporarily the duty suspension on certain semi-manufactured forms of gold; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. BAYH, and Mrs. CLINTON):

S. 1602. A bill to amend title XIX of the Social Security Act to require States to disregard benefits paid under long-term care insurance for purposes of determining medicaid eligibility, to expand long-term care insurance partnerships between States and insurers, to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, the use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs, to establish home and communitybased services as an optional medicaid benefit, and for other purposes; to the Committee on Finance.

By Ms. SNOWE:

S. 1603. A bill to establish a National Preferred Lender Program, facilitate the delivery of financial assistance to small businesses, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. CRAIG (for himself and Mr. ROBERTS):

S. 1604. A bill to restore to the judiciary the power to decide all trademark and trade name cases arising under the laws and treaties of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. KYL (for himself, Mr. PRYOR, Mr. CORNYN, Mr. GRAHAM, Mr. BROWNBACK, and Mr. CHAMBLISS):

S. 1605. A bill to amend title 18, United States Code, to protect public safety officers, judges, witnesses, victims, and their family members, and for other purposes; to the Committee on the Judiciary.

By Mr. KYL (for himself and Mr. CORNYN):

S. 1606. A bill to establish an opt-out system for expungement of DNA profiles from the national index and to authorize collection of DNA samples from persons arrested or detained under Federal authority; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 1607. A bill to amend section 10501 of title 49, United States Code, to exclude solid waste disposal from the jurisdiction of the Surface Transportation Board; to the Committee on Commerce, Science, and Transportation.

By Mr. SMITH (for himself, Mr. McCAIN, Mr. INOUYE, and Mr. NELSON of Florida):

S. 1608. A bill to enhance Federal Trade Commission enforcement against illegal spam, spyware, and cross-border fraud and deception, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. CANTWELL:

S. 1609. A bill to increase the production and use of biofuels and diversify biofuel feedstock as key elements to achieving energy independence for the United States; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. DEWINE (for himself and Mr. BIDEN):

S. Res. 224. A resolution to express the sense of the Senate supporting the establishment of September as Campus Fire Safety Month, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. MURRAY (for herself, Mr. SMITH, Mrs. CLINTON, Mr. CORZINE, Ms. CANTWELL, Mr. DAYTON, Ms. LANDRIEU, and Mr. DURBIN):

S. Res. 225. A resolution designating the month of November 2005 as the ''Month of Global Health''; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Mr. McCAIN, and Mr. HAGEL):

S. Res. 226. A resolution calling for free and fair parliamentary elections in the Republic of Azerbaijan; to the Committee on Foreign Relations.

By Mr. DEWINE (for himself, Mr. KOHL, Mr. COCHRAN, Mr. LEAHY, Mr. CHAMBLISS, Mr. HARKIN, Mr. BROWNBACK, Mr. DURBIN, Mrs. DOLE, Mrs. LINCOLN, Mr. SMITH, Mr. CORZINE, Mr. COLEMAN, Mr. DORGAN, Mr. HATCH, Mr. OBAMA, Ms. COLLINS, Ms. CANTWELL, Mr. SANTORUM, Ms. STABENOW, Mr. CHAFEE, Mr. LIEBERMAN, Mr. MARTINEZ, Mr. DAYTON, Mr. ROBERTS, Mr. INOUYE, Mr. McCAIN, Mr. NELSON of Florida, Ms. SNOWE, Mr. LUGAR, Mr. NELSON of Nebraska, Mr. SARBANES, Ms. MIKULSKI, Mr. LEVIN, and Mr. REED):

S. Res. 227. A resolution pledging continued support for international hunger relief efforts and expressing the sense of the Senate that the United States Government should use resources and diplomatic leverage to secure food aid for countries that are in need of further assistance to prevent acute and chronic hunger; to the Committee on Foreign Relations.

By Ms. CANTWELL:

S. Res. 228. A resolution expressing the sense of the Senate that it should be a goal of the United States to reduce the amount of oil projected to be imported in 2025 by 40 percent and that the President should take measures to reduce the dependence of the United States on foreign oil; to the Committee on Energy and Natural Resources.

By Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. Res. 229. A resolution designating the month of September 2005 as ''National Preparedness Month''; to the Committee on the Judiciary.

By Mr. SESSIONS (for himself, Mr. REID, Mr. SHELBY, Mr. CORZINE, Mr. BUNNING, Ms. LANDRIEU, Mr. HATCH, Ms. CANTWELL, Mr. CRAPO, Mrs. FEINSTEIN, Mr. LOTT, and Mr. DURBIN):

S. Res. 230. A resolution designating September 2005 as ''National Prostate Cancer Awareness Month''; considered and agreed to.

By Ms. LANDRIEU (for herself, Ms. MURKOWSKI, Ms. CANTWELL, Mrs. FEINSTEIN, Ms. MIKULSKI, Mrs. MURRAY, Ms. SNOWE, Mrs. CLINTON, Ms. COLLINS, Mr. BIDEN, Ms. STABENOW, Mrs. HUTCHISON, Mrs. BOXER, Mr. LIEBERMAN, Mr. OBAMA, Mr. SCHUMER, Mrs. DOLE, Mr. LAUTENBERG, Mr. LEAHY, Mr. ALLEN, Mrs. LINCOLN, and Mr. SANTORUM):

S. Res. 231. A resolution encouraging the Transitional National Assembly of Iraq to

adopt a constitution that grants women equal rights under the law and to work to protect such rights; considered and agreed to.

By Mr. KENNEDY (for himself, Mr. REID, Mr. LEAHY, Mr. FEINGOLD, Mr. DURBIN, Mr. KOHL, Mr. JEFFORDS, Mr. LAUTENBERG, Mr. BIDEN, Mr. LEVIN, Ms. MIKULSKI, Ms. LANDRIEU, Mr. OBAMA, Mr. SCHUMER, Mr. KERRY, and Mr. SPECTER):

S. Res. 232. A resolution celebrating the 40th anniversary of the enactment of the Voting Rights Act of 1965 and reaffirming the commitment of the Senate to ensuring the continued effectiveness of the Act in protecting the voting rights of all citizens of the United States; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. ROCKEFELLER, Mr. BAUCUS, Mr. BINGAMAN, Mr. REID, Mr. DURBIN, Ms. STABENOW, Mrs. MURRAY, Mr. CORZINE, Mr. SCHUMER, Mr. JEFFORDS, Mr. OBAMA, Ms. LANDRIEU, Mr. HARKIN, Mr. REED, Mr. SARBANES, Mr. KOHL, Mr. DORGAN, Ms. CANTWELL, Mrs. CLINTON, Mr. WYDEN, Mr. FEINGOLD, Mr. NELSON of Florida, Mrs. FEINSTEIN, Mr. BIDEN, Mr. DAYTON, Mr. LEVIN, Mr. KERRY, Mr. JOHNSON, Mrs. LINCOLN, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. SALAZAR, Mrs. BOXER, Mr. PRYOR, Mr. DODD, Mr. BAYH, Mr. LIEBERMAN, Mr. CONRAD, Mr. INOUYE, Mr. AKAKA, Mr. LEAHY, Mr. BYRD, and Mr. CARPER):

S. Con. Res. 49. A concurrent resolution expressing the sense of the Congress with respect to the importance of Medicaid in the health care system of our Nation; to the Committee on Finance.

By Ms. STABENOW (for herself, Mr. REID, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. KENNEDY, Mr. BINGAMAN, Mr. DURBIN, Mrs. MURRAY, Mr. CORZINE, Mr. SCHUMER, Mr. JEFFORDS, Mr. OBAMA, Ms. LANDRIEU, Mr. HARKIN, Mr. REED, Mr. SARBANES, Mr. KOHL, Mr. DORGAN, Ms. CANTWELL, Mrs. CLINTON, Mr. WYDEN, Mr. FEINGOLD, Mr. NELSON of Florida, Mrs. FEINSTEIN, Mr. BIDEN, Mr. DAYTON, Mr. LEVIN, Mr. KERRY, Mr. JOHNSON, Mrs. LINCOLN, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. SALAZAR, Mrs. BOXER, Mr. PRYOR, Mr. DODD, Mr. BAYH, Mr. LIEBERMAN, Mr. CONRAD, Mr. INOUYE, Mr. AKAKA, Mr. LEAHY, Mr. BYRD, and Mr. CARPER):

S. Con. Res. 50. A concurrent resolution expressing the sense of Congress concerning the vital role of Medicare in the health care system of our Nation over the last 40 years; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. KYL, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 7, a bill to increase American jobs and economic growth by making permanent the individual income tax rate reductions, the reduction in the capital gains and dividend tax rates, and the repeal of the estate, gift, and generation-skipping transfer taxes.

S. 37

At the request of Mrs. FEINSTEIN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 37, a bill to extend the special postage stamp for breast cancer research for 2 years.

S. 103

At the request of Mr. TALENT, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 211

At the request of Mrs. DOLE, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 241

At the request of Ms. SNOWE, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 375

At the request of Mr. BAYH, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 375, a bill to amend the Public Health Service Act to provide for an influenza vaccine awareness campaign, ensure a sufficient influenza vaccine supply, and prepare for an influenza pandemic or epidemic, to amend the Internal Revenue Code of 1986 to encourage vaccine production capacity, and for other purposes.

S. 392

At the request of Mr. LEVIN, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Kansas (Mr. BROWNBACK), the Senator from Pennsylvania (Mr. SPECTER), the Senator from North Dakota (Mr. DORGAN), the Senator from Virginia (Mr. WARNER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Delaware (Mr. CARPER), the Senator from Indiana (Mr. BAYH), the Senator from Arizona (Mr. KYL), the Senator from Louisiana (Mr. VITTER), the Senator from Missouri (Mr. BOND), the Senator from Maine (Ms. COLLINS), the Senator from Maine (Ms. SNOWE), the Senator from Florida (Mr. MARTINEZ), the Senator from Rhode Island (Mr. REED) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 467

At the request of Mr. DODD, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 558

At the request of Mr. REID, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 558, a bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

S. 566

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 566, a bill to continue State coverage of medicaid prescription drug coverage to medicare dual eligible beneficiaries for 6 months while still allowing the medicare part D benefit to be implemented as scheduled.

S. 577

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 577, a bill to promote health care coverage for individuals participating in legal recreational activities or legal transportation activities.

S. 603

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 603, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 604

At the request of Mr. CRAIG, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 604, a bill to amend title XVIII of the Social Security Act to authorize expansion of medicare coverage of medical nutrition therapy services.

S. 678

At the request of Mr. REID, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 678, a bill to amend the Federal Election Campaign Act of 1971 to exclude communications over the Internet from the definition of public communication.

S. 695

At the request of Mr. BYRD, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 695, a bill to suspend temporarily new shipper bonding privileges.

S. 705

At the request of Mr. SARBANES, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 705, a bill to

establish the Interagency Council on Meeting the Housing and Service Needs of Seniors, and for other purposes.

S. 841

At the request of Mrs. CLINTON, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 841, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 1002

At the request of Mr. GRASSLEY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1002, a bill to amend title XVIII of the Social Security Act to make improvements in payments to hospitals under the medicare program, and for other purposes.

At the request of Mr. BAUCUS, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1002, supra.

S. 1007

At the request of Mr. BINGAMAN, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 1007, a bill to prevent a severe reduction in the Federal medical assistance percentage determined for a State for fiscal year 2006.

S. 1047

At the request of Mr. SUNUNU, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1047, a bill to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively to improve circulation of the $1 coin, to create a new bullion coin, and for other purposes.

S. 1086

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

S. 1190

At the request of Mr. SALAZAR, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1190, a bill to provide sufficient blind rehabilitation outpatient specialists at medical centers of the Department of Veterans Affairs.

S. 1191

At the request of Mr. SALAZAR, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Maine (Ms. SNOWE) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 1191, a bill to establish a grant program to provide innovative transportation options to veterans in remote rural areas.

S. 1215

At the request of Mr. GREGG, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1215, a bill to authorize the acquisition of interests in underdeveloped coastal areas in order better to ensure their protection from development.

S. 1227

At the request of Ms. STABENOW, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1227, a bill to improve quality in health care by providing incentives for adoption of modern information technology.

S. 1272

At the request of Mr. NELSON of Nebraska, the names of the Senator from Alaska (Ms. MURKOWSKI), the Senator from California (Mrs. BOXER) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1272, a bill to amend title 46, United States Code, and title II of the Social Security Act to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 1305

At the request of Mr. BROWNBACK, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1305, a bill to amend the Internal Revenue Code of 1986 to increase tax benefits for parents with children, and for other purposes.

S. 1308

At the request of Mr. BAUCUS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1308, a bill to establish an Office of Trade Adjustment Assistance, and for other purposes.

S. 1309

At the request of Mr. BAUCUS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1309, a bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the services sector, and for other purposes.

S. 1313

At the request of Mr. CORNYN, the names of the Senator from Maine (Ms. SNOWE) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 1313, a bill to protect homes, small businesses, and other private property rights, by limiting the power of eminent domain.

S. 1317

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

S. 1319

At the request of Mrs. LINCOLN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1319, a bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock ownership plans, and for other purposes.

S. 1321

At the request of Mr. SANTORUM, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. 1321, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications.

S. 1338

At the request of Ms. SNOWE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1338, a bill to require the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey, to conduct a study on groundwater resources in the State of Alaska, and for other purposes.

S. 1350

At the request of Mr. SPECTER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1350, a bill to amend the Communications Act of 1934 to protect the privacy rights of subscribers to wireless communications services.

S. 1405

At the request of Mr. NELSON of Nebraska, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1405, a bill to extend the 50 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility and to establish the National Advisory Council on Medical Rehabilitation.

S. 1411

At the request of Ms. SNOWE, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1411, a bill to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. 1418

At the request of Mr. ENZI, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 1418, a bill to enhance the adoption of a nationwide inter operable health information technology system and to improve the quality and reduce the costs of health care in the United States.

S. 1424

At the request of Mr. ENSIGN, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1424, a bill to remove the restrictions on commercial air service at Love Field, Texas.

S. 1462

At the request of Mr. CORZINE, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from

Massachusetts (Mr. KERRY) were added as cosponsors of S. 1462, a bill to promote peace and accountability in Sudan, and for other purposes.

At the request of Mr. BROWNBACK, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1462, supra.

S. 1479

At the request of Mr. DODD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1479, a bill to provide for the expansion of Federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne diseases, including the establishment of a Tick-Borne Diseases Advisory Committee.

S. 1488

At the request of Mr. VITTER, the names of the Senator from Wyoming (Mr. THOMAS) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 1488, a bill to withhold funding from the United Nations if the United Nations abridges the rights provided by the Second Amendment to the Constitution, and for other purposes.

S. 1496

At the request of Mr. CRAPO, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1496, a bill to direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps.

S. 1500

At the request of Ms. LANDRIEU, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1500, a bill to authorize the National Institute of Environmental Health Sciences to develop multidisciplinary research centers regarding women's health and disease prevention and to conduct and coordinate a research program on hormone disruption, and for other purposes.

S. 1512

At the request of Mr. SARBANES, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1512, a bill to grant a Federal charter to Korean War Veterans Association, Incorporated.

S. 1520

At the request of Mrs. FEINSTEIN, the names of the Senator from New York (Mr. SCHUMER), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 1520, a bill to prohibit human cloning.

S. 1524

At the request of Mr. CRAPO, the names of the Senator from Arizona (Mr. KYL) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 1524, a bill to repeal the sunset on the reduction of capital gains rates for individuals and on the taxation of dividends of individuals at capital gain rates.

S. 1538

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1538, a bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

S.J. RES. 15

At the request of Mr. BROWNBACK, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S.J. Res. 15, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

S.J. RES. 20

At the request of Mr. LEAHY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S.J. Res. 20, a joint resolution disapproving a rule promulgated by the Adminstrator of the Environmental Protection Agency to delist coal and oil-direct utility units from the source category list under the Clean Air Act.

S. CON. RES. 37

At the request of Mr. DEWINE, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. Con. Res. 37, a concurrent resolution honoring the life of Sister Dorothy Stang.

S. CON. RES. 48

At the request of Mr. DURBIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. Con. Res. 48, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued to promote public awareness of Down syndrome.

S. RES. 184

At the request of Mr. SANTORUM, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. Res. 184, a resolution expressing the sense of the Senate regarding manifestations of anti-Semitism by United Nations member states and urging action against anti-Semitism by United Nations officials, United Nations member states, and the Government of the United States, and for other purposes.

S. RES. 204

At the request of Mr. DURBIN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Res. 204, a resolution recognizing the 75th anniversary of the American Academy of Pediatrics and supporting the mission and goals of the organization.

S. RES. 220

At the request of Mr. GRAHAM, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. Res. 220, a resolution to express the concern of the Senate regarding the passage of the anti-secession law by the National People's Congress of the People's Republic of China and Taiwan on an equal footing without preconditions.

AMENDMENT NO. 1435

At the request of Ms. STABENOW, the names of the Senator from South Dakota (Mr. THUNE), the Senator from Indiana (Mr. BAYH) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of amendment No. 1435 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1524

At the request of Mrs. DOLE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of amendment No. 1524 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1556

At the request of Mr. MCCAIN, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 1556 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1557

At the request of Mr. MCCAIN, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 1557 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1619

At the request of Mr. CORZINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 1619 proposed to S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

AMENDMENT NO. 1620

At the request of Mr. LAUTENBERG, the names of the Senator from Connecticut (Mr. DODD) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of amendment No. 1620 proposed to S. 397, a bill to prohibit civil liability actions from being

brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

AMENDMENT NO. 1642

At the request of Mr. REED, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 1642 proposed to S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND:

S. 1553. A bill to amend the Internal Revenue Code of 1986 to enhance tax incentives for small property and casualty insurance companies; to the Committee on Finance.

Mr. BOND. Mr. President, I rise today to introduce a bill that addresses an inequity and helps clarify a tax exemption that exists for small property and casualty (P&C) insurance companies under the Internal Revenue Code Sections 501(c)(15) and 831(b). These small P&C insurers, often originally organized as mutual companies to offer insurance coverage to specific groups, mainly serve rural areas and farming communities that otherwise may not have been able to obtain affordable coverage. This tax exemption helps to provide additional surplus and cash flow for these small companies.

The Pension Funding Equity Act of 2004, ''2004 Act'', amended the small P&C insurer exemption because there were concerns that certain investment companies offering only a small amount of insurance could use the exemption to improperly shelter investment income from federal income tax. Now, under current law, the exemption applies only to P&C (i.e., non-life) insurance companies if their ''gross receipts'' for the taxable year do not exceed $600,000 and if premiums make up more than 50 percent of those gross receipts. A mutual P&C insurance company also may be exempt if its premiums make up more than 35 percent of its gross receipts and its gross receipts do not exceed $150,000. Additionally, P&C companies that have direct or net written premiums, whichever is greater, exceeding $350,000 but not exceeding $1.2 million, Income Election Limit, can elect to be taxed under a similar tax structure on their net investment income.

While the 2004 Act helped to close a potential loophole, the special provisions for small P&C insurers are in need of further clarification or reform. The term ''gross receipts'' is not defined uniformly for purposes of the Internal Revenue Code and the Income Election Limit has not been adjusted for inflation since the Tax Reform Act of 1986.

Without a clear definition of the term ''gross receipts,'' many unanswered questions remain with respect to determining whether a small P&C insurance company qualifies for exemption under section 501(c)(15). For example, such a company typically invests a large portion of its assets in government bonds. If the gross proceeds on the sale of an asset are included in the measure of ''gross receipts,'' based on a broad cash-flow definition of gross receipts, the mere maturation of bonds and reinvestment could cause a small P&C insurance company to fall out of the exemption even though there has been no change in the size of the business and even if the company realizes a loss on the sale or redemption. On the other hand, this arbitrary result would not occur if a definition of gross receipts that includes gains from the sale or exchange of assets is used. Such a definition of gross receipts looks to the size of the business in terms of income and overall profitability, which in turn ties into the reason for the tax exemption.

If the Income Election Limit is not adjusted to keep pace with inflation, the impact could be severe. Take, for instance, a small P&C insurer in my State that started insuring the local farmers in the late 1980s. Over the ensuing years, the company's client base changed very little, but the insurance premiums increased gradually to keep pace with inflationary pressures. As a result, while the business itself has not grown in absolute terms, its premium base has, therefore resulting in the loss of the elective alternative and simpler tax on investment income.

For the farmers and consumers covered by the small P&C insurer, this loss of the tax exemption or a simpler, more limited tax structure is certain to mean higher insurance premiums, leaving the client with the choice of cutting coverage or paying higher costs, neither of which is a preferred option. This is the last thing our agricultural community needs.

The legislation I am introducing today addresses both of these concerns. This legislation would add definitional language for ''gross receipts'' clarifying that gross receipts means premiums, plus gross investment income. In addition, the proposal simply increases the Income Election Limit from $1.2 million to $1.971 million, and indexes it annually for inflation.

According to the National Association of Mutual Insurance Companies, this legislation will help hundreds of small P&C insurance companies nationwide. Under this proposed legislation, at least 56 of the 82 small insurance companies in my State will be covered, thereby enabling them to continue providing critical insurance coverage to small businesses across Missouri.

With this legislation, we have an opportunity to infuse some fairness into our tax code and at the same time help the thousands of farmers, homeowners, and entrepreneurs covered by small P&C insurers in this country. I ask my colleagues to support this legislation, and I look forward to working with the Finance Committee to see it enacted into law.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1553

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

SECTION 1. CLARIFICATION OF DEFINITION OF GROSS RECEIPTS FOR PURPOSES OF DETERMINING TAX EXEMPTION OF SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Section 501(c)(15) of the Internal Revenue Code is amended by adding at the end the following:

''(D) For purposes of subparagraph (A), the term 'gross receipts' means the gross amount received during the taxable year from the items described in section 834(b) and premiums (including deposits and assessments).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 2. INCREASE IN LIMITATION FOR ALTERNATIVE TAX LIABILITY FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Clause (i) of section 831(b)(2)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

''(i) the net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed $1,971,000, and''.

(b) INFLATION ADJUSTMENT.—Paragraph (2) of section 831(b) of such Code is amended by adding at the end the following new subparagraph:

''(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2006, the $1,971,000 amount set forth in subparagraph (A) shall be increased by an amount equal to—

''(i) $1,971,000, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting `calendar year 2005' for `calendar year 1992' in subparagraph (B) thereof. If the amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the next lowest multiple of $1,000.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

By Ms. CANTWELL (for herself, Ms. COLLINS, Mr. BINGAMAN, Mrs. MURRAY, Ms. MIKULSKI, Mr. KOHL, and Mr. CORZINE):

S. 1555. A bill to amend the Farm Security and Rural Investment Act of 2002 to reform funding for the Seniors Farmers' Market Nutrition Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Ms. CANTWELL. Mr. President, I am proud to rise today with my colleagues Senators COLLINS, BINGAMAN, MURRAY, MIKULSKI, KOHL and CORZINE, to introduce bipartisan legislation enhancing the Seniors Farmers' Market Nutrition Program. As all of my colleagues

know, the Seniors Farmers' Market Nutrition Program (SFMNP) was created through the Farm Security and Rural Investment Act of 2002 (P.L. 107–171). It is a program that provides grants to States, territories, and Native American tribal governments to provide coupons to low-income seniors to purchase fresh, locally grown fruits, vegetables, and herbs from farmers' markets, roadside stands, and community supported agricultural programs. The purpose of the program is to make healthy foods available to low-income seniors while simultaneously assisting domestic farmers.

Scientific research increasingly confirms that what we eat may have a significant impact on our health, quality of life, and longevity. In the United States, high intakes of fat and saturated fat, and low intakes of calcium and fiber-containing foods such as whole grains, vegetables and fruits are associated with several chronic health conditions that can impair the quality of life and hasten mortality.

According to the United States Department of Agriculture, research continues to find strong links between eating lots of fruits and vegetables and preventing chronic diseases such as cancer, heart disease, and stroke. Eating more fruits and vegetables may also play a role in preventing other diseases such as high blood pressure and osteoporosis, to name just two.

Two studies, one here in the U.S. and the other in the Netherlands, found eating a diet rich in vitamins E and C may help to lower your risk of Alzheimer's disease. Both found that eating foods high in vitamin E may reduce your risk of Alzheimer's, a degenerative brain disease. The U.S. study found that people with the highest vitamin E intake in their diet had a 70 percent lower frequency of Alzheimer's than those with the lowest amounts of vitamin E in their diet.

Vitamin A, which is found in many different fruits and vegetables, is very important to the health of your eyes. Other nutrients in produce, such as carotenoids, also play a role in maintaining healthy eyes and good vision. An example of a carotenoid is lutein. Lutein is found in dark green leafy vegetables like spinach.

While the health benefits of eating fruits and vegetables may seem obvious, only 27 percent of women and 19 percent of men eat the recommended 5 servings of fruits and vegetables every day.

The U.S. Department of Agriculture (USDA) Food and Nutrition Service administers the Seniors Farmers' Market Nutrition Program; and in fiscal year 2003, approximately 800,000 people received SFMNP coupons throughout the country. The food made available for sale came from an estimated 14,000 farmers at more than 2,000 farmers' markets as well as nearly 1,800 roadside stands and 200 community supported agricultural programs. In fiscal year 2005, 46 States, U.S. Territories, and federally recognized Indian tribal governments will operate the SFMNP. Close to 900,000 eligible seniors are expected to receive benefits that can be used at over 4,000 markets, roadside stands and community supported agricultural programs during the 2005 harvest season.

In Washington State, the Seniors Farmers' Market Nutrition Program has been incredibly successful in ensuring access to healthy foods for seniors, as well as bolstering the state's farmers and our farmers' markets. In fact, according to the Washington State University Nutrition Education program, in Washington State, the Senior Farmers' Market Nutrition Program reaches about 8,000 lower-income older adults each year in 35 of my State's 39 counties. In 2003, 472 farms, 49 farmers markets, four roadside stands and one community supported agriculture program participated in the SFMNP and the participating seniors in Washington state purchased approximately 90 tons of fresh produce while learning about the role of nutrition in their health in preventing chronic disease.

The bill that I am introducing today aims to better address the growing demand and need for the Seniors Farmers' Market Nutrition Program in four ways.

First, the bill would increase funding from $15 million to $25 million for the program in fiscal year 2005 and continue to expand the program by $25 million each year, until the program's expiration in 2007, meaning that the SFMNP would be funded at not less than $50 million in fiscal year 2006, and at not less than $75 million in 2007.

Second, the bill specifies that funds made available through this act will remain available to the program until exhausted. As such, any remaining funds from one fiscal year will roll over into the subsequent fiscal year budget for the SFMNP.

Third, provisions in the bill support administrative costs. Not more than ten percent of available funds in a fiscal year can be used to cover the operating expenses of the SFMNP.

Finally, the bill grants authority to the Secretary of Agriculture to expand the list of foods eligible for purchase to include minimally processed foods, such as honey, as deemed appropriate.

We should not forget, too, that an obvious, positive outgrowth of the program is the inherent ability of the SFMNP program to strengthen local economies and communities while at the same time works to preserve farmland and open spaces. I sincerely appreciate that the Washington Association of Area Agencies on Aging, as well as the Washington State Farmers Market Association, are supporting this legislation.

The legislation I am introducing today will go a long way in expanding the amount of funding available for the Senior Farmers' Market Nutrition Program. We all know that value and importance that individuals of all ages eat their requisite servings of vegetables and fruit each day. Such foods are high in fiber and lower the risk of chronic diseases such as heart disease and type 2 diabetes, in addition to colon and rectal cancer, high blood pressure, and obesity. However, food costs can be a significant barrier to developing and maintaining a healthy lifestyle. In establishing the Senior Farmers' Market Nutrition Program in 2002, Congress recognized that it is important to provide a means for low-income seniors to have access to fruits and vegetables. The legislation I introduce today will further our nation's commitment to ensuring the health of our nation's seniors, and I urge my colleagues to join me in cosponsoring this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1555

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

SECTION 1. SENIORS FARMERS' MARKET NUTRITION PROGRAM.

(a) FUNDING.—Section 4402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3007) is amended by striking subsection (a) and inserting the following:

''(a) ESTABLISHMENT.—The Secretary of Agriculture shall use funds available to the Commodity Credit Corporation to carry out and expand a seniors farmers' market nutrition program in the following amounts, to remain available until expended:

''(1) For fiscal year 2005, not less than $25,000,000.

''(2) For fiscal year 2006, not less than $50,000,000.

''(3) For fiscal year 2007, not less than $75,000,000.''.

(b) PURPOSES.—Section 4402(b)(1) of that Act (7 U.S.C. 3007(b)(1)) is amended—

(1) by striking ''unprepared'' and inserting ''minimally processed''; and

(2) by striking ''and herbs'' and inserting ''herbs, and other locally-produced farm products, as the Secretary considers appropriate''.

(c) ADMINISTRATIVE COSTS; UNEXPENDED FUNDS.—Section 4402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3007) is amended by adding at the end the following:

''(d) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds made available for a fiscal year under subsection (a) may be used to pay the administrative costs of carrying out this section.''.

By Mr. WYDEN:

S. 1556. A bill to amend the Specialty Crops Competitiveness Act of 2004 to increase the authorization of appropriations for grants to support the competitiveness of specialty crops, to amend the Agricultural Risk Protection Act of 2000 to improve the program of value-added agricultural product market development grants by routing funds through State departments of agriculture, to amend the Federal Crop Insurance Act to require a nationwide expansion of the adjusted gross revenue insurance program, and

for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. WYDEN. Mr. President, today I introduce legislation that will safeguard and promote specialty crops and value-added agriculture in Oregon and in the United States. The great farmers and ranchers of Oregon produce over 200 commodities. This bill intends to improve their marketing opportunities, help Oregon farmers and processors get better prices for their products, and help Oregon farmers and processors compete in an increasingly global market. As it will help Oregon farmers so it will help specialty crop farmers from New York to Florida, Wisconsin to California.

I introduce this bill as my colleague from Oregon, Congresswoman HOOLEY, introduces the same bill in the House of Representatives.

In the increasingly technological world of microchips, products like potato chips and other agricultural commodities still remain a large part of Oregon's economy. In fact, agriculture is Oregon's second largest traded sector and Oregon's second largest export, behind the electronics industry. Oregon agriculture creates more than $8 billion of direct and indirect economic activity, in both urban and rural areas in the state.

At the center of this bill is the expansion of a specialty crop grant program, authorized by Congress in 2001, of which Oregon producers have already made use. Oregon received about $3.2 million that was used for over 50 projects involving product development, marketing, research, and export promotion. The Oregon Department of Agriculture estimates that over 3000 producers benefited from these projects. They also estimate that enhanced sales resulting from these projects reached $20 million—about six times what was invested.

The problem with this pilot program was the grants were only available once. Last year Congress passed legislation that reinstated these specialty crop grants but at funding level that would provide only around $500,000 to Oregon. This legislation raises the authorized level to $500 million and makes the grant program permanent. Under this expansion Oregon has the potential to receive $5 million a year in specialty crop grants.

The bill I am introducing today also improves USDA's value added grant program. Right now this program is run by bureaucrats in Washington, DC who have probably never been to Oregon and probably couldn't name the top Oregon specialty crops. My office has heard numerous complaints that this program is unwieldy, bureaucratic, and difficult to navigate. Last year every applicant from Oregon was disqualified on a technicality. This bill would make one simple but very important change: instead of having the Federal Government distribute the money, each State would get a share of the money to hand out to their chosen priorities.

Between these two grant programs each State in the union should have plenty of money to implement agricultural promotion strategies that match the needs of its individual growers, processors, and citizens.

This bill also authorizes funds for farmers and processors to become ''certified.'' Certification comes in many forms like ''Good Agricultural Practices,'' ''Good Handling Practices,'' or ''Organic.'' Often getting certified is necessary before farmers or processors can effectively market products whether in local grocery stores or to foreign countries. Certified products often fetch premium prices. To encourage farmers to get these certifications and increase their market share this legislation would have the USDA reimburse half the cost of the certifications.

Last, this legislation improves opportunities for specialty crop farmers to get crop insurance, increase loan availability, provide additional funding for export promotion, and make sure that American trade policy takes specialty crops into account.

I know that Oregonians doing a great job growing some of the best quality crops in the world. There are a lot of challenges facing agriculture: cheap imports, low commodity prices, taxation, labor, and dozens of others. This bill won't solve everything, but I think it will make an important contribution to improving Oregon agriculture by making it more competitive on a global level and helping farmers get a decent price for what they produce. I look forward to working with my colleagues to assure the enactment of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1556

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 ''Specialty Crop and Value-Added Agriculture Promotion Act''.

SEC. 2. DEFINITION OF SPECIALTY CROP.

Section 3(1) of the Specialty Crops Competitiveness Act of 2004 (Public 108–465; 7 U.S.C. 1621 note) is amended—

(1) by inserting ''fish and shellfish whether farm-raised or harvested in the wild,'' after ''dried fruits,''; and

(2) by adding at the end the following: ''The term includes specialty crops that are organically produced (as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502).''.

SEC. 3. PERMANENT AUTHORIZATION OF APPROPRIATIONS FOR STATE SPECIALTY CROP BLOCK GRANTS.

Section 101 of the Specialty Crops Competitiveness Act of 2004 (Public 108–465; 7 U.S.C. 1621 note) is amended by striking subsection (i) and inserting the following:

''(i) AUTHORIZATION OF APPROPRIATIONS.—For fiscal year 2006 and every fiscal year thereafter, there is authorized to be appropriated to the Secretary of Agriculture $500,000,000 to make grants under this section.''.

SEC. 4. BLOCK GRANTS TO STATES FOR VALUE-ADDED AGRICULTURAL PRODUCT MARKET DEVELOPMENT.

(a) IN GENERAL.—Section 231 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1621 note) is amended by striking subsection (b) and inserting the following:

''(b) GRANT PROGRAM.—

''(1) STATE DEFINED.—In this subsection, the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(2) BLOCK GRANTS TO STATES.—

''(A) AMOUNT OF GRANT TO STATE.—From the amount made available under paragraph (7) for a fiscal year, the Secretary shall provide to each State, subject to subparagraph (B), a grant in an amount equal to the product obtained by multiplying the amount made available for that fiscal year by the result obtained by dividing—

''(i) the total value of the agricultural commodities and products made in the State during the preceding fiscal year; by

''(ii) the total value of the agricultural commodities and products made in all of the States during the preceding fiscal year.

''(B) LIMITATION.—The total grant provided to a State for a fiscal year under subparagraph (A) shall not exceed $3,000,000.

''(3) USE OF GRANT FUNDS BY STATES.—A State shall use the grant funds to award competitive grants—

''(A) to an eligible independent producer (as determined by the State) of a value-added agricultural product to assist the producer—

''(i) in developing a business plan for viable marketing opportunities for the value-added agricultural product; or

''(ii) in developing strategies that are intended to create marketing opportunities for the producer; and

''(B) to an eligible agricultural producer group, farmer or rancher cooperative, or majority-controlled producer-based business venture (as determined by the State) to assist the entity—

''(i) in developing a business plan for viable marketing opportunities in emerging markets for a value-added agricultural product; or

''(ii) in developing strategies that are intended to create marketing opportunities in emerging markets for the value-added agricultural product.

''(4) AMOUNT OF COMPETITIVE GRANT .—

''(A) IN GENERAL.—The total amount provided under paragraph (3) to a grant recipient shall not exceed $500,000.

''(B) MAJORITY-CONTROLLED PRODUCER-BASED BUSINESS VENTURES.—The amount of grants provided by a State to majority-controlled producer-based business ventures under paragraph (3)(B) for a fiscal year may not exceed 10 percent of the amount of funds that are used by the State to make grants for the fiscal year under paragraph (3).

''(5) GRANTEE STRATEGIES.—A recipient of a grant under paragraph (3) shall use the grant funds—

''(A) to develop a business plan or perform a feasibility study to establish a viable marketing opportunity for a value-added agricultural product; or

''(B) to provide capital to establish alliances or business ventures that allow the producer of the value-added agricultural product to better compete in domestic or international markets.

''(6) REPORTS.—Not later than 90 days after the end of a fiscal year for which funds are provided to a State under paragraph (2), the State shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing how the funds were used.

''(7) FUNDING.—On October 1 of each fiscal year, of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this subsection $100,000,000, to remain available until expended.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005.

SEC. 5. REIMBURSEMENT OF CERTIFICATION COSTS.

(a) INCENTIVE PROGRAM.—

(1) IN GENERAL.—The Secretary of Agriculture shall establish an incentive program to encourage the independent third-party certification of agricultural producers and processors for product qualities, production practices, or other product or process attributes that increase marketability or value of an agricultural commodity.

(2) INCLUSIONS.—The Secretary shall include independent third-party certification systems, including programs such as Good Agricultural Practices, Good Handling Practices, and Good Manufacturing Practices programs, that the Secretary finds will provide 1 or more measurable social, environmental, or marketing advantages.

(b) STANDARDS.—The Secretary shall set standards regarding the types of certifications, and the types of certification-related expenses, that will qualify for reimbursement under the program.

(c) LIMITATION ON AMOUNT OF REIMBURSEMENT.—An agricultural producer or processor may not receive reimbursement for more than 50 percent of the qualified expenses incurred by the producer or processor related to accepted certifications.

SEC. 6. NATIONWIDE EXPANSION OF RISK MANAGEMENT AGENCY ADJUSTED GROSS REVENUE INSURANCE PROGRAM.

(a) EXPANSION.—Section 523(e) of the Federal Crop Insurance Act (7 U.S.C. 1523(e)) is amended by adding at the end the following:

''(3) PERMANENT NATIONWIDE OPERATION.—

''(A) IN GENERAL.—Effective beginning with the 2006 reinsurance year, the Corporation shall carry out the adjusted gross revenue insurance pilot program as a permanent program under this title and may expand the program to cover any county in which crops are produced.

''(B) TEMPORARY PREMIUM SUBSIDIES.—To facilitate the expansion of the program nationwide, the Corporation may grant temporary premium subsidies for the purchase of a policy under the program to producers whose farm operations are located in a county that has a high level of specialty crop production and has not had a high-level of participation in the purchase of crop insurance coverage.''.

(b) COMPTROLLER GENERAL STUDY.—The Comptroller General shall conduct a study of the Federal crop insurance program—

(1) to determine how well the program under section 523(e)(3) of the Federal Crop Insurance Act (as added by subsection (a)) serves specialty crop producers; and

(2) to recommend such changes as the Comptroller General considers appropriate to improve the program for specialty crop producers.

SEC. 7. EXPANSION OF FRUIT AND VEGETABLE PROGRAM IN SCHOOL LUNCH PROGRAMS.

The Richard B. Russell National School Lunch Act is amended—

(1) in section 18 (42 U.S.C. 1769), by striking subsection (g); and

(2) by inserting after section 18 the following:

''SEC. 19. FRUIT AND VEGETABLE PROGRAM.

''(a) IN GENERAL.—The Secretary shall make available in not more than 100 schools in each State, and in elementary and secondary schools on 1 Indian reservation, free fresh and dried fruits and vegetables and frozen berries to be served to school children throughout the school day in 1 or more areas designated by the school.

''(b) PRIORITY IN ALLOCATION.—In selecting States to participate in the program, the Secretary shall give priority to States that produce large quantities of specialty crops.

''(c) PUBLICITY.—A school participating in the program authorized by this section shall publicize in the school the availability of free fruits and vegetables under the program.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for to carry out this section $20,000,000 for each of fiscal years 2006 and 2007.''.

SEC. 8. INCREASE IN LIMIT ON DIRECT OPERATING LOANS; INDEXATION TO INFLATION.

Section 313 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1943) is amended—

(1) in subsection (a)(1), by striking ''$200,000'' and inserting ''$500,000 (increased, beginning with fiscal year 2007, by the inflation percentage applicable to the fiscal year in which the loan is made)''; and

(2) in subsection (b), by striking paragraph (2) and inserting the following:

''(2) the average of such index (as so defined) for the 12-month period ending on—

''(A) in the case of a loan other than a loan guaranteed by the Secretary, August 31, 2005; or

''(B) in the case of a loan guaranteed by the Secretary, August 31, 1996.''.

SEC. 9. TRADE OF SPECIALTY CROPS.

(a) ASSISTANT USTR FOR SPECIALTY CROPS.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended by adding at the end the following:

''(6) ASSISTANT USTR FOR SPECIALTY CROPS.—

''(A) ESTABLISHMENT.—There is established in the Office the position of Assistant United States Trade Representative for Specialty Crops.

''(B) APPOINTMENT.—The Assistant United States Trade Representative for Specialty Crops shall be appointed by the United States Trade Representative.

''(C) PRIMARY FUNCTION.—The primary function of the Assistant United States Trade Representative for Specialty Crops shall be—

''(i) to promote the trade interests of specialty crop businesses;

''(ii) to remove foreign trade barriers that impede specialty crop businesses; and

''(iii) to enforce existing trade agreements beneficial to specialty crop businesses.

''(D) PAY.—The Assistant United States Trade Representative for Specialty Crops shall be paid at the level of a member of the Senior Executive Service with equivalent time and service.''.

(b) STUDY OF URUGUAY ROUND TABLE AGREEMENT BENEFITS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the benefits of the agreements approved by Congress under section 101(a)(1) of the Uruguay Round Agreements Act (19 U.S.C. 3511(a)(1)) to specialty crop businesses.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report describing the results of the study conducted under paragraph (1).

(c) FOREIGN MARKET ACCESS STRATEGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Agriculture shall develop and implement a foreign market access strategy to increase exports of specialty crops to foreign markets.

SEC. 10. INCREASED AUTHORIZATION FOR TECHNICAL ASSISTANCE FOR SPECIALTY CROPS.

Section 3205(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5680(d)) is amended by striking ''$2,000,000'' and inserting ''$10,000,000''.

By Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. 1558. A bill to amend the Ethics in Government Act of 1978 to protect family members of filers from disclosing sensitive information in a public filing and extend the public filing requirement for 5 years; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today to introduce legislation that would preserve an important means of protecting the safety of those who work in the Federal judiciary system.

This legislation, which I am pleased to sponsor with my distinguished colleague, Senator LIEBERMAN, pertains to information on Federal financial disclosure forms.

This legislation would amend the Ethics in Government Act to extend for five years the authority to redact financial disclosure statements filed by judges, and other officers and employees of the Federal judiciary. This redaction occurs after a finding is made by the Judicial Conference, in consultation with the United States Marshals Service, that revealing personal and sensitive information could endanger the filer. In such cases, this legislation would allow redactions of information that could put the filer or his or her family at risk.

In 1988, Congress recognized the potential for threats against individual judges. As a result, Congress authorized the judicial branch to redact, when circumstances require, certain information from individual financial disclosure reports before they are released to the public. The redaction provision was set to expire at the end of 2001, but Congress extended the redaction authority for an additional four years. The current authority expires at the end of this year.

The five-year extension in this legislation will help Congress ensure that the Judicial Conference carries out the authority in a manner that achieves the appropriate balance between safety measures and public disclosure. Given recent incidents of violence against judges and their families, the inclusion of threats to the filer's family is necessary to provide security and peace of mind.

The record shows that this redaction authority has been used sparingly and wisely. In its report to the Committee on Homeland Security and Governmental Affairs, the Judicial Conference reported that, of the 3,942 Federal judiciary employees required to file financial disclosure reports in 2004, only 177

reports were partially redacted before release.

For 40 judges, the approved redaction requests were based on specific threats such as high-threat trials, ongoing protective investigations, identify theft, and continuing threats from criminal defendants and disgruntled civil litigants. For 137 judges, the approved redaction requests were based on general threats and the disclosure of a family member's unsecured place of work, the judge's regular presence at an unsecured location, or information that would reveal the residence of the judge or members of the judge's family.

In response to a request by our Committee, the Government Accountability Office reviewed redaction requests from 1999 through 2002. GAO found that less than 10 percent of annual judicial filers requested any type of redaction.

In each instance where a report was redacted in its entirety, the determination was made that the judge who filed the report was subject to a specific, active security threat. Redactions of information identifying assets, gifts, reimbursements or creditor listings were allowed in only a very limited number of cases, and then only until the specifically identified threat ceased. According to the Judicial Conference, the most frequent redaction requests now relate to information that would reveal where a judge or a member of the judge's family can regularly be found.

A fair and impartial judiciary requires a safe and secure environment. This legislation will help ensure the judicial branch has procedures in place to protect personal information while ensuring the public retains its right to access to the annual disclosure reports. I look forward to working with my colleagues on this important legislation.

By Mr. SANTORUM:

S. 1560. A bill to establish a Congressional Commission on Expanding Social Service Delivery Options; to the Committee on Health, Education, Labor, and Pensions.

Mr. SANTORUM. Mr. President, I rise to introduce a bill that would establish a Congressional Commission to explore the expansion of social services delivery options.

The bipartisan and bicameral Congressional Commission would undertake a thoughtful review of existing federal social service programs and make recommendations for program areas that would be appropriate for beneficiary-selected or beneficiary-directed options. The goal is to expand consumer choice and to minimize Constitutional concerns while partnering with faith-based and community providers. The importance of this commission is highlighted by its inclusion in the Senate's anti-poverty agenda.

Expanding options for social services is essential to help those in need. I have advocated similar proposals in the past during my time in the United States Senate as it relates to the Corporation for National and Community Service. In 2001, I introduced the AmeriCorps Reform and Charitable Expansion Act. The goal of this legislation was to dramatically increase the scope of service opportunities and charitable locations that would be eligible for voucher recipients and to focus efforts more on assisting low-income communities.

A current example of the success of this type of program is Section 8 Housing vouchers. The largest federal program designed to provide affordable housing to low-income families is the Section 8 Housing Choice Voucher program serving over 2 million households. Low-income families use Section 8 vouchers tenant-based subsidies in the private market to lower their rental costs to 30 percent of their incomes. As you know, the modern program began in the early 1980s and has grown to replace public housing as the primary tool for subsidizing the housing costs of low-income families. This approach, has opened up more communities and housing options for low-income families.

Since the 1996 welfare reauthorization, I have worked to ensure that faith-based and community organizations are full partners in social service delivery. Our nation needs more, not less, involvement from faith and community organizations. Faith-based organizations are many times the best-equipped institutions in their community to improve the lives of those in need, but have not always been able to receive any help from the government. This bill provides an opportunity to level the playing field for these providers by determining where we can engage the community and allow beneficiaries to be full participants in choosing their provider. The current discrimination against faith-based programs at the federal level prevents our communities from using all our resources to improve and even save lives. And for those are most in need, we need to use every resource we have.

Expanding social service delivery options should be a simple matter of common sense. The formula is simple: the more opportunity organizations have to deliver aid, the more options people have to get services, the more people we can help. For this reason, I encourage my colleagues to support the creation of this commission.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, and Ms. LANDRIEU):

S. 1561. A bill to amend title 36, United States Code, to grant a Federal charter to the Irish American Cultural Institute; to the Committee on the Judiciary.

Mr. CORZINE. Mr. President, today I am proud to introduce a bill, along with Senators LAUTENBERG and LANDRIEU, to grant a Federal Charter to the Irish American Cultural Institute, an organization that promotes appreciation and recognition of the important contributions Irish-Americans have played throughout the history of the United States. A longstanding goal of the Irish American Cultural Institute been to establish a museum of Irish-American history and culture in Washington, DC, and I am pleased to help lay the foundation for achieving that goal.

The Irish American Cultural Institute is a national organization founded in 1962, with local chapters in 17 States, including New Jersey. The Institute has spent the last 40 years fighting to promote, preserve and educate about Irish and Irish-American culture. Those involved with the Institute do this, in part, by fostering strong cultural and educational ties between the United States and Ireland—sending American high school students to Ireland, and bringing Irish scholars, musicians, craftspeople, actors, and artists to the Untied States. They also fund academic research projects that raise awareness about Irish-American history, and provide fellowships for American professors to spend a year as a visiting scholar at the National University of Ireland. In short, the Irish American Cultural Institute serves as an important educational, informational, and financial resource for key initiatives important to the Irish and the Irish-American community in the United States.

Irish-Americans comprise more than 17 percent of the population of the United States, and have made enormous contributions to our Nation in countless ways. In my home State, more than 1.3 million New Jersey residents trace their roots back to Ireland. A Federal Charter would be an important step in the Irish American Cultural Institute's quest to promote activities that recognize and celebrate the heritage of Irish-Americans. I ask my colleagues to join me in supporting this legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1561

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

SECTION 1. CHARTER FOR IRISH AMERICAN CULTURAL INSTITUTE.

Part B of subtitle II of title 36, United States Code, is amended—

(1) by redesignating chapter 1001 as chapter 1003;

(2) by redesignating sections 100101 through 100110, and the items relating thereto in the table of sections, as sections 100301 through 100310, respectively; and

(3) by inserting after chapter 901 the following new chapter:

"CHAPTER 1001—IRISH AMERICAN CULTURAL INSTITUTE

''Sec.
''100101. Organization.
''100102. Purposes.
''100103. Membership.
''100104. Governing body.
''100105. Powers.
''100106. Exclusive right to name, seals, emblems, and badges.

''100107. Restrictions.
''100108. Duty to maintain tax-exempt status.
''100109. Principal office.
''100110. Records and inspection.
''100111. Service of process.
''100112. Liability for acts of officers and agents.
''100113. Annual report.

''SECTION 100101. ORGANIZATION.

''(a) FEDERAL CHARTER.—The Irish American Cultural Institute (in this chapter, the 'corporation'), incorporated in New Jersey, is a federally chartered corporation.

''(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

''SECTION 100102. PURPOSES.

''The purposes of the corporation are as provided in the articles of incorporation and include—

''(1) establishing the Museum of Irish America in Washington, DC, as the center of Irish American thought, dialogue, debate, and reflection;

''(2) recognizing and recording a living memorial to the contributions of Irish-born and Irish Americans to the development of the United States;

''(3) providing a focal point for all Irish Americans, who make up 17 percent of the United States population, according to the 2000 census;

''(4) exploring past, current, and future events in Ireland and the United States, as they relate to Irish Americans and society as a whole;

''(5) documenting the tremendous contributions of Irish immigrants to the United States in the areas of architecture, military, politics, religion, labor, sports, literature, and art;

''(6) providing ongoing studies to ensure that the experiences of the past will benefit the future of both Ireland and the United States; and

''(7) establishing an Irish American Studies Program for students from both Ireland and the United States.

''SECTION 100103. MEMBERSHIP.

''Eligibility for membership in the corporation and the rights and privileges of membership are as provided the bylaws.

''SECTION 100104. GOVERNING BODY.

''(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

''(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation.

''SECTION 100105. POWERS.

''The corporation shall have only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

''SECTION 100106. EXCLUSIVE RIGHT TO NAME, SEALS, EMBLEMS, AND BADGES.

''The corporation has the exclusive right to use the name 'Irish American Cultural Institute' and any seals, emblems, and badges relating thereto that the corporation adopts.

''SECTION 100107. RESTRICTIONS.

''(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

''(b) POLITICAL ACTIVITIES.—The corporation or a director, or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

''(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or member in an amount approved by the board of directors.

''(d) LOANS.—The corporation may not make any loan to a director, officer, or employee.

''(e) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORIZATION.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

''SECTION 100108. DUTY TO MAINTAIN TAX-EXEMPT STATUS.

''The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

''SECTION 100109. PRINCIPAL OFFICE.

''The principal office of the corporation shall be in Morristown, New Jersey, or another place decided by the board of directors.

''SECTION 100110. RECORDS AND INSPECTION.

''(a) Records.—The corporation shall keep—

''(1) correct and complete books and records of account;

''(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

''(3) at its principal office, a record of the names and addresses of its members entitled to vote.

''(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

''SECTION 100111. SERVICE OF PROCESS.

''The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

''SECTION 100112. LIABILITY FOR ACTS OF OFFICERS AND AGENTS.

''The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

''SECTION 100113. ANNUAL REPORT.

''The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report shall not be printed as a public document.''.

SEC. 2. CLERICAL AMENDMENTS.

The table of chapters at the beginning of subtitle II of title 36, United States Code, is amended—

(1) in the item relating to chapter 1001, by striking ''1001'' and inserting ''1003'' and by striking ''100101'' and inserting ''100301''; and

(2) by inserting after the item relating to chapter 901 the following new item:

'' ''1001. Irish American Cultural Institute ..... 100101''.''.''.

By Mr. ENZI (for himself, Mr. JOHNSON, Mr. ALLARD, and Mr. HAGEL):

S. 1562. A bill to provide for the merger of the bank and savings association deposit insurance funds, to modernize and improve the safety and fairness of the Federal deposit insurance system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ENZI. Mr. President, today I rise to introduce the Safe and Fair Deposit Insurance Act of 2005. As many of us in this chamber know, reforming the operations of the Federal Deposit Insurance Corporation has been an important but unfinished matter before the United States Senate for many years. Today, we will take a step closer to a solution by introducing this Act.

Wyoming is a rural State with small banks and lenders. Many people in Wyoming have limited choices when they need to safely deposit their hard-earned money. They usually depend on their local bank or credit union. These financial institutions in turn depend on deposit insurance to make sure that this money will be available in the case of a crisis. This is a relationship based on trust. Customers trust their bank, and banks trust their insurance.

This relationship is even more important in places like Gillette, Wyoming. As Mayor of Gillette, I saw many coal miners retire with considerable pensions that reflected years of hard work in the mines around Gillette. However, these miners received their pensions as a lump sum. Their retirement accounts are often much higher than the maximum insurance levels under current law. In fact, more and more retirement accounts are reaching this upper limit, not just in Wyoming. Workers need a safe place to save their money and build retirement security. That place should be in a local financial institution that invests in its community and economy.

The current FDIC system is in desperate need of improvement. Over the past twenty years, deposit insurance has been eroded by inflation and growing deposits. As newer financial institutions have sprung up, they have enjoyed this insurance without paying any premiums into the system. As time passes, current FDIC coverage continues to weaken, and so does the Agency's ability to respond to a deposit crisis, should one arise. That is why it is so important to reform the system now, before it is too late.

This bill will make changes to the deposit insurance system that will make it more flexible and quicker to adapt to the unexpected. It will apply an index that will protect coverage levels against future inflation, and raise retirement coverage to protect earnings made over a lifetime of hard work. It will also make premium charges fair by recognizing those institutions who have paid into the system and those who have not. Finally, it will merge the two primary deposit insurance funds. This consolidation will make the system stronger and prevent costly premium charges that will likely be assessed if the system is not reformed.

I would like to thank Senator JOHNSON and Chairman SHELBY for their cooperation and hard work on this bill. I urge my colleagues to support this bill and look forward to its passage with all deliberate speed.

By Mr. DEWINE (for himself and Mrs. LINCOLN):

S. 1563. A bill to amend title XIX of the Social Security Act to protect and

strengthen the safety net of children's public health coverage by extending the enhanced Federal matching rate under the State children's health insurance program to children covered by Medicaid at State option and by encouraging innovations in children's enrollment and retention, to advance quality and performance in children's public health insurance programs, to provide payments for children's hospitals to reward quality and performance, and for other purposes; to the Committee on Finance.

Mr. DEWINE. Mr. President, today I join my friend and colleague from Arkansas, Senator LINCOLN, to introduce a bill called the Advancing Better Coverage and Care for Children's Health Act or the ABCs for Children's Health Act. It is an important piece of legislation designed to help improve the access and quality of children's health services around the country,'' including children's hospitals.

Children's Hospitals provide care to hundreds of thousands of children across our Nation every day. They care for the great majority of children who are seriously ill. They are the mainstay of the health care safety net for low-income children.

But, a child who lacks health insurance is still much less likely to have timely access to the medical care they need. That's not right. Two-thirds of the more than 9 million uninsured children in the United States are eligible for Medicaid or SCHIP. They should be enrolled in public coverage when eligible, and we should streamline the eligibility process to make it easier, not more difficult.

President Bush said in 2004, ''America's children must also have a healthy start in life . . . we will lead an aggressive effort to enroll millions of poor children who are eligible but not signed up for the government's health insurance programs. We will not allow a lack of attention or information to stand between these children and the health care they need.'' The bill we are introducing today would do just that.

Our bill would provide the higher SCHIP federal match to states for children covered by Medicaid at the State option so that States think twice before removing children from the Medicaid rolls during State budget cuts. It also would provide a 90/10 administrative-match to help states update enrollment systems for children, including technology for ''express lane'' enrollment, the determination of eligibility for Medicaid and SCHIP when a child applies for another public benefit, like the school lunch program, and the allowance for enrollment by mail or phone.

We also need to do more to help strengthen the system of care to ensure quality and accountability for children's coverage. Our bill would do this by supporting innovative ideas at children's hospitals. Quality improvement funding shouldn't just be available to adult hospitals. Children's hospitals have good ideas, too, and we should support those good ideas.

Cincinnati Children's Hospital in Ohio is leading the way in improving care for children with diabetes, cystic fibrosis and other chronic conditions. The hospital is deeply committed to transforming health care delivery to improve outcomes for children.

In 2001, they were selected as one of just seven hospitals in the Pursuing Perfection initiative launched by the Robert Wood Johnson Foundation, and with this funding from the Foundation, they have made significant progress. They can document improvements in patient safety, in the effectiveness of care, in operational efficiency, in timely access to care, and in more patient-centered care. These are the reforms we need to pursue for children in Medicaid and for all children. Our bill would help Cincinnati Children's Hospital and our other Children's Hospitals speed their journey to better, safer, more cost-effective care.

A hospital that makes the effort to improve care and outcomes for children should be compensated for that effort. We need to advance quality and performance for children in Medicaid, like we are doing for seniors in Medicare. The development of hospital quality measures, testing their ability to gauge effective care and rewarding performance, should apply to all hospitals, including children's hospitals.

That's why we have worked with the National Association of Children's Hospitals to introduce a bill that would provide grants to help improve pediatric quality, so that Children's Hospitals can begin to establish measures for quality care and share what works—and what doesn't work—across hospital services for children nationwide.

Our bill would provide for a demonstration program in Medicaid to evaluate evidenced-based quality and performance measures in children's health services, with grants for States and/or providers in three areas: health information technology and evidenced-based outcome measures, disease management for children with chronic conditions, and evidenced-based approaches to improving the delivery of hospital care for children. The bill also would provide for a national Children's Hospital pay-for-performance demonstration program, rewarding Children's Hospitals, which provide critical access to services and voluntarily participate, for reporting and meeting quality and performance measures.

Evaluating the national measures of quality in Children's Hospitals, their success in capturing performance, and their applicability to pay-for-performance across States' varying methods of payments, would gives States, the Federal Government, and Children's Hospitals an essential base of information in measuring performance in children's hospital care. And that is something we vitally need.

I urge my colleagues to support and co-sponsor this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1563

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 ''Advancing Better Coverage and Care for Children's Health Act of 2005'' or the ''ABCs for Children's Health Act of 2005''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—COVERING CHILDREN

Sec. 101. Phased-in application of enhanced FMAP for children whose eligibility is optional under medicaid.
Sec. 102. Enhanced matching rate for the effective enrollment and retention of children under medicaid.
Sec. 103. Preserving comprehensive benefits appropriate to children's needs.

TITLE II—ADVANCING QUALITY AND PERFORMANCE: INNOVATIONS IN CARE

Sec. 201. Purpose.
Sec. 202. National quality forum; advancing consensus-based pediatric quality and performance measures.
Sec. 203. Research grant program; developing new pediatric quality and performance measures.
Sec. 204. Medicaid demonstration program; evaluating evidence-based quality and performance measures for children's health services.
Sec. 205. Funding.

TITLE III—ENSURING ACCESS TO CARE

Sec. 301. Pay for performance for children's critical access hospitals.
Sec. 302. Inclusion of children's hospitals as covered entities for purposes of limitation of purchased drug price.

TITLE I—COVERING CHILDREN

SEC. 101. PHASED-IN APPLICATION OF ENHANCED FMAP FOR CHILDREN WHOSE ELIGIBILITY IS OPTIONAL UNDER MEDICAID.

(a) IN GENERAL.—The first sentence of section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (b)—

(A) by striking ''and (4)'' and inserting ''(4)''; and

(B) by inserting before the period the following: '', and (5) the Federal medical assistance percentage shall be equal to the applicable percentage determined under subsection (y) with respect to medical assistance provided to children who are eligible for such assistance on the basis of subsection (a)(10)(A)(ii), (a)(10)(C), (e)(3), or (e)(9) of section 1902, or a waiver under subsection (c) or (e) of section 1915, or who are eligible for such assistance during a presumptive eligibility period under section 1920A (but only if the child is not eligible for medical assistance on the basis of section 1902(a)(10)(A)(i))''; and

(2) by adding at the end the following:

''(y) For purposes of the fifth clause of the first sentence of subsection (b), the applicable percentage determined under this subsection is—

''(1) in the case of fiscal year 2006, the enhanced FMAP determined under section

2105(b) by substituting '6 percent' for '30 percent' in such section;

''(2) in the case of fiscal year 2007, the enhanced FMAP determined under section 2105(b) by substituting '12 percent' for '30 percent' in such section;

''(3) in the case of fiscal year 2008, the enhanced FMAP determined under section 2105(b) by substituting '18 percent' for '30 percent' in such section;

''(4) in the case of fiscal year 2009, the enhanced FMAP determined under section 2105(b) by substituting '24 percent' for '30 percent' in such section; and

''(5) in the case of fiscal year 2010 or any fiscal year thereafter, the enhanced FMAP determined under section 2105(b).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2005.

SEC. 102. ENHANCED MATCHING RATE FOR THE EFFECTIVE ENROLLMENT AND RETENTION OF CHILDREN UNDER MEDICAID.

(a) IN GENERAL.—Section 1903(a)(3) of the Social Security Act (42 U.S.C. 1396b(a)(3)) is amended—

(1) in subparagraph (E), by striking ''plus'' at the end and inserting ''and''; and

(2) by adding at the end the following:

''(F) 90 percent of the sums expended during such quarter which are attributable to the design, development, implementation, and evaluation of such enrollment systems as the Secretary determines are likely to provide more efficient and effective administration of the plan's enrollment and retention of eligible children, including—

''(i) 'express lane' enrollment for children through procedures to ensure that children's eligibility for medical assistance is determined and expedited through the use of technology and shared information with other public benefit programs, such as the school lunch program under the Richard B. Russell National School Lunch Act and the food stamp program under the Food Stamp Act of 1977;

''(ii) a single, simplified application form for medical assistance under this title and for children's health assistance under title XXI;

''(iii) procedures which allow for the enrollment of children by mail or through the Internet;

''(iv) the timely evaluation, assistance, and determination of presumptive eligibility under section 1920A;

''(v) procedures which allow for passive reenrollment of children to protect against the loss of coverage among eligible children; and

''(vi) such other enrollment system changes as the Secretary determines are likely to provide more efficient and effective administration of the plan's enrollment and retention of eligible children; plus''.

(b) EXCLUSION FROM ERRONEOUS EXCESS PAYMENT DETERMINATION.—Section 1903(u)(1)(D) of such Act (42 U.S.C. 1396a(u)(1)(D)) is amended by adding at the end the following:

''(vi)(I) Notwithstanding clauses (ii) and (iii), and subject to subclause (II), in determining the amount of erroneous excess payments, there shall not be included any erroneous payments made with respect to medical assistance provided to children who are erroneously enrolled or erroneously provided with continued enrollment under this title as a result of the application of enrollment systems described in subsection (a)(3)(F).

''(II) Subclause (I) shall only apply with respect to erroneous payments made during the first 5 fiscal years that begin on or after the date of enactment of this clause.''.

SEC. 103. PRESERVING COMPREHENSIVE BENEFITS APPROPRIATE TO CHILDREN'S NEEDS.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended by inserting after section 1925 the following:

''CLARIFICATION OF AUTHORITY UNDER SECTION 1115

''SEC. 1926. The Secretary may not impose or approve under the authority of section 1115 an elimination or modification of the amount, duration, or scope of the services described in section 1905(a)(4)(B) (relating to early and periodic screening, diagnostic, and treatment services (as defined in section 1905(r))) or of the requirements of subparagraphs (A) through (C) of section 1902(a)(43).''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), section 1926 of the Social Security Act, as added by subsection (a), shall apply to the approval on or after the date of enactment of this Act of—

(A) a waiver, experimental, pilot, or demonstration project under section 1115 of the Social Security Act (42 U.S.C. 1315); and

(B) an amendment or extension of such a project.

(2) EXCEPTION.—Section 1926 of the Social Security Act, as so added, shall not apply with respect to any extension of approval of a waiver, experimental, pilot, or demonstration project with respect to title XIX of the Social Security Act that was first approved before 1994 and that provides a comprehensive and preventive child health program under such project that includes screening, diagnosis, and treatment of children who have not attained age 21.

TITLE II—ADVANCING QUALITY AND PERFORMANCE: INNOVATIONS IN CARE

SEC. 201. PURPOSE.

[The purpose of this title is to increase the quality of the health care furnished to children under the health insurance programs under titles XIX and XXI of the Social Security Act].

SEC. 202. NATIONAL QUALITY FORUM; ADVANCING CONSENSUS-BASED PEDIATRIC QUALITY AND PERFORMANCE MEASURES.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this title referred to as the ''Secretary''), acting through the Director of the Center for Medicaid and State Operations of the Centers for Medicare & Medicaid Services, shall enter into agreements with the National Quality Forum to facilitate the development of consensus-based pediatric quality and performance measures.

(b) CONSULTATION.—In carrying out agreements under subsection (a), the Director of the Center for Medicaid and State Operations shall consult with—

(1) the Agency for Healthcare Research and Quality; and

(2) national pediatric provider groups.

SEC. 203. RESEARCH GRANT PROGRAM; DEVELOPING NEW PEDIATRIC QUALITY AND PERFORMANCE MEASURES.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Agency for Healthcare Research and Quality, shall award grants to eligible entities for the development and evaluation of pediatric quality and performance measures.

(b) ELIGIBLE ENTITY DEFINED.—In this section, the term ''eligible entity'' means—

(1) an institution or multiple institutions with demonstrated expertise and capacity to evaluate pediatric quality and performance measures;

(2) a National nonprofit association of pediatric academic medical centers with demonstrated experience in working with other pediatric provider and accrediting organizations in developing quality and performance measures for children's inpatient and outpatient care; and

(3) a collaboration of national pediatric organizations working to improve quality and performance in pediatric critical care.

(c) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

SEC. 204. MEDICAID DEMONSTRATION PROGRAM; EVALUATING EVIDENCE-BASED QUALITY AND PERFORMANCE MEASURES FOR CHILDREN'S HEALTH SERVICES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Director of the Center for Medicaid and State Operations of the Centers for Medicare & Medicaid Services, shall establish demonstration projects in each of the 3 categories described in subsection (c) to advance quality and performance in the delivery of medical assistance provided to children under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(b) AUTHORITY.—

(1) IN GENERAL.—The Secretary is authorized to award grants to States or providers to conduct such projects.

(2) USE OF FUNDS.—Funds provided under a grant awarded under this section may be used for administrative costs, including costs associated with the design, data collection, and evaluation of the demonstration project conducted with such funds, and other expenditures that are not otherwise eligible for reimbursement under the medicaid program.

(3) EVIDENCE OF ORGANIZATIONAL COMMITMENT REQUIRED FOR AWARD OF GRANTS.—A State or provider shall not be eligible to receive a grant to conduct a demonstration project under this section unless the State or provider demonstrates a commitment to the concept of change and transformation in the delivery of children's health services. Dedication of financial resources of the State or provider to the project may be deemed to demonstrate evidence of such a commitment.

(c) PROJECT CATEGORIES DESCRIBED.—The 3 demonstration project categories described in this subsection are the following:

(1) Projects that adopt and use health information technology and evidenced-based outcome measures for pediatric inpatient and sub-specialty physician care and evaluate the impact of such technology and measures on the quality, safety, and costs of such care.

(2) Projects that demonstrate and evaluate care management for children with chronic conditions to determine the extent to which such management promotes continuity of care, stabilization of medical conditions, and functional outcomes, prevents or minimizes acute exacerbations of chronic conditions, and reduces adverse health outcomes and avoidable hospitalizations.

(3) Projects that implement evidenced-based approaches to improving efficiency, safety, and effectiveness in the delivery of hospital care for children across hospital services and evaluate the impact of such changes on the quality and costs of such care.

(d) SITES.—To the extent practicable, the Secretary shall use multiple sites in different geographical locations in conducting each of the 3 demonstration project categories described in subsection (c).

(e) UNIFORM MEASURES, DATA, PROJECT EVALUATIONS.—Working in consultation with

experts described in subsection (f) and with participating States or providers, the Secretary shall establish uniform measures (adjusted for patient acuity), collect data, and conduct evaluations with respect to the 3 demonstration project categories described in subsection (c).

(f) CONSULTATION.—In developing and implementing demonstration projects under this section, the Secretary shall consult with national pediatric provider organizations, consumers, and such other entities or individuals with relevant expertise as the Secretary deems necessary.

(g) REPORT.—Not later than 6 months after the completion of all demonstration projects conducted under this section, the Secretary shall evaluate such projects and submit a report to Congress that includes the findings of the evaluation and recommendations with respect to—

(1) expanding the projects to additional sites; and

(2) the broad implementation of identified successful approaches in advancing quality and performance in the delivery of medical assistance provided to children under the medicaid program.

SEC. 205. FUNDING.

In order to carry out the provisions of this title, out of funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary—

(1) $25,000,000 for fiscal year 2006;

(2) $30,000,000 for fiscal year 2007; and

(3) $35,000,000 for each of the fiscal years 2008, 2009, and 2010.

TITLE III—ENSURING ACCESS TO CARE

SEC. 301. PAY FOR PERFORMANCE FOR CHILDREN'S CRITICAL ACCESS HOSPITALS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary''), acting through the Administrator of the Centers for Medicare & Medicaid Services (in this section referred to as the ''Administrator''), shall implement a 4-year program to develop, implement, and evaluate a pay-for-performance program for eligible children's hospitals providing critical access to children eligible for medical assistance under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(b) CONSULTATION.—Measures of quality and performance utilized in the program will be determined by the Administrator in collaboration with participating eligible children's hospitals and in consultation with States, the National Association of Children's Hospitals and Related Institutions, the Agency for Healthcare Research and Quality, the National Quality Forum, and such other entities or individuals with expertise in pediatric quality and performance measures as the Administrator deems appropriate.

(c) ELIGIBLE CHILDREN'S HOSPITALS.—For purposes of this section, an eligible children's hospital is a children's hospital that, not later than January 1, 2006, has submitted an application to the Secretary to participate in the program established under this section and has been certified by the Secretary as—

(1) meeting the criteria described in subsection (d);

(2) agreeing to report data on quality and performance measures; and

(3) meeting or exceeding such measures as are established by the Secretary with respect to the provision of care by the hospital.

(d) CRITERIA DESCRIBED.—In order to be certified as meeting the criteria described in this subsection, a hospital shall be a general acute care children's hospital or a specialty children's hospital as defined under 1886(d)(1)(B)(iii) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(iii)), or a non-freestanding general acute care children's hospital which shares a provider number with another hospital or hospital system that—

(1) has 62 or more total pediatric beds;

(2) has 38 or more total combined pediatric general medical or surgical and pediatric intensive care beds;

(3) has at least 4 pediatric intensive care beds;

(4) has a pediatric emergency room in the hospital or access to an emergency room with pediatric services through the hospital system; and

(5) provides a minimum of 25 percent of its days of care to patients eligible for medical assistance under the medicaid program.

(e) PAYMENT METHODOLOGY.—

(1) IN GENERAL.—An eligible children's hospital that participates in the program established under this section shall receive supplemental Federal payments for inpatient and outpatient care (which shall be in addition to any other payments the hospitals receive for such care under the medicaid program) for cost reporting periods or portions of such reporting periods occurring during fiscal years 2007 through 2010 in accordance with the following:

(A) FISCAL YEARS 2007 AND 2008.—

(i) IN GENERAL.—For hospital cost reporting periods or portions of such reporting periods occurring during fiscal year 2007 or 2008, hospitals reporting data for quality and performance measures established under the program and participating in the development of pay-for-performance methodology under this section, subject to clause (ii), shall receive with respect to inpatient or outpatient care that is determined to meet such measures, a Federal supplemental payment increase equal to the amount received under the medicaid program for such care multiplied by the market basket percentage increase for the year (as defined under section 1886(b)(3)(B)(iii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(iii)).

(ii) LIMITATION.—The total amount of all Federal supplemental payments made with respect to cost reporting periods or portions of such periods described in clause (i) shall not exceed the amounts appropriated under this section for fiscal years 2007 and 2008.

(B) FISCAL YEARS 2009 AND 2010.—

(i) IN GENERAL.—For cost reporting periods or portions of such periods occurring during fiscal year 2009 or 2010, hospitals shall receive supplemental Federal payments reflecting measures of quality and performance and a pay-for-performance methodology developed by the Secretary in consultation with the entities described in subsection (b). Such methodology shall recognize clinical measures, patient satisfaction and adoption of information technology.

(ii) LIMITATION.—The total amount of all Federal supplemental payments made for cost reporting periods or portions of such periods described in clause (i) shall not exceed the amounts appropriated under this section for fiscal years 2009 and 2010.

(2) STATE MAINTENANCE OF EFFORT.—With respect to the periods for payment of the Federal supplemental payments established under paragraph (1), in no case shall a State—

(A) pay a participating hospital less for services for children eligible for medical assistance under the medicaid program than the hospital was paid with respect to the most recent cost reporting period ending before the date of enactment of this Act; or

(B) not provide an eligible children's hospital participating in the program established under this section (determined on a facility-specific basis) with the same increase in payment that the State may provide to any other hospital participating in the State medicaid program, including any State-owned or operated hospital or any hospital operated by a State university system.

(f) APPROPRIATIONS.—

(1) IN GENERAL.—Out of funds in the Treasury not otherwise appropriated, there are appropriated for making payments under this section—

(A) for fiscal year 2007, $80,000,000;

(B) for fiscal year 2008, $100,000,000; and

(C) for each of fiscal years 2009 and 2010, $120,000,000.

(2) CARRYOVER.—Any amount appropriated under paragraph (1) with respect to a fiscal year that remains unobligated as of the end of that fiscal year, shall remain available for obligation during the succeeding fiscal year, in addition to the amount appropriated under that paragraph for such succeeding fiscal year.

(g) EVALUATION AND REPORT.—Not later than September 1, 2010, the Secretary shall report to Congress on the program established under this section. In providing such a report, the Secretary shall—

(1) conduct an independent evaluation;

(2) consult with States, eligible children's hospitals participating in the program, the National Association of Children's Hospitals and Related Institutions, and other national pediatric organizations and individuals with expertise in pediatric measures of quality and performance;

(3) include a detailed description of the measures and payment enhancements used in determining and rewarding performance under the program;

(4) assess the impact of rewarding performance through the Federal supplemental payments provided under the program, including with respect to any improvements and innovations in the delivery of children's hospital care and children's access to appropriate care;

(5) assess how State hospital payment methodologies under the medicaid program, including hospital and physician payments and coverage, affect the capacity of the medicaid program to reward performance; and

(6) include recommendations to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives regarding the implementation and design of the performance-based payments made under the program, whether to continue such program, and potential alternative approaches to making performance-based payments to such hospitals.

SEC. 302. INCLUSION OF CHILDREN'S HOSPITALS AS COVERED ENTITIES FOR PURPOSES OF LIMITATION OF PURCHASED DRUG PRICE.

(a) IN GENERAL.—Section 340B(a)(4) of the Public Health Services Act (42 U.S.C. 256b(a)(4)) is amended by adding at the end the following new subparagraph:

''(M) A children's hospital described in section 1886(d)(1)(B)(iii) of the Social Security Act which meets the requirements of clauses (i) and (iii) of subparagraph (L) and which would meet the requirements of clause (ii) of such subparagraph if that clause were applied by taking into account the percentage of care provided by the hospital to patients eligible for medical assistance under the medicaid program.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs purchased on or after the date of enactment of this Act.

Mrs. LINCOLN. Mr. President, I am pleased to join my colleague Senator MIKE DEWINE to introduce ''The ABCs for Children's Health Act of 2005,'' which seeks to expand access to quality health care for all children who are

eligible for Medicaid. The bill also ensures that children get the best health care at the right time.

Medicaid is the single largest insurer for children. Twenty-five million children in America, one out of every four, depend on Medicaid for their health care coverage. In Arkansas, more than half of the births are financed by Medicaid. Over half of the children in Arkansas are on Medicaid or received Medicaid services in the last year. Medicaid covers half of the care, on average, that children's hospitals provide. As a result, the availability and quality of health care for all children relies greatly on Medicaid.

As a result of progress in children's Medicaid coverage and the enactment of the State Children's Health Insurance Program, Congress has achieved an essential health care safety net for lower income children and children with special health care needs. Medicaid has saved millions of children from being uninsured when parents are faced with hard times and it has come to the aid of working families when children have exceptional medical costs. I believe that we must continue to build on that progress.

The ABCs for Children's Health Act of 2005 encourages States to provide care for more children under Medicaid. It also helps states to ensure that all eligible children are enrolled and that they get the high quality care they need. The bill would provide the same investments in quality and performance in children's health care service's that are being made in Medicare. National quality and performance measures for children are far behind those for adults.

I encourage my colleagues to join us as supporters of this important legislation to ensure that children get the quality health care they need to grow and prosper. Our Nation's children deserve the best health care we can offer. And this is a step in the right direction.

By Mr. SARBANES:

S. 1564. A bill to provide for the disposition of the Federal property located in Anne Arundel County, Maryland, a portion of which is currently used by the District of Columbia as the Oak Hill juvenile detention facility; to the Committee on Homeland Security and Governmental Affairs.

Mr. SARBANES. Mr. President, today I am introducing legislation to facilitate the orderly disposition of an 800 acre parcel of Federal property located in Laurel, Maryland, a portion of which is currently used by the District of Columbia as the Oak Hills Juvenile Detention and Commitment Center. The legislation is a companion to a measure which has been introduced in the House by Representative BENJAMIN CARDIN.

The Oak Hill Youth Center, located adjacent to the National Security Agency and the Baltimore-Washington parkway, is a detention facility for juvenile offenders from the District of Columbia between the ages of 12 and 21. It has been plagued by facility and management problems for many years. The buildings at the center are in deplorable condition and fail to meet health and safety standards. Overcrowding, mismanagement, escapes, drug use and abuse of detainees at the center have been the subject of numerous investigations, press reports and lawsuits over the years, and are of great concern to juvenile justice advocates, families of detainees and local residents, alike. Nearly two decades ago, a consent decree stemming from the lawsuit Jerry M. v. District of Columbia, required the District to make improvements at the facility and address the chronic neglect of its adolescent detainees. Since the decree, ''sixty judicial orders, 44 monitoring reports and almost $3 million in court imposed fines'' have been issued in connection with the District's Youth Services Administration failure to fully comply with the decree, according to a July 2001 article in the Washington Post. Last year a report issued by the District's Inspector General's office found that, ''many of the same types of problems that resulted in the 1986 Jerry M. lawsuit still exist today . . .'' The report documented numerous security problems, health issues, deficiencies in management, failures to effectively maintain the safety of female youth housed at the center, and drugs being smuggled into the facility on a continual basis.

There is a consensus that the Oak Hill Youth Center should be shutdown. A Blue Ribbon Commission on Youth Safety and Juvenile Justice Reform, established by Mayor Williams in August 2000, recommended in its final 2001 report that the Oak Hill Juvenile Detention center be closed and demolished. The Justice for DC Youth coalition, whose members include parents and juvenile justice advocates, has adamantly supported closing the existing Oak Hill facility and replacing it with a smaller, more homelike facility that is closer to the youth's homes.

This measure seeks to ensure the closure of the facility and the orderly disposition of the property, while addressing the concerns of Anne Arundel County, the NSA, the District of Columbia and all surrounding neighborhoods and residences. Above all, it would serve the youth currently being held at the facility by helping to place them in an environment that is more suitable for successful rehabilitation. I hope this measure can be acted upon quickly by the Congress and ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1564

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

SECTION 1. DISPOSITION OF OAK HILL PROPERTY.

(a) IN GENERAL.—The Oak Hill property shall be disposed of as follows:

(1) The portion of the property which is located west of the Baltimore-Washington Parkway shall be transferred to the jurisdiction of the Director of the National Park Service, who shall use such portion for parkland purposes.

(2) Subject to subsection (b), the portion of the property which is located east of the Baltimore-Washington Parkway and 200 feet and further north of the Patuxent River shall be transferred to the Secretary of the Army (acting through the Chief of Engineers) for use by the Director of the National Security Agency, who may lease such portion to the District of Columbia.

(3) The portion of the property which is located east of the Baltimore-Washington Parkway and south of the portion described in paragraph (2) shall be transferred to the jurisdiction of the Administrator of General Services, who shall in turn convey such portion to Anne Arundel County, Maryland, in accordance with subsection (c).

(b) PAYMENT FOR CONSTRUCTION OF NEW JUVENILE DETENTION FACILITY FOR DISTRICT OF COLUMBIA.—As a condition of the transfer under subsection (a)(2), the Director of the National Security Agency shall enter into an agreement with the Mayor of the District of Columbia under which—

(1) the juvenile detention facility for the District of Columbia currently located on the Oak Hill property shall be closed; and

(2) subject to appropriations, the Agency shall pay for the construction of a replacement facility at a site to be determined, with priority given to a location within the District of Columbia.

(c) CONVEYANCE OF PORTION OF PROPERTY TO ANNE ARUNDEL COUNTY.—

(1) IN GENERAL.—The Administrator of General Services shall convey, without consideration, to Anne Arundel County, Maryland, all right, title, and interest of the United States in and to that portion of the Oak Hill property referred to in subsection (a)(3).

(2) TERMS AND CONDITIONS OF CONVEYANCE.—The conveyance under paragraph (1) shall be carried out under such terms and conditions as may be agreed to by the Administrator and Anne Arundel County, except that, as a condition of the conveyance—

(A) Anne Arundel County shall agree to dedicate a portion of the property which is adjacent to the Patuxent River to parkland and recreational use; and

(B) Anne Arundel County shall agree to reimburse the National Security Agency for the amounts paid by the Agency under subsection (b) for the construction of a new juvenile detention facility for the District of Columbia, but only if the County makes 25 percent or more of the property conveyed under this subsection available for purposes other than open space or recreational use.

SEC. 2. OAK HILL PROPERTY DEFINED.

In this Act, the term ''Oak Hill property'' means the Federal property consisting of approximately 800 acres near Laurel, Maryland, a portion of which is currently used by the District of Columbia as a juvenile detention facility, and which is shown on Map Number 20 in the records of the Department of Assessments and Taxation, Tax Map Division, of Anne Arundel County.

By Mr. LEVIN (for himself, Mr. COLEMAN, and Mr. OBAMA):

S. 1565. A bill to restrict the use of abusive tax shelters and offshore tax havens to inappropriately avoid Federal taxation, and for other purposes; to the Committee on Finance.

Mr. LEVIN. Mr. President, tax shelter and tax haven abuses are undermining the integrity of our tax system, robbing the Treasury of tens of billions of dollars each year, and shifting the tax burden from high income individuals and businesses onto the backs of middle income families. These abuses account for a significant portion of the more than $300 billion in taxes owed by individuals, businesses, and organizations that goes unpaid each year. As a matter of fairness, these abuses must be stopped. Today, I am introducing, with Senator NORM COLEMAN, a comprehensive tax reform bill called the Tax Shelter and Tax Haven Reform Act of 2005 that can help put an end to these abuses. Senator BARACK OBAMA is also an original cosponsor.

The Permanent Subcommittee on Investigations, on which I serve with Senator COLEMAN, has worked for years to expose and combat abusive tax shelters and tax havens. In the previous Congress, we introduced legislation confronting these twin threats to U.S. tax compliance; today's bill reflects not only the Subcommittee's additional investigative work but also innovative ideas to stop unethical tax advisers and tax havens from aiding and abetting U.S. tax evasion.

Abusive tax shelters are very different from legitimate tax shelters, such as deducting the interest paid on your home mortgage or Congressionally approved tax deductions for building affordable housing. Abusive tax shelters are complicated transactions promoted to provide large tax benefits unintended by the tax code. Abusive tax shelters are marked by one characteristic: there is no real economic or business rationale other than tax avoidance. As Judge Learned Hand wrote in Gregory v. Helvering, they are ''entered upon for no other motive but to escape taxation.''

Likewise, a tax haven is simply a country or jurisdiction that imposes little or no tax on income and offers non-residents the ability to escape taxes in their home country. The abuse of tax havens occurs when income is attributed to that country, even though little or no business activity actually occurs there. Tax havens are also characterized by corporate, bank, and tax secrecy laws that make it difficult for other countries to find out whether their citizens are using the tax haven to cheat on their taxes.

Today's tax dodges are often tough to prosecute. Crimes such as terrorism, murder, and fraud produce instant recognition of the immorality involved. Abusive tax shelters and tax havens, by contrast, are often ''MEGOs,'' meaning ''My Eyes Glaze Over.'' Those who cook up these concoctions count on their complexity to escape scrutiny and public ire. But regardless of how complicated or eye-glazing, the hawking of abusive tax shelters by tax professionals like accountants, bankers, investment advisers, and lawyers to thousands of people like late-night, cut-rate T.V. bargains is scandalous and has got to stop. Hiding tax schemes through offshore companies and bank accounts in tax havens with secrecy laws also needs to be attacked with the full force of the law.

Today, I would like to take a few minutes to try to cut through the haze of these schemes to see them for what they really are and explain what our bill would do to stop them. First, I will look at our investigation into abusive tax shelters and discuss the provisions we have included in this bill to combat them. Then, I will turn to tax haven abuses and our proposed remedies.

For three years, the Permanent Subcommittee on Investigations has been conducting an investigation into the design, sale, and implementation of abusive tax shelters. While I initiated this investigation when I was Chairman of our Subcommittee in 2002, it has since had the support of our new Chairman, Senator COLEMAN.

In November 2003, our Subcommittee held two days of hearings and released a report prepared by my staff that pulled back the curtain on how even some respected accounting firms, banks, investment advisors, and law firms had become the engines pushing the design and sale of abusive tax shelters to corporations and individuals across this country. In February 2005, the Subcommittee issued a report that provided further details on the role these professional firms played in the proliferation of these abusive shelters. Our Subcommittee report was endorsed by the full Committee on Homeland Security and Governmental Affairs in April.

The Subcommittee investigation found that many abusive tax shelters were not dreamed up by the taxpayers who used them. Instead, most were devised by tax professionals, such as accountants, bankers, investment advisors, and lawyers, who then sold the tax shelter to clients for a fee. In fact, as our investigation widened, we found hordes of tax advisors cooking up one complex scheme after another, packaging them up as generic ''tax products'' with boiler-plate legal and tax opinion letters, and then undertaking elaborate marketing schemes to peddle these products to literally thousands of persons across the country. In return, these tax shelter promoters were getting hundreds of millions of dollars in fees, while diverting billions of dollars in tax revenues from the U.S. Treasury each year.

For example, one shelter investigated by the Subcommittee and featured in the November 2003 Subcommittee hearings has since become part of an IRS effort to settle cases involving a set of abusive tax shelters known as ''Son of Boss.'' To date, more than 1,200 taxpayers have admitted wrongdoing and agreed to pay back taxes, interest and penalties totaling more than $3.7 billion. That's billions of dollars the IRS has collected on just one type of tax shelter, demonstrating both the depth of the problem and the potential for progress.

The Tax Shelter and Tax Haven Reform Act of 2005 that we are introducing today contains a number of measures to curb abusive tax shelters. The bill strengthens the penalties on promoters of abusive tax shelters. It codifies and strengthens the economic substance doctrine, which eliminates tax benefits for transactions that have no real business purpose apart from avoiding taxes. The bill deters banks' participation in abusive tax shelter activities by requiring regulators to develop new examination procedures to detect and stop such activities. It ends outdated communication barriers between key enforcement agencies to allow the exchange of information relating to tax evasion cases.

The bill also requires the Treasury Department to issue tougher standards for tax shelter opinion letters. It increases incentives for whistleblowers to report tax evasion to the IRS. The bill also provides for increased disclosure of tax shelter information to Congress. It simplifies and clarifies an existing prohibition on accountants being paid contingent fees which increase as phony tax losses increase. And it expresses the sense of the Senate that the IRS needs more funding to combat tax shelter abuses.

Let me be more specific about these key provisions to curb abusive tax shelters.

Title I of the bill strengthens two very important penalties that the IRS can use in its fight against the professionals who make these complex abusive shelters possible. A year ago, the penalty for promoting an abusive tax shelter, as set forth in Section 6700 of the tax code, was the lesser of $1,000 or 100 percent of the promoter's gross income derived from the prohibited activity. That meant in most cases the maximum fine was just $1,000.

Many abusive tax shelters sell for $100,000 or $250,000 apiece. Our investigation uncovered some tax shelters that were sold for as much as $2 million or even $5 million apiece, as well as instances in which the same cookie-cutter tax opinion letter was sold to 100 or even 200 clients. There are big bucks to be made in this business, and a $1,000 fine is laughable.

The Senate acknowledged that last year when it adopted the Levin-Coleman amendment to the JOBS Act, S. 1637, raising the Section 6700 penalty on abusive tax shelter promoters to 100 pefcent of the fees earned by the promoter from the abusive shelter. A 100 percent penalty would have ensured that the abusive tax shelter hucksters would not get to keep a single penny of their ill-gotten gains. That figure, however, was cut in half in the conference report, setting the penalty at 50 percent of the fees earned and allowing the promoters of abusive shelters get to keep half of their illicit profits.

While 50 percent is an obvious improvement over $1000, this penalty still

is inadequate and makes no sense. Why should anyone who pushes an illegal tax shelter that robs our Treasury of much needed revenues get to keep half of his ill-gotten gains? What deterrent effect is created by a penalty that allows promoters to keep half of their fees if caught, and of course, all of their fees if they are not caught? Tax shelter promoters ought to face a penalty that is at least as harsh as the penalty imposed on the person who purchased their tax product, not only because the promoter is usually as culpable as the taxpayer, but also so promoters think twice about pushing abusive tax schemes.

Effective penalties should make sure that the peddler of an abusive tax shelter is deprived of every penny of profit earned from selling or implementing the shelter and then is fined on top of that. Specifically, Section 101 of this bill would increase the penalty on tax shelter promoters to an amount up to the greater of either 150 percent of the promoters' gross income from the prohibited activity, or the amount assessed against the taxpayer—including back-taxes, interest and penalties.

A second penalty provision in the bill addresses what our investigation found to be one of the biggest problems: the knowing assistance of accounting firms, law firms, banks, and others to help taxpayers understate their taxes. In addition to those who meet the definition of ''promoters'' of abusive shelters, there are professional firms that aid and abet the use of abusive tax shelters and enable taxpayers to carry out the abusive tax schemes. For example, law firms are often asked to write ''opinion letters'' to help taxpayers head off IRS questioning and fines that they might otherwise confront for using an abusive shelter. Currently, under Section 6701 of the tax code, these aiders and abettors face a maximum penalty of only $1,000, or $10,000 if the offender is a corporation. This penalty, too, is a joke. When law firms are getting $50,000 for each of these cookie-cutter opinion letters, it provides no deterrent whatsoever. A $1,000 fine is like a jaywalking ticket for robbing a bank.

Section 102 of the bill would strengthen Section 6701 significantly, subjecting aiders and abettors to a maximum fine up to the greater of either 150 percent of the aider and abettor's gross income from the prohibited activity, or the amount assessed against the taxpayer for using the abusive shelter. This penalty would apply to all aiders and abettors not just tax return preparers.

Again, the Senate has recognized the need to toughen this critical penalty. In last year's JOBS Act, Senator COLEMAN and I successfully increased this fine to 100 percent of the gross income derived from the prohibited activity. Unfortunately, the conference report completely omitted this change, allowing aiders and abettors to continue to profit without penalty from their wrongdoing.

If further justification for toughening these penalties is needed, one document uncovered by our investigation shows the cold calculation engaged in by a tax advisor facing low fines. A senior tax professional at accounting giant KPMG compared possible tax shelter fees with possible tax shelter penalties if the firm were caught promoting an illegal tax shelter. This senior tax professional wrote the following: ''[O]ur average deal would result in KPMG fees of $360,000 with a maximum penalty exposure of only $31,000.'' He then recommended the obvious: going forward with sales of the abusive tax shelter on a cost-benefit basis.

Title III of the bill would strengthen legal prohibitions against abusive tax shelters by codifying in Federal tax statutes for the first time what is known as the economic substance doctrine. This anti-tax abuse doctrine was fashioned by federal courts evaluating transactions that appeared to have little or no business purpose or economic substance apart from tax avoidance. It has become a powerful analytical tool used by courts to invalidate abusive tax shelters. At the same time, because there is no statute underlying this doctrine and the courts have developed and applied it differently in different judicial districts, the existing case law has many ambiguities and conflicting interpretations.

Under the leadership of Senators GRASSLEY and BAUCUS, the Chairman and Ranking Member of the Finance Committee, the Senate has voted on multiple occasions to enact this economic substance provision, but the House conferees have rejected it each time. Since no tax shelter legislation would be complete without addressing this issue, Title III of this comprehensive bill proposes once more to include the economic substance doctrine in the tax code. I hope that with continued pressure, it will become law in this Congress.

The bill will also help fight abusive tax shelters that are disguised as complex investment opportunities and use financing or securities transactions provided by financial institutions. In reality, tax shelter schemes lack the economic risks and rewards associated with a true investment. These phony transactions instead often rely on the temporary use of significant amounts of money in low risk schemes mischaracterized as real investments. The financing or securities transactions called for by these schemes are often supplied by a bank, securities firm, or other financial institution.

Currently the tax code prohibits financial institutions from providing products or services that aid or abet tax evasion or that promote or implement abusive tax shelters. The agencies that oversee these financial institutions on a daily basis, however, are experts in banking and securities law and generally lack the expertise to spot tax issues. Section 202 would crack down on financial institutions' illegal tax shelter activities by requiring federal bank regulators and the SEC to work with the IRS to develop examination techniques to detect such abusive activities and put an end to them.

These examination techniques would be used at least every 2 years, preferably in combination with routine regulatory examinations, and the regulators would report potential violations to the IRS. The agencies would also be required to prepare joint reports to Congress in 2007 and 2010 on preventing the participation of financial institutions in tax evasion or tax shelter activities.

During hearings before the Permanent Subcommittee on Investigations on tax shelters in November 2003, IRS Commissioner Mark Everson testified that his agency was barred by Section 6103 of the tax code from communicating information to other federal agencies that would assist those agencies in their law enforcement duties. He pointed out that the IRS was barred from providing tax return information to the SEC, federal bank regulators, and the Public Company Accounting Oversight Board (PCAOB)—even, for example, when that information might assist the SEC in evaluating whether an abusive tax shelter resulted in deceptive accounting in a public company's financial statements, might help the Federal Reserve determine whether a bank selling tax products to its clients had violated the law against promoting abusive tax shelters, or help the PCAOB judge whether an accounting firm had impaired its independence by selling tax shelters to its audit clients.

A recent example demonstrates how ill-conceived these information barriers are. A few months ago the IRS offered a settlement initiative to companies and corporate executives who participated in an abusive tax shelter involving the transfer of stock options to family-controlled entities. Over a hundred corporations and executives responded with admissions of wrongdoing. In addition to tax violations, their misconduct may be linked to securities law violations and improprieties by corporate auditors or banks, but the IRS has informed the Subcommittee that it is currently barred by law from sharing the names of the wrongdoers with the SEC, banking regulators, or PCAOB.

These communication barriers are outdated, inefficient, and ill-suited to stopping the torrent of tax shelter abuses now affecting or being promoted by so many public companies, banks, and accounting firms. To address this problem, Section 203 of this bill would authorize the Treasury Secretary, with appropriate privacy safeguards, to disclose to the SEC, Federal banking agencies, and the PCAOB, upon request, tax return information related to abusive tax shelters, inappropriate tax avoidance, or tax evasion. The

agencies could then use this information only for law enforcement purposes, such as preventing accounting firms or banks from promoting abusive tax shelters, or detecting accounting fraud in the financial statements of public companies.

Another finding of the Subcommittee investigation is that some tax practitioners are circumventing current State and Federal constraints on charging tax service fees that are dependent on the amount of promised tax benefits. Traditionally, accounting firms charged flat fees or hourly fees for their tax services. In the 1990s, however, they began charging ''value added'' fees based on, in the words of one accounting firm's manual, ''the value of the services provided, as opposed to the time required to perform the services.'' In addition, some firms began charging ''contingent fees'' that were calculated according to the size of the paper ''loss'' that could be produced for a client and used to offset the client's other taxable income—the greater the so-called loss, the greater the fee.

In response, many States prohibited accounting firms from charging contingent fees for tax work to avoid creating incentives for these firms to devise ways to shelter substantial sums. The SEC and the American Institute of Certified Public Accountants also issued rules restricting contingent fees, allowing them in only limited circumstances. Recently, the Public Company Accounting Oversight Board sent the SEC for approval a similar rule prohibiting public accounting firms from charging contingent fees for tax services provided to the public companies they audit. Each of these Federal, State, and professional ethics rules seeks to limit the use of contingent fees under certain, limited circumstances.

The Subcommittee investigation found that tax shelter fees, which are typically substantial and sometimes exceed $1 million, are often linked to the amount of a taxpayer's projected paper losses which can be used to shelter income from taxation. For example, in three tax shelters examined by the Subcommittee, documents show that the fees were equal to a percentage of the paper loss to be generated by the transaction. In one case, the fees were typically set at 7 percent of the transaction's generated ''tax loss'' that clients could use to reduce other taxable income. In other words, the greater the loss that could be concocted for the taxpayer or ''investor,'' the greater the profit for the tax promoter. Think about that—greater the loss, the greater the profit. How's that for turning capitalism on its head!

In addition, evidence indicated that, in at least one instance, a tax advisor was willing to deliberately manipulate the way it handled certain tax products to circumvent contingent fee prohibitions. An internal document at an accounting firm related to a specific tax shelter, for example, identified the States that prohibited contingent fees. Then, rather than prohibit the tax shelter transactions in those States or require an alternative fee structure, the memorandum directed the firm's tax professionals to make sure the engagement letter was signed, the engagement was managed, and the bulk of services was performed ''in a jurisdiction that does not prohibit contingency fees.''

Right now, the prohibitions on contingent fees are complex and must be evaluated in the context of a patchwork of Federal, State, and professional ethics rules. Section 201 of the bill would establish a single enforceable rule, applicable nationwide, that would prohibit tax practitioners from charging fees calculated according to a projected or actual amount of tax savings or paper losses.

Past laws, such as the Whistleblower Protection Act and qui tam lawsuits under the False Claims Act, demonstrate that individuals with inside information can help expose serious misconduct that the U.S. government might otherwise miss. The tax arena is no different. Persons with inside information can help expose millions of dollars in tax fraud if they are willing to step forward and tell the IRS what they know about specific instances of misconduct.

Under current law, potential whistleblowers with inside information about tax misconduct do not have an established IRS office that is sensitive to their concerns, provides consistent treatment, and oversees the calculation and payment of monetary rewards for important information. Section 206 of this bill, which is very similar to a provision developed by the Senate Finance Committee, would, among other measures, establish a Whistleblowers Office within the IRS, codify standards for the payment of monetary rewards, and exempt whistleblower monetary payments from the alternative minimum tax.

Each of these measures is intended to increase incentives for persons to blow the whistle on tax misconduct. The one key difference between our bill and the Finance Committee provision is that we would continue to give the IRS the discretion to determine the amount of money paid to an individual whistleblower; our bill would not enable whistleblowers to appeal to a court to obtain additional sums. The fact-specific analysis that goes into evaluating a whistleblower's assistance and calculating a reward makes court review inadvisable. The existence of an appeal also invites litigation and necessitates the expenditure of taxpayer dollars—not for tax enforcement but for a court dispute. The new Whistleblowers Office is intended to promote the consistent, equitable treatment of persons who report tax misconduct, without also inviting expensive and time-consuming litigation.

Section 205 of the bill would direct the Treasury Department to issue new standards for tax practitioners issuing opinion letters on the tax implications of potential tax shelters as part of Circular 230. The public has traditionally relied on tax opinion letters to obtain informed and trustworthy advice about whether a tax-motivated transaction meets the requirements of the law. The Permanent Subcommittee on Investigations has found that, in too many cases, tax opinion letters no longer contain disinterested and reliable tax advice, even when issued by supposedly reputable accounting or law firms.

Instead, some tax opinion letters have become marketing tools used by tax shelter promoters and their allies to sell clients on their latest tax products. In many of these cases, financial interests and biases were concealed, unreasonable factual assumptions were used to justify dubious legal conclusions, and taxpayers were misled about the risk that the proposed transaction would later be designated an illegal tax shelter. Reforms are essential to address these abuses and restore the integrity of tax opinion letters.

The Treasury Department recently adopted standards that address a number of the abuses affecting tax shelter opinion letters; however, the standards do not take all the steps needed. Our bill would require Treasury to issue standards addressing a wider spectrum of tax shelter opinion letter problems, including: preventing concealed collaboration among supposedly independent letter writers; avoiding conflicts of interest that would impair auditor independence; ensuring appropriate fee charges; preventing practitioners and firms from aiding and abetting the understatement of tax liability by clients; and banning the promotion of potentially abusive tax shelters. By addressing each of these areas, a beefed-up Circular 230 could help reduce the ongoing abusive practices related to tax shelter opinion letters.

The bill would also provide for increased disclosure of tax shelter information to Congress. Section 204 would make it clear that companies providing tax return preparation services to taxpayers cannot refuse to comply with a Congressional document subpoena by citing Section 7216, a consumer protection provision that prohibits tax return preparers from disclosing taxpayer information to third parties. Several accounting and law firms raised this claim in response to document subpoenas issued by the Permanent Subcommittee on Investigations, contending they were barred by the nondisclosure provision in Section 7216 from producing documents related to the sale of abusive tax shelters to clients for a fee.

The accounting and law firms maintained this position despite an analysis provided by the Senate legal counsel showing that the nondisclosure provision was never intended to create a privilege or to override a Senate subpoena, as demonstrated in federal regulations interpreting the provision. This

bill would codify the existing regulations interpreting Section 7216 and make it clear that Congressional document subpoenas must be honored.

Section 204 would also ensure Congress has access to information about decisions by Treasury related to an organization's tax exempt status. A 2003 decision by the D.C. Circuit Court of Appeals, Tax Analysts v. IRS, struck down certain IRS regulations and held that the IRS must disclose letters denying or revoking an organization's tax exempt status. The IRS has been reluctant to disclose such information, not only to the public, but also to Congress, including in response to requests by the Permanent Subcommittee on Investigations.

For example, earlier this year the IRS revoked the tax exempt status of four credit counseling firms, and, despite the Tax Analysts case, claimed that it could not disclose to the Subcommittee the names of the four firms or the reasons for revoking their tax exemption. Our bill would make it clear that, upon receipt of a request from a Congressional committee or subcommittee, the IRS must disclose documents, other than a tax return, related to the agency's determination to grant, deny, revoke or restore an organization's exemption from taxation.

Section 208 of the bill would establish that it is the sense of the Senate that additional funds should be appropriated for IRS enforcement, and that the IRS should devote proportionately more of its enforcement funds to combat rampant tax shelter and tax haven abuses. Specifically, the bill would direct increased funding toward enforcement efforts combating the promotion of abusive tax shelters and the aiding and abetting of tax evasion; the involvement of accounting, law and financial firms in such promotion and aiding and abetting; and the use of offshore financial accounts to conceal taxable income.

Tax enforcement is an area where a relatively small increase in spending pays for itself many times over. If we would hire adequate enforcement personnel, close the tax loopholes, and put an end to tax dodges, tens of billions in revenues that should support this country would actually reach the Treasury.

In addition to abusive tax shelters, the bill addresses the abusive tax havens that help taxpayers dodge their U.S. tax obligations through using corporate, bank, and tax secrecy laws that impede U.S. tax enforcement. The London-based Tax Justice Network recently estimated that wealthy individuals worldwide have stashed $11.5 trillion of their assets in tax havens. At one Subcommittee hearing in 2001, a former owner of an offshore bank in the Cayman Islands testified that he believed 100 percent of his former clients were engaged in tax evasion. He said that almost all were from the United States and would take elaborate measures to avoid IRS detection of their money transfers. He also expressed confidence that the government that licensed his bank would vigorously defend client secrecy in order to continue attracting business to the islands.

Corporations are also using tax havens to reduce their U.S. tax liability. A GAO report I released with Senator DORGAN last year found that nearly two-thirds of the top 100 companies doing business with the United States government now have one or more subsidiaries in a tax haven. One company, Tyco International, had 115.

Data released by the Commerce Department further demonstrates the extent of U.S. corporate use of tax havens, indicating that, as of 2001, almost half of all foreign profits of U.S. corporations were in tax havens. A study released by the journal Tax Notes in September 2004 found that American companies were able to shift $149 billion of profits to 18 tax haven countries in 2002, up 68 percent from $88 billion in 1999. Estimates show that funneling these profits from the U.S. to tax havens deprives the U.S. Treasury of anywhere from $10 billion to $20 billion in lost tax revenue each year.

Here's just one simplified example of the gimmicks being used by corporations to transfer taxable income from the United States to tax havens to escape taxation. Suppose a profitable U.S. corporation establishes a shell corporation in a tax haven. The shell corporation has no office or employees, just a mailbox address. The U.S. parent transfers a valuable patent to the shell corporation. Then, the U.S. parent and all of its subsidiaries begin to pay a hefty fee to the shell corporation for use of the patent, shifting taxable income out of the United States to the shell corporation. The shell corporation declares a portion of the fees as profit, but pays no tax since it is a tax haven resident. The icing on the cake is that the shell corporation can then ''lend'' the income it has accumulated from the fees back to the U.S. companies for their use. The companies, in turn, pay ''interest'' on the ''loans'' to the shell corporation, shifting still more taxable income out of the United States to the tax haven. This example highlights just a few of the tax haven ploys being used by some U.S. corporations to escape paying their fair share of taxes here at home.

Sections 401 and 402 of our bill tackle the issue of tax havens by removing U.S. tax benefits associated with jurisdictions that fail to cooperate with U.S. tax enforcement efforts. Dozens of jurisdictions around the world have enacted corporate, bank, and tax secrecy laws that, in too many cases, have been used to justify failing to provide timely information to U.S. officials investigating tax misconduct. Some tax havens have refused to provide timely information about persons suspected of either hiding funds in the jurisdiction's offshore bank accounts or using offshore corporations and deceptive transactions to disguise their income or create phony losses to shelter their U.S. income from taxation.

Section 401 of the bill would give the Treasury Secretary the discretion to designate such an offshore tax haven as ''uncooperative'' and to publish an annual list of these uncooperative tax havens. We intend that the Treasury Secretary will develop this list by evaluating the actual record of cooperation experienced by the United States in its dealings with specific jurisdictions around the world. While many offshore tax havens have signed treaties with the United States promising to cooperate with U.S. civil and criminal tax enforcement, the level of resulting cooperation varies. For example, after one country signed a tax treaty with the United States, the government that led the effort was voted out of office by treaty opponents. Treasury needs a way to ensure that tax treaty obligations are met and to send a message to jurisdictions that impede U.S. tax enforcement. This bill gives Treasury the tools it needs to get the cooperation it needs.

Under Sections 401 and 402 of the bill, persons doing business in tax havens designated by Treasury as uncooperative would be denied U.S. tax benefits and incur increased disclosure requirements. First, the bill would disallow the tax benefits of deferral and foreign tax credits for income attributed to an uncooperative tax haven. Second, taxpayers would be required to provide greater disclosure of their activities, including disclosing on their returns any payment above $10,000 to a person or account located in a designated haven. These restrictions would not only deter U.S. taxpayers from doing business with uncooperative tax havens, they would also provide the United States with powerful weapons to convince tax havens to cooperate fully with U.S. tax enforcement efforts and help end offshore tax evasion abuses.

Sections 403 and 404 further address offshore tax evasion. Section 403 would toughen penalties on eligible taxpayers who did not participate in Treasury programs designed to encourage voluntary disclosure of previously unreported income placed by the taxpayer in offshore accounts and accessed by credit card or other financial arrangements. Section 404 would authorize Treasury to promulgate regulations to stop ongoing foreign tax credit abuses in which, among other schemes, taxpayers claim credit on their U.S. tax returns for paying foreign taxes, but then fail to report the income related to those foreign taxes. Under the leadership of Senators GRASSLEY and BAUCUS, both Sections 403 and 404 passed the Senate earlier this year as part of the Highway Bill, H.R. 3, but were dropped in conference.

The eyes of some people may glaze over when tax shelters and tax havens are discussed, but unscrupulous taxpayers and tax professionals see illicit

dollar signs. Our commitment to crack down on their tax abuses must be as strong as their determination to get away with ripping off America and American taxpayers.

Our bill provides our government the tools to end the use of abusive tax shelters and uncooperative tax havens and to punish the powerful professionals who push them.

It's long past time for Congress to act to end the shifting of a disproportionate tax burden onto the shoulders of honest Americans.

I ask unanimous consent that a summary of the bill's provisions and the text of the bill be printed in the RECORD.

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

SUMMARY OF TAX SHELTER AND TAX HAVEN REFORM ACT OF 2005

TITLE I—STRENGTHENING TAX SHELTER PENALTIES

Strengthens the penalties for: promoting abusive tax shelters; and knowingly aiding or abetting a taxpayer in understating tax liability.

TITLE II—PREVENTING ABUSIVE TAX SHELTER TRANSACTIONS

PROHIBIT TAX SERVICE FEES DEPENDANT UPON SPECIFIC TAX SAVINGS

Prohibits charging a fee for tax services in an amount that is calculated according to or dependant upon a projected or actual amount of tax savings or losses offsetting taxable income. Builds on contingent fee prohibitions in more than 20 states, AICPA rules applicable to accountants, SEC regulations applicable to auditors of publicly traded corporations, and proposed PCAOB rules for auditors. Based upon investigation by Permanent Subcommittee on Investigations showing tax practitioners are circumventing current constraints.

DETER FINANCIAL INSTITUTION PARTICIPATION IN ABUSIVE TAX SHELTER ACTIVITIES

Requires Federal bank regulators and the SEC to develop examination techniques to detect violations by financial institutions of the prohibition against providing products or services that aid or abet tax evasion or that promote or implement abusive tax shelters. Regulators must use such techniques at least every 2 years in routine or special examinations of specific institutions and report potential violations to the IRS. The agencies must also prepare a joint report to Congress in 2007 and 2010 on preventing the participation of financial institutions in tax evasion or tax shelter activities.

INCREASE DISCLOSURE OF CERTAIN TAX SHELTER INFORMATION

Authorizes Treasury to share certain tax return information with the SEC, Federal bank regulators, or PCAOB, under certain circumstances, to enhance tax shelter enforcement or combat financial accounting fraud. Clarifies Congressional subpoena authority to obtain information (but not a taxpayer return) from tax return preparers. Clarifies Congressional authority to obtain certain tax information (but not a taxpayer return) from Treasury related to an IRS decision to grant, deny, revoke, or restore an organization's tax exempt status.

REQUIRE TOUGHER TAX SHELTER OPINION STANDARDS FOR TAX PRACTITIONERS

Codifies and expands Treasury's authority to beef up Circular 230 standards for tax practitioners providing ''opinion letters'' on specific tax shelter transactions.

INCREASE INCENTIVES FOR IRS WHISTLEBLOWERS

Encourages persons to blow the whistle on tax misconduct by establishing a Whistleblowers Office within the IRS to provide consistent, equitable treatment of persons bringing information to the IRS. Codifies standards for awarding a portion of proceeds collected from actions based on information they bring to the IRS's attention. Modeled on provision passed by the Senate in the Highway Bill. Estimated to raise $407 million over 10 years.

Deny tax deduction for fines, penalties and settlements.

Clarifies that penalties, fines and settlements paid to the government are not deductible. Passed by the Senate in the Highway Bill. Estimated to raise $200 million over 10 years.

''Sense of the Senate'' on IRS Enforcement Priorities

Establishes the Sense of the Senate that additional funds should be appropriated for IRS enforcement, and that the IRS should devote proportionately more of its enforcement funds to combat: (I) the promotion of abusive tax shelters for corporations and high net worth individuals and the aiding or abetting of tax evasion, (2) the involvement of accounting, law and financial firms in such promotion and aiding or abetting, and (3) the use of offshore financial accounts to conceal taxable income.

TITLE III—REQUIRING ECONOMIC SUBSTANCE

Strengthen the Economic Substance Doctrine

Strengthens and codifies the economic substance doctrine to invalidate transactions that have no economic substance or business purpose apart from tax avoidance or evasion. Also increases penalties for understatements attributable to a transaction lacking in economic substance. Passed by the Senate in the Highway Bill. Estimated to raise $15.9 billion over 10 years.

TITLE IV—DETERRING OFFSHORE TAX EVASION

Deter Use of Uncooperative Tax Havens

Deters taxpayer use of uncooperative tax havens with corporate, bank or tax secrecy laws, procedures, or practices that impede U.S. enforcement of its tax laws by: (1) requiring disclosure on taxpayer returns of any payment above $10,000 to accounts or persons located in such tax havens, and (2) ending the tax benefits of deferral and foreign tax credits for any income earned in such tax havens. Gives Treasury Secretary discretion to designate a tax haven as uncooperative and publish an annual list of those jurisdictions. Estimated to raise $87 million over 10 years.

Strengthen Penalties for Concealing Income in Offshore Accounts

Toughens penalties on taxpayers who, despite being eligible, did not participate in Treasury programs to encourage voluntary disclosure of previously unreported income placed by the taxpayer in offshore accounts and accessed through credit card or other financial arrangements. Passed by the Senate in the Highway Bill. Estimated to raise $10 million over 10 years.

Stop Schemes to get Foreign Tax Credit Without Reporting Related Income

Authorizes Treasury to promulgate regulations to address abusive foreign tax credit (FTC) schemes that involve the inappropriate separation or stripping of foreign taxes from the related foreign income so taxpayers get the benefit of the FTC but don't report the related income. The provision becomes effective for transactions entered into after the date of enactment. Passed by the Senate in the Highway Bill. Estimated to raise $16 million over 10 years.

S. 1565

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

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Tax Shelter and Tax Haven Reform Act of 2005''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—STRENGTHENING TAX SHELTER PENALTIES

Sec. 101. Penalty for promoting abusive tax shelters.
Sec. 102. Penalty for aiding and abetting the understatement of tax liability.

TITLE II—PREVENTING ABUSIVE TAX SHELTERS

Sec. 201. Prohibited fee arrangement.
Sec. 202. Preventing tax shelter activities by financial institutions.
Sec. 203. Information sharing for enforcement purposes.
Sec. 204. Disclosure of information to Congress.
Sec. 205. Tax opinion standards for tax practitioners.
Sec. 206. Whistleblower reforms.
Sec. 207. Denial of deduction for certain fines, penalties, and other amounts.
Sec. 208. Sense of the Senate on tax enforcement priorities.

TITLE III—REQUIRING ECONOMIC SUBSTANCE

Sec. 301. Clarification of economic substance doctrine.
Sec. 302. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 303. Denial of deduction for interest on underpayments attributable to noneconomic substance transactions.

TITLE IV—DETERRING UNCOOPERATIVE TAX HAVENS

Sec. 401. Disclosing payments to persons in uncooperative tax havens.
Sec. 402. Deterring uncooperative tax havens by restricting allowable tax benefits.
Sec. 403. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements.
Sec. 404. Treasury regulations on foreign tax credit.

TITLE I—STRENGTHENING TAX SHELTER PENALTIES

SEC. 101. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking ''a penalty'' and all that follows through the period in the first sentence of subsection (a) and inserting ''a penalty determined under subsection (b)'', and

(3) by inserting after subsection (a) the following new subsections:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

''(A) 150 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty, and

''(B) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with such activity.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CONFORMING AMENDMENT.—Section 6700(a) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 102. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting ''the tax liability or'' after ''respect to,'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

''(A) 150 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty, and

''(i) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with the understatement of the liability for tax.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

TITLE II—PREVENTING ABUSIVE TAX SHELTERS

SEC. 201. PROHIBITED FEE ARRANGEMENT.

(a) IN GENERAL.—Section 6701, as amended by this Act, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively,

(2) by striking ''subsection (a).'' in paragraphs (2) and (3) of subsection (g) (as redesignated by paragraph (1)) and inserting ''subsection (a) or (f).'', and

(3) by inserting after subsection (e) the following new subsection:

''(f) PROHIBITED FEE ARRANGEMENT.—

''(1) IN GENERAL.—Any person who makes an agreement for, charges, or collects a fee which is for services provided in connection with the internal revenue laws, and the amount of which is calculated according to, or is dependent upon, a projected or actual amount of—

''(A) tax savings or benefits, or

''(B) losses which can be used to offset other taxable income,

shall pay a penalty with respect to each such fee activity in the amount determined under subsection (b).

''(2) RULES.—The Secretary may issue rules to carry out the purposes of this subsection and may provide exceptions for fee arrangements that are in the public interest.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fee agreements, charges, and collections made after the date of the enactment of this Act.

SEC. 202. PREVENTING TAX SHELTER ACTIVITIES BY FINANCIAL INSTITUTIONS.

(a) EXAMINATIONS.—

(1) DEVELOPMENT OF EXAMINATION TECHNIQUES.—Each of the Federal banking agencies and the Commission shall, in consultation with the Internal Revenue Service, develop examination techniques to detect potential violations of section 6700 or 6701 of the Internal Revenue Code of 1986, by depository institutions, brokers, dealers, and investment advisers, as appropriate.

(2) FREQUENCY.—Not less frequently than once in each 2-year period, each of the Federal banking agencies and the Commission shall implement the examination techniques developed under paragraph (1) with respect to each of the depository institutions, brokers, dealers, or investment advisers subject to their enforcement authority. Such examination shall, to the extent possible, be combined with any examination by such agency otherwise required or authorized by Federal law.

(b) REPORT TO INTERNAL REVENUE SERVICE.—In any case in which an examination conducted under this section with respect to a financial institution or other entity reveals a potential violation, such agency shall promptly notify the Internal Revenue Service of such potential violation for investigation and enforcement by the Internal Revenue Service in accordance with applicable provisions of law.

(c) REPORT TO CONGRESS.—The Federal banking agencies and the Commission shall submit a joint written report to Congress in 2007 and 2010 on their progress in preventing violations of sections 6700 and 6701 of the Internal Revenue Code of 1986, by depository institutions, brokers, dealers, and investment advisers, as appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the terms ''broker'', ''dealer'', and ''investment adviser'' have the same meanings as in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(2) the term ''Commission'' means the Securities and Exchange Commission;

(3) the term ''depository institution'' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

(4) the term ''Federal banking agencies'' has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)); and

(5) the term ''Secretary'' means the Secretary of the Treasury.

SEC. 203. INFORMATION SHARING FOR ENFORCEMENT PURPOSES.

(a) PROMOTION OF PROHIBITED TAX SHELTERS OR TAX AVOIDANCE SCHEMES.—Section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new paragraph:

''(7) DISCLOSURE OF RETURNS AND RETURN INFORMATION RELATED TO PROMOTION OF PROHIBITED TAX SHELTERS OR TAX AVOIDANCE SCHEMES.—

''(A) WRITTEN REQUEST.—Upon receipt by the Secretary of a written request which meets the requirements of subparagraph (B) from the head of the United States Securities and Exchange Commission, an appropriate Federal banking agency as defined under section 1813(q) of title 12, United States Code, or the Public Company Accounting Oversight Board, a return or return information shall be disclosed to such requestor's officers and employees who are personally and directly engaged in an investigation, examination, or proceeding by such requestor to evaluate, determine, penalize, or deter conduct by a financial institution, issuer, or public accounting firm, or associated person, in connection with a potential or actual violation of section 6700 (promotion of abusive tax shelters), 6701 (aiding and abetting understatement of tax liability), or

activities related to promoting or facilitating inappropriate tax avoidance or tax evasion. Such disclosure shall be solely for use by such officers and employees in such investigation, examination, or proceeding.

''(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if it sets forth—

''(i) the nature of the investigation, examination, or proceeding,

''(ii) the statutory authority under which such investigation, examination, or proceeding is being conducted,

''(iii) the name or names of the financial institution, issuer, or public accounting firm to which such return information relates,

''(iv) the taxable period or periods to which such return information relates, and

''(v) the specific reason or reasons why such disclosure is, or may be, relevant to such investigation, examination or proceeding.

''(C) FINANCIAL INSTITUTION.—For the purposes of this paragraph, the term 'financial institution' means a depository institution, foreign bank, insured institution, industrial loan company, broker, dealer, investment company, investment advisor, or other entity subject to regulation or oversight by the United States Securities and Exchange Commission or an appropriate Federal banking agency.''.

(b) FINANCIAL AND ACCOUNTING FRAUD INVESTIGATIONS.—Section 6103(i) (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN FINANCIAL AND ACCOUNTING FRAUD INVESTIGATIONS.—

''(A) WRITTEN REQUEST.—Upon receipt by the Secretary of a written request which meets the requirements of subparagraph (B) from the head of the United States Securities and Exchange Commission or the Public Company Accounting Oversight Board, a return or return information shall be disclosed to such requestor's officers and employees who are personally and directly engaged in an investigation, examination, or proceeding by such requester to evaluate the accuracy of a financial statement or report or to determine whether to require a restatement, penalize, or deter conduct by an issuer, investment company, or public accounting firm, or associated person, in connection with a potential or actual violation of auditing standards or prohibitions against false or misleading statements or omissions in financial statements or reports. Such disclosure shall be solely for use by such officers and employees in such investigation, examination, or proceeding.

''(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if it sets forth—

''(i) the nature of the investigation, examination, or proceeding,

''(ii) the statutory authority under which such investigation, examination, or proceeding is being conducted,

''(iii) the name or names of the issuer, investment company, or public accounting firm to which such return information relates,

''(iv) the taxable period or periods to which such return information relates, and

''(v) the specific reason or reasons why such disclosure is, or may be, relevant to such investigation, examination or proceeding.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures and to information and document requests made after the date of the enactment of this Act.

SEC. 204. DISCLOSURE OF INFORMATION TO CONGRESS.

(a) DISCLOSURE BY TAX RETURN PREPARER.—

(1) IN GENERAL.—Subparagraph (B) of section 7216(b)(1) (relating to disclosures) is amended to read as follows:

''(B) pursuant to any 1 of the following documents, if clearly identified:

''(i) The order of any Federal, State, or local court of record.

''(ii) A subpoena issued by a Federal or State grand jury.

''(iii) An administrative order, summons, or subpoena which is issued in the performance of its duties by—

''(I) any Federal agency, including Congress or any committee or subcommittee thereof, or

''(II) any State agency, body, or commission charged under the laws of the State or a political subdivision of the State with the licensing, registration, or regulation of tax return preparers.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to disclosures made after the date of the enactment of this Act pursuant to any document in effect on or after such date.

(b) DISCLOSURE BY SECRETARY.—Paragraph (2) of section 6104(a) (relating to inspection of applications for tax exemption or notice of status) is amended to read as follows:

''(2) INSPECTION BY CONGRESS.—

''(A) IN GENERAL.—Upon receipt of a written request from a committee or subcommittee of Congress, copies of documents related to a determination by the Secretary to grant, deny, revoke, or restore an organization's exemption from taxation under section 501 shall be provided to such committee or subcommittee, including any application, notice of status, or supporting information provided by such organization to the Internal Revenue Service; any letter, analysis, or other document produced by or for the Internal Revenue Service evaluating, determining, explaining, or relating to the tax exempt status of such organization (other than returns, unless such returns are available to the public under this section or section 6103 or 6110); and any communication between the Internal Revenue Service and any other party relating to the tax exempt status of such organization.

''(B) ADDITIONAL INFORMATION.—Section 6103(f) shall apply with respect to—

''(i) the application for exemption of any organization described in subsection (c) or (d) of section 501 which is exempt from taxation under section 501(a) for any taxable year and any application referred to in subparagraph (B) of subsection (a)(1) of this section, and

''(ii) any other papers which are in the possession of the Secretary and which relate to such application,

as if such papers constituted returns.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures and to information and document requests made after the date of the enactment of this Act.

SEC. 205. TAX OPINION STANDARDS FOR TAX PRACTITIONERS.

Section 330(d) of title 31, United States Code, is amended to read as follows:

''(d) The Secretary of the Treasury shall impose standards applicable to the rendering of written advice with respect to any listed transaction or any entity, plan, arrangement, or other transaction which has a potential for tax avoidance or evasion. Such standards shall address, but not be limited to, the following issues:

''(1) Independence of the practitioner issuing such written advice from persons promoting, marketing, or recommending the subject of the advice.

''(2) Collaboration among practitioners, or between a practitioner and other party, which could result in such collaborating parties having a joint financial interest in the subject of the advice.

''(3) Avoidance of conflicts of interest which would impair auditor independence.

''(4) For written advice issued by a firm, standards for reviewing the advice and ensuring the consensus support of the firm for positions taken.

''(5) Reliance on reasonable factual representations by the taxpayer and other parties.

''(6) Appropriateness of the fees charged by the practitioner for the written advice.

''(7) Preventing practitioners and firms from aiding or abetting the understatement of tax liability by clients.

''(8) Banning the promotion of potentially abusive or illegal tax shelters.''.

SEC. 206. WHISTLEBLOWER REFORMS.

(a) IN GENERAL.—Section 7623 (relating to expenses of detection of underpayments and fraud, etc.) is amended—

(1) by striking ''The Secretary'' and inserting ''(a) in general.—The Secretary'',

(2) by striking ''and'' at the end of paragraph (1) and inserting ''or'',

(3) by striking ''(other than interest)'', and

(4) by adding at the end the following new subsections:

''(b) AWARDS TO WHISTLEBLOWERS.—

''(1) IN GENERAL.—If the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by an individual, such individual shall, subject to paragraph (2), receive as an award at least 15 percent but not more than 30 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action. The determination of the amount of such award by the Whistleblower Office shall depend upon the extent to which the individual substantially contributed to such action, and shall be determined at the sole discretion of the Whistleblower Office.

''(2) AWARD IN CASE OF LESS SUBSTANTIAL CONTRIBUTION.—

''(A) IN GENERAL.—In the event the action described in paragraph (1) is one which the Whistleblower Office determines to be based principally on disclosures of specific allegations (other than information provided by the individual described in paragraph (1)) resulting from a judicial or administrative hearing, from a governmental report, hearing, audit, or investigation, or from the news media, the Whistleblower Office may award such sums as it considers appropriate, but in no case more than 10 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action, taking into account the significance of the individual's information and the role of such individual and any legal representative of such individual in contributing to such action.

''(B) NONAPPLICATION OF PARAGRAPH WHERE INDIVIDUAL IS ORIGINAL SOURCE OF INFORMATION.—Subparagraph (A) shall not apply if the information resulting in the initiation of the action described in paragraph (1) was originally provided by the individual described in paragraph (1).

''(3) APPLICATION OF THIS SUBSECTION.—This subsection shall apply with respect to any action—

''(A) against any taxpayer, but in the case of any individual, only if such individual's gross income exceeds $200,000 for any taxable year subject to such action, and

''(B) if the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed $20,000.

''(4) ADDITIONAL RULES.—

''(A) NO CONTRACT NECESSARY.—No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection.

''(B) REPRESENTATION.—Any individual described in paragraph (1) or (2) may be represented by counsel.

''(C) AWARD NOT SUBJECT TO INDIVIDUAL ALTERNATIVE MINIMUM TAX.—No award received under this subsection shall be included in gross income for purposes of determining alternative minimum taxable income.

''(c) WHISTLEBLOWER OFFICE.—

''(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Whistleblower Office' which—

''(A) shall analyze information received from any individual described in subsection (b) and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office,

''(B) shall monitor any action taken with respect to such matter,

''(C) shall inform such individual that it has accepted the individual's information for further review,

''(D) may require such individual and any legal representative of such individual to not disclose any information so provided,

''(E) may ask for additional assistance from such individual or any legal representative of such individual, and

''(F) shall determine the amount to be awarded to such individual under subsection (b).

''(2) FUNDING FOR OFFICE.—From the amounts available for expenditure under subsection (a), the Whistleblower Office shall be credited with an amount equal to the awards made under subsection (b). These funds shall be used to maintain the Whistleblower Office and also to reimburse other Internal Revenue Service offices for related costs, such as costs of investigation and collection.

''(3) REQUEST FOR ASSISTANCE.—

''(A) IN GENERAL.—Any assistance requested under paragraph (1)(E) shall be under the direction and control of the Whistleblower Office or the office assigned to investigate the matter under subparagraph (A). To the extent the disclosure of any returns or return information to the individual or legal representative is required for the performance of such assistance, such disclosure shall be pursuant to a contract entered into between the Secretary and the recipients of such disclosure subject to section 6103(n).

''(B) FUNDING OF ASSISTANCE.—From the funds made available to the Whistleblower Office under paragraph (2), the Whistleblower Office may reimburse the costs incurred by any legal representative in providing assistance described in subparagraph (A).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to information provided on or after the date of the enactment of this Act.

SEC. 207. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, and

''(B) is identified as restitution in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SEC. 208. SENSE OF THE SENATE ON TAX ENFORCEMENT PRIORITIES.

It is the sense of the Senate that additional funds should be appropriated for Internal Revenue Service enforcement efforts and that the Internal Revenue Service should devote proportionately more of its enforcement funds—

(1) to combat the promotion of abusive tax shelters for corporations and high net worth individuals and the aiding and abetting of tax evasion,

(2) to stop accounting, law, and financial firms involved in such promotion and aiding and abetting, and

(3) to combat the use of offshore financial accounts to conceal taxable income.

TITLE III—REQUIRING ECONOMIC SUBSTANCE

SEC. 301. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

''(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection

with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

''(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

''(I) depreciation,

''(II) any tax credit, or

''(III) any other deduction as provided in guidance by the Secretary, and

''(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 302. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2) and (3) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e). .....

''(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).''. .....

(b) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

(1) The second sentence of section 6662(d)(2)(A) is amended by inserting ''and without regard to items with respect to which a penalty is imposed by section 6662B'' before the period at the end.

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

(G) by adding at the end the following new paragraph:

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).''.

(3) Subsection (e) of section 6707A is amended—

(A) by striking ''or'' at the end of subparagraph (B), and

(B) by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

''(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B,''.

(c) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 303. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).'', and

(2) by inserting ''**and noneconomic substance transactions**'' after ''**transactions**''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

TITLE IV—DETERRING UNCOOPERATIVE TAX HAVENS

SEC. 401. DISCLOSING PAYMENTS TO PERSONS IN UNCOOPERATIVE TAX HAVENS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6038C the following new section:

''SEC. 6038D. DETERRING UNCOOPERATIVE TAX HAVENS THROUGH LISTING AND REPORTING REQUIREMENTS.

''(a) IN GENERAL.—Each United States person who transfers money or other property directly or indirectly to any uncooperative tax haven, to any financial institution licensed by or operating in any uncooperative tax haven, or to any person who is a resident of any uncooperative tax haven shall furnish to the Secretary, at such time and in such manner as the Secretary shall by regulation prescribe, such information with respect to such transfer as the Secretary may require.

''(b) EXCEPTIONS.—Subsection (a) shall not apply to a transfer by a United States person if the amount of money (and the fair market value of property) transferred is less than $10,000. Related transfers shall be treated as 1 transfer for purposes of this subsection.

''(c) UNCOOPERATIVE TAX HAVEN.—For purposes of this section—

''(1) IN GENERAL.—The term 'uncooperative tax haven' means any foreign jurisdiction which is identified on a list maintained by the Secretary under paragraph (2) as being a jurisdiction—

''(A) which imposes no or nominal taxation either generally or on specified classes of income, and

''(B) has corporate, business, bank, or tax secrecy or confidentiality rules and practices, or has ineffective information exchange practices which, in the judgment of the Secretary, effectively limit or restrict the ability of the United States to obtain information relevant to the enforcement of this title.

''(2) MAINTENANCE OF LIST.—Not later than November 1 of each calendar year, the Secretary shall issue a list of foreign jurisdictions which the Secretary determines qualify as uncooperative tax havens under paragraph (1).

''(3) INEFFECTIVE INFORMATION EXCHANGE PRACTICES.—For purposes of paragraph (1), a jurisdiction shall be deemed to have ineffective information exchange practices if the Secretary determines that during any taxable year ending in the 12-month period preceding the issuance of the list under paragraph (2)—

''(A) the exchange of information between the United States and such jurisdiction was inadequate to prevent evasion or avoidance of United States income tax by United States persons or to enable the United States effectively to enforce this title, or

''(B) such jurisdiction was identified by an intergovernmental group or organization of

which the United States is a member as uncooperative with international tax enforcement or information exchange and the United States concurs in the determination.

''(d) PENALTY FOR FAILURE TO FILE INFORMATION.—If a United States person fails to furnish the information required by subsection (a) with respect to any transfer within the time prescribed therefor (including extensions), such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 20 percent of the amount of such transfer.

''(e) SIMPLIFIED REPORTING.—The Secretary may by regulations provide for simplified reporting under this section for United States persons making large volumes of similar payments.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6038C the following new item:

''Sec. 6038D. Deterring uncooperative tax havens through listing and reporting requirements.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date which is 180 days after the date of the enactment of this Act.

SEC. 402. DETERRING UNCOOPERATIVE TAX HAVENS BY RESTRICTING ALLOWABLE TAX BENEFITS.

(a) LIMITATION ON DEFERRAL.—

(1) IN GENERAL.—Subsection (a) of section 952 (defining subpart F income) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by inserting after paragraph (5) the following new paragraph:

''(6) an amount equal to the applicable fraction (as defined in subsection (e)) of the income of such corporation other than income which—

''(A) is attributable to earnings and profits of the foreign corporation included in the gross income of a United States person under section 951 (other than by reason of this paragraph or paragraph (3)(A)(i)), or

''(B) is described in subsection (b).''.

(2) APPLICABLE FRACTION.—Section 952 is amended by adding at the end the following new subsection:

''(e) IDENTIFIED TAX HAVEN INCOME WHICH IS SUBPART F INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(6), the term 'applicable fraction' means the fraction—

''(A) the numerator of which is the aggregate identified tax haven income for the taxable year, and

''(B) the denominator of which is the aggregate income for the taxable year which is from sources outside the United States.

''(2) IDENTIFIED TAX HAVEN INCOME.—For purposes of paragraph (1), the term 'identified tax haven income' means income for the taxable year which is attributable to a foreign jurisdiction for any period during which such jurisdiction has been identified as an uncooperative tax haven under section 6038D(c).

''(3) REGULATIONS.—The Secretary shall prescribe regulations similar to the regulations issued under section 999(c) to carry out the purposes of this subsection.''.

(b) DENIAL OF FOREIGN TAX CREDIT.—Section 901 (relating to taxes of foreign countries and of possessions of United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) REDUCTION OF FOREIGN TAX CREDIT, ETC., FOR IDENTIFIED TAX HAVEN INCOME.—

''(1) IN GENERAL.—Notwithstanding any other provision of this part—

''(A) no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid under section 902 or 960) to any foreign jurisdiction if such taxes are with respect to income attributable to a period during which such jurisdiction has been identified as an uncooperative tax haven under section 6038D(c), and

''(B) subsections (a), (b), (c), and (d) of section 904 and sections 902 and 960 shall be applied separately with respect to all income of a taxpayer attributable to periods described in subparagraph (A) with respect to all such jurisdictions.

''(2) TAXES ALLOWED AS A DEDUCTION, ETC.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.

''(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations which treat income paid through 1 or more entities as derived from a foreign jurisdiction to which this subsection applies if such income was, without regard to such entities, derived from such jurisdiction.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 403. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of an offshore payment mechanism (including credit, debit, or charge cards) issued by a bank or other entity in a foreign jurisdiction, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has not signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003-11 or voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) for any taxpayer if the Secretary or the Secretary's delegate determines that—

(i) the use of such offshore payment mechanism or financial arrangement was incidental to the transaction,

(ii) in the case of a trade or business, such use took place in the ordinary course of the trade or business of the taxpayer, and

(iii) such waiver would serve the public interest.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) FEES AND EXPENSES.—The Secretary of the Treasury may retain and use an amount not in excess of 25 percent of all additional interest, penalties, additions to tax, and fines collected under this section to be used for enforcement and collection activities of the Internal Revenue Service. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this paragraph.

(c) REPORT BY SECRETARY.—The Secretary shall each year conduct a study and report to Congress on the implementation of this section during the preceding year, including statistics on the number of taxpayers affected by such implementation and the amount of interest and applicable penalties asserted, waived, and assessed during such preceding year.

(d) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if, as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. 404. TREASURY REGULATIONS ON FOREIGN TAX CREDIT.

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States), as amended by section 402, is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) REGULATIONS.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

Mr. COLEMAN. Mr. President, today I rise to join Senator LEVIN in introducing the Tax Shelter and Tax Haven Reform Act of 2005. This bill addresses abusive tax shelters and offshore tax havens which allow tax evaders to avoid paying their fair share. These abuses increase the amount of taxes for everyone else. By increasing the penalty for these shelters, this legislation

will do much to ensure that the public trust in our tax laws is restored.

Two years ago, as Chairman of the Permanent Subcommittee on Investigations, I held Subcommittee hearings on abusive tax shelters. It became clear to the Subcommittee that some tax avoidance schemes are clearly abusive. These abusive shelters relied on sham transactions with no financial or economic utility other than to manufacture tax benefits.

Abusive tax shelters hurt the American people. For example, a recent IRS study estimates the Nation's ''tax gap''—the difference between the amount of taxes owed and the amount collected was $353 billion in 2001. The study also found that over 80 percent of the ''tax gap'' is due to taxpayers underreporting their taxes. This means that honest taxpayers are forced to pay more to make up for those taxpayers who dodge Uncle Sam.

The use of abusive tax shelters exploded during the high-flying 1990s, when many firms were awash in cash and were more concerned with generating fees than remaining compliant with the code. The lure of millions of dollars in fees clearly played a role in the decision on the part of tax professionals to drive a Brinks truck through any purported tax loophole.

Abusive tax shelters require accountants and financial advisors who develop and structure transactions to take advantage of loopholes in the tax code. Lawyers provide cookie cutter tax opinions deeming the transactions to be legal. Bankers provide loans with little or no credit risk, yet the amount of the loan creates a multi-million dollar tax loss.

This became a game. Reputable professionals were able to earn huge profits by providing services that offered a ''veneer of legitimacy'' to the transactions. The parties involved were careful to hide the transactions from IRS detection by failing to register and failing to provide lists of clients who used the transactions to the IRS.

It was clear to the Subcommittee that the promoters of these tax shelters failed to register transactions with the IRS partly because the penalties for failing to register were so low compared to the expected profits. In other words, the risk-benefit ratio was entirely lopsided in the favor of the promoters. This bill will end this advantage and will strengthen the enforcement tools that are at Uncle Sam's disposal.

Current law provides for penalties that amount to 50 percent of the gains of those who market, plan, implement and sell sham tax shelters to individuals and corporations. However, I agree with my esteemed colleague, Senator LEVIN, that even stronger penalties are needed. The provision to substantially increase penalties to the promoters and aiders and abettors who manufacture and implement these sham transactions so that they must give back more than just half of their ill-gotten gains is vital to restoring the integrity of our tax laws and deterring future tax avoidance.

This is not a victimless crime. It is not the government that loses the money. It is working moms and dads who bear the brunt of lost revenue so that a handful of lawyers, accountants, investment advisors, bankers and their clients can manipulate legitimate business practices to make a profit.

We need to give honest, hard working Americans a better deal—by cracking down on those who choose not to pay their fair share of taxes. This bill is a step in the right direction.

Mr. OBAMA. Mr. President, I rise today to speak about the ''Tax Shelter and Tax Haven Reform Act of 2005,'' of which I am a cosponsor. This bill seeks to improve the fairness of our tax system by deterring the use of tax avoidance strategies with no economic justification other than to reduce tax liability and shirk responsibility.

Abusive tax shelters and tax havens cost this country tens of billions of dollars each year and may be the largest single source of the $300 billion tax gap between what is owed and what is collected by the U.S. Treasury. The investigation by my colleagues on the Senate Permanent Subcommittee on Investigations found that more than half of all federal contractors may have subsidiaries in tax havens and that almost half of all foreign profits of U.S. corporations in a recent year were in tax havens. My esteemed colleagues also heard testimony that between 1–2 million individual taxpayers may be hiding funds in offshore tax havens. Many of these tax havens refuse to cooperate with U.S. tax enforcement officials.

This is not a political issue of how low or high taxes ought to be. This is a basic issue of fairness and integrity. Corporate and individual taxpayers alike must have confidence that those who disregard the law will be identified and adequately punished. Those who enforce the law need the tools and resources to do so. We cannot reasonably expect an American business to subject itself to a competitive disadvantage by following the law while watching its competitors defy the law without repercussion.

This bill cracks down on those individuals and businesses that establish virtual residences in tax havens abroad while taking unfair advantage of the very real advantages of actual residence here in the United States.

This bill clarifies that the sole purpose of a transaction cannot legitimately be to evade tax liability.

This bill increases the penalties for those who profit by manipulating and exploiting our tax laws, resulting in higher rates and greater complexity for the rest of us.

My mother taught me that there is no such thing as a free lunch—someone always has to pay. And when one of us shirks our duty to pay, the burden gets shifted to others, in this case to ordinary taxpayers and working Americans without access to sophisticated tax preparers or corporate loopholes.

This bill strengthens our ability to stop shifting the tax burden to working families. The money saved by this bill, for example, can reduce the burden on American children of unnecessary budget deficits being financed by rising debt to foreign nations.

The money saved by this bill can also be used to protect children in low income families from unfair tax increases caused by inequities in the child tax credit. In fact, this fall, I intend to introduce legislation to ensure that the child tax credit is not reduced solely because a family's income fails to keep pace with inflation. With less than half of the savings generated by this bill, we can shield more than four million children from the annual tax increase their families face as a result of stagnant wages and inflation under current law.

All of us should pay our fair share of American taxes. There is no excuse for benefiting from the laws and services, institutions and economic structure of our nation while evading your responsibility to do your part for this country. I believe it is our job to keep the system fair, and that's what this bill seeks to do.

I commend Senator LEVIN and Senator COLEMAN for their leadership on this important issue. I am proud to be a cosponsor of this bill and urge my colleagues to support it.

By Mr. ROBERTS (for himself and Mr. KENNEDY):

S. 1570. A bill to promote employment of individuals with severe disabilities through Federal Government contracting and procurement processes, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1570

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 ''Employer Work Incentive Act for Individuals with Severe Disabilities''.

SEC. 2. PURPOSE.

The purpose of this Act is to promote employment opportunities for individuals with severe disabilities, by requiring Federal agencies to offer incentives to Government contractors and subcontractors that employ substantial numbers of individuals with severe disabilities.

SEC. 3. JOBS INITIATIVE FOR INDIVIDUALS WITH SEVERE DISABILITIES.

(a) PREFERENCE FOR CONTRACTORS EMPLOYING INDIVIDUALS WITH SEVERE DISABILITIES.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

"SEC. 42. PREFERENCE FOR CONTRACTORS EMPLOYING INDIVIDUALS WITH SEVERE DISABILITIES.

''(a) PREFERENCE.—In entering into a contract, the head of an executive agency shall give a preference in the source selection process to each offeror that submits with its offer for the contract a written pledge that the contractor is an eligible business for purposes of this section.

''(b) UNIFORM PLEDGE.—The Federal Acquisition Regulation shall set forth the pledge that is to be used in the administration of this section.

''(c) RESPONSIBILITY OF THE SECRETARY OF LABOR.—(1) The Secretary of Labor shall maintain on the Internet web site of the Department of Labor a list of contractors that have submitted the pledge as described in subsection (a).

''(2) The head of each executive agency receiving a pledge as described in subsection (a) shall transmit a copy of the pledge to the Secretary of Labor.

''(d) DEFINITIONS.—In this section:

''(1)(A) The term 'eligible business' means a nonprofit or for-profit business entity that—

''(i) except as provided in subparagraph (B), demonstrates that it has established an integrated employment setting, as defined by the Secretary of Labor;

''(ii) employs individuals with severe disabilities in not less than 25 percent of the full-time equivalent positions of the business, on average;

''(iii)(I) pays wages to each of the individuals with severe disabilities at not less than the applicable rate described in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)), regardless of whether the individuals are engaged in supported employment, or training, under a contract with an executive agency or a program that receives Federal funds; and

''(II) does not employ any individual with a severe disability pursuant to a special certificate issued under section 14(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c)); and

''(iv) makes contributions for at least 50 percent of the total cost of the annual premiums for health insurance coverage for its employees.

''(B) In the case of an entity that has a contract with an executive agency in effect on the date of enactment of the Employer Work Incentive Act for Individuals with Severe Disabilities, subparagraph (A)(i) shall not apply until 3 years after that date of enactment.

''(2)(A) The term 'individual with a severe disability' means an individual who is a disabled beneficiary (as defined in section 1148(k)(2) of the Social Security Act (42 U.S.C. 1320b–19(k)(2)) or an individual who would be considered to be such a disabled beneficiary but for having income or assets in excess of the income or asset eligibility limits established under title II or XVI of the Social Security Act, respectively (42 U.S.C. 401 et seq., 1381 et seq.).

''(B) The term 'individuals with severe disabilities' means more than 1 individual with a severe disability.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end the following new item:

''Sec. 42. Preference for contractors employing individuals with severe disabilities.''.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 1571. A bill to amend title 38, United States Code, to establish a comprehensive program for testing and treatment of veterans for the Hepatitis C virus; to the Committee on Veterans' Affairs.

Mr. CORZINE. Mr. President, I rise today along with my colleague, Senator LAUTENBERG, to introduce the Veterans Comprehensive Hepatitis C Health Care Act. This bill would fundamentally change the way the Department of Veterans Affairs is addressing the growing Hepatitis C epidemic, and would create a national standard for testing and treating veterans with the virus.

Hepatitis C is a disease of the liver caused by contact with the Hepatitis C virus. It is primarily spread by contact with infected blood. The CDC estimates that 1.8 percent of the population is infected with the Hepatitis C virus, and that number is much higher among veterans. Vietnam-era veterans are considered to be at greater risk because many were exposed to Hepatitis C-infected blood as a result of combat-related surgical care during the Vietnam War. In fact, data from the Veterans Administration suggests that as many as 18 percent of all veterans and 64 percent of Vietnam veterans are infected with the Hepatitis C Virus (HCV). Veterans living in the New York-New Jersey metropolitan area have the highest rate of Hepatitis C in the Nation. For many of those infected, Hepatitis C leads to liver failure, transplants, liver cancer, and death.

And yet, most veterans who have Hepatitis C don't even know it—and often do not get treatment until it's too late. Despite recent advances in treating Hepatitis C, the VA still lacks a comprehensive, consistent, uniform approach to testing and treating veterans for the virus. Only a fraction of the eight million veterans enrolled nationally in the VA Health Care System have been tested to date. Part of the problem stems from a lack of qualified, full-time medical personnel to administer and analyze the tests. Most of the 172 VA hospitals in this country have only one doctor, working a half day a week, to conduct and analyze all the tests. At this rate, it will take years to test the entire enrolled population—years that many of these veterans may not have.

To address this growing problem, I am again introducing the Veterans Comprehensive Hepatitis C Health Care Act. This legislation will improve access to Hepatitis C testing and treatment for all veterans, ensure that the VA spends all allocated Hepatitis C funds on testing and treatment, and sets new, national policies for Hepatitis C care. Congressman RODNEY FRELINGHUYSEN from New Jersey has introduced companion legislation in the House of Representatives.

The bill would improve testing and treatment for veterans by requiring annual screening tests for Vietnam-era veterans enrolled in the VA health system, and providing annual tests, upon request, to other veterans enrolled in the system. Further, it would require the VA to treat any enrolled veteran who tests positive for the Hepatitis C virus, regardless of service-connected disability status or priority group categorization. The VA would be required to provide at least one dedicated health care professional—a doctor and a nurse—at each VA Hospital for testing and treatment of this disease.

This bill would also increase the amount of money dedicated to Hepatitis C testing and treatment, and would make sure these funds are spent where they are needed most. Beginning in FY06, Hepatitis C funding would be shifted to the Specific Purpose account under the Veterans Health Administration, and would be dedicated solely for the purpose of paying for the costs associated with treating veterans with the Hepatitis C virus. The bill would allocate these funds to the 22 Veterans Integrated Service Networks (VISN) based on each VISN's Hepatitis C incidence rate, or the number of veterans infected with the virus.

In addition, this bill will end the confusing patchwork of policies governing the care of veterans with Hepatitis C throughout the nation. This legislation directs the VA to develop and implement a standardized, national Hepatitis C policy for its testing protocol, treatment options and education and notification efforts. The bill further directs the VA to develop an outreach program to notify veterans who have not been tested for the Hepatitis C virus of the need for such testing and the availability of such testing through the VA. And finally, this legislation would establish Hepatitis C Centers of Excellence in geographic areas with high incidence of Hepatitis C infection.

The VA currently lacks a comprehensive national strategy for combating this deadly disease. The Veterans Comprehensive Hepatitis C Health Care Act will ensure that veterans will finally be provided with the access to testing and treatment that they have more than earned and deserve. And, the Federal Government will actually save money in the long run by testing and treating this infection early. The alternative is much more costly treatment of end-stage liver disease and the associated complications, or other disorders.

The VA has known about the problem of Hepatitis C among veterans since 1992, but they have not acted. We must address this critical issue for the brave men and women who have placed their lives in danger to protect the United States. I urge my colleagues to join me in supporting this crucial legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1571

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 ''Veterans Comprehensive Hepatitis C Health Care Act''.

SEC. 2. COMPREHENSIVE HEPATITIS C HEALTH CARE TESTING AND TREATMENT PROGRAM FOR VETERANS.

(a) IN GENERAL.—Chapter 17 of title 38, United States Code, is amended by inserting after section 1720E the following new section:

''§ 1720F. Hepatitis C testing and treatment

''(a) INITIAL TESTING.—(1) During the 1-year period beginning on the date of the enactment of the Veterans Comprehensive Hepatitis C Health Care Act, the Secretary shall provide a blood test for the Hepatitis C virus to—

''(A) each veteran who—

''(i)(I) served in the active military, naval, or air service during the Vietnam era; or

''(II) is considered to be 'at risk,';

''(ii) is enrolled to receive care under section 1710 of this title; and

''(iii)(I) requests the test; or

''(II) is otherwise receiving a physical examination or any care or treatment from the Secretary; and

''(B) any other veteran who requests the test.

''(2) After the end of the period referred to in paragraph (1), the Secretary shall provide a blood test for the Hepatitis C virus to any veteran who requests the test.

''(b) FOLLOWUP TESTING AND TREATMENT.—In the case of any veteran who tests positive for the Hepatitis C virus, the Secretary shall provide—

''(1) such followup tests as are considered medically appropriate; and

''(2) appropriate treatment for that veteran in accordance with the national protocol for the treatment of Hepatitis C.

''(c) STATUS OF CARE.—(1) Treatment shall be provided under subsection (b) without regard to whether the Hepatitis C virus is determined to be service-connected and without regard to priority group categorization of the veteran. No copayment may be charged for treatment under subsection (b), and no third-party reimbursement may be sought or accepted, under section 1729 of this title or under any other provision of law, for testing or treatment under subsection (a) or (b).

''(2) Paragraph (1) shall cease to be in effect upon the effective date of a determination by the Secretary or by Congress that the occurrence of the Hepatitis C virus in specified veterans shall be presumed to be service-connected.

''(d) STAFFING.—(1) The Secretary shall require that each Department medical center employ at least 1 full-time gastroenterologist, hepatologist, or other qualified physician to provide tests and treatment for the Hepatitis C virus under this section.

''(2) The Secretary shall, to the extent practicable, ensure that each Department medical center has at least 1 staff member assigned to work, in coordination with Hepatitis C medical personnel, to coordinate treatment options for Hepatitis C patients and provide information and counseling for those patients and their families. Such a staff member should preferably be trained in psychology or psychiatry or be a social worker.

''(3) In order to improve treatment provided to veterans with the Hepatitis C virus, the Secretary shall provide increased training options to Department health care personnel.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1720E the following new item:

''1720F. Hepatitis C testing and treatment.''.

SEC. 3. FUNDING FOR HEPATITIS C PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) PROGRAM ACCOUNT.—Beginning with fiscal year 2006, amounts appropriated for the Department of Veterans Affairs for Hepatitis C detection and treatment shall be provided, within the ''Medical Care'' account, through the ''Specific Purpose'' subaccount, rather than the ''VERA'' subaccount.

(b) ALLOCATION OF FUNDS TO VISNs.—In allocating funds appropriated for the Department of Veterans Affairs for the ''Medical Care'' account to the Veterans Integrated Service Networks, the Secretary of Veterans Affairs shall allocate funds for detection and treatment of the Hepatitis C virus based upon incidence rates of that virus among veterans (rather than based upon the overall population of veterans) in each such network.

(c) LIMITATION ON USE OF FUNDS.—Amounts appropriated for the Department of Veterans Affairs for Hepatitis C detection and treatment through the ''Specific Purpose'' subaccount may not be used for any other purpose.

SEC. 4. NATIONAL POLICY.

(a) STANDARDIZED NATIONWIDE POLICY.—The Secretary of Veterans Affairs shall develop and implement a standardized policy to be applied throughout the Department of Veterans Affairs health care system with respect to the Hepatitis C virus. The policy shall include the testing protocol for the Hepatitis C virus, treatment options, education and notification efforts, and establishment of a specific Hepatitis C diagnosis code for measurement and treatment purposes.

(b) OUTREACH.—The Secretary shall, on an annual basis, take appropriate actions to notify veterans who have not been tested for the Hepatitis C virus of the need for such testing and the availability of such testing from the Department of Veterans Affairs.

SEC. 5. HEPATITIS C CENTERS OF EXCELLENCE.

(a) ESTABLISHMENT.—The Secretary of Veterans Affairs shall establish at least 1, and not more than 3, additional Hepatitis C centers of excellence or additional sites at which activities of Hepatitis C centers of excellence are carried out. Each such additional center or site shall be established at a Department of Veterans Affairs medical center in 1 of the 5 geographic service areas (known as a Veterans Integrated Service Network) with the highest case rate of Hepatitis C in fiscal year 1999.

(b) FUNDING.—Funding for the centers or sites established under subsection (a) shall be provided from amounts available to the Central Office of the Department of Veterans Affairs and shall be in addition to amounts allocated for Hepatitis C pursuant to section 3.

By Mr. JOHNSON (for himself and Mr. BINGAMAN):

S. 1572. A bill to amend title XIX of the Social Security Act to clarify the application of the 100 percent Federal medical assistance percentage under the Medicaid program for services provided by the Indian Health Service or an Indian tribe or tribal organization directly or through referral, contract, or other arrangement; to the Committee on Finance.

Mr. JOHNSON. Mr. President, today I am introducing legislation that will make a necessary clarification to current law regarding the application of the federal medical assistance percentage or FMAP. I am joined by Senator BINGAMAN in introducing this bill.

The Indian Health Care Improvement Act, IHCIA, provides for 100 percent Federal medical assistance percentage, FMAP, applicable to Medicaid services ''received through an Indian Health Service facility.'' This definition has created some issues for state Medicaid programs when applying for the full FMAP rate for services provided to Native Americans that are referred by an Indian Health Service facility to a non-IRS facility.

North Dakota and South Dakota have been in the courts with the Centers for Medicare and Medicaid Services or CMS over this issue. Since last year when CMS determined that the 100 percent FMAP was not allowable for referred services, North Dakota and South Dakota appealed and prevailed in a lawsuit at the district court level. The Federal appeals court has now reversed the district court's decision and affirmed that those states must repay CMS for the excess payments. While the court sided in favor of CMS, the decision states that there is a lack of clarity in the statute pertaining to how referred patients are covered through the Federal match.

CMS disallowed $4 million in payments that South Dakota's Department of Social Services had billed Medicaid through the 100 percent FMAP for Indian patients seen in non-IHS facilities through referrals. At issue is a lack of specificity regarding how far ''received through'' should extend. The most recent court decision even states ''the statutory language is susceptible to multiple interpretations.''

The legislation I am introducing today will clarify the statute and make it completely clear that any services provided under a state Medicaid plan which are referred by any Indian Health Service facility, whether operated by the IHS or by and Indian tribe or tribal organization are to be covered by the 100 percent FMAP amount. Any previous disallowance of a claim or claims by CMS will be reviewed by the Department of Health and Human Services within 90 days of enactment of this legislation and payments adjusted accordingly if the claim meets the standards set forth in this bill.

The Senate Indian Affairs Committee, of which I am a member, will be considering the IHCIA this fall. It is my hope that this legislation will be considered within the broader context of the debate on IHCIA. Clearly the Federal government has an obligation to live up to the treaties and responsibilities to our tribes and all Native Americans. I see this legislation as an extension of the obligation.

By Ms. CANTWELL (for herself, Mr. BINGAMAN, Mr. ROCKEFELLER, Mrs. LINCOLN, Mrs. MURRAY, and Mr. CORZINE):

S. 1574. A bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I am proud to rise today with my colleagues Senators BINGAMAN, ROCKEFELLER, LINCOLN, MURRAY and CORZINE to introduce the ''Affordable Access to Medicare Providers Act.''

Securing access to affordable healthcare, especially for our Nation's seniors, is critical and it remains to be one of my top priorities. Access to healthcare is impacted by two key factors: we must have enough well qualified healthcare providers that are willing and able to accept Medicare patients, and the beneficiaries must be able to afford the premiums required to utilize their Medicare benefits. This bill addresses both of these issues—it will provide some stability in physician Medicare payment rates so that physicians can continue to offer high quality healthcare services while ensuring that the Medicare beneficiaries are not saddled with the cost and even higher premiums for physicians services.

Medicare was written to cover the most basic health care for seniors. When the original bill passed in 1965, the legislation's conference report explicitly stated that the intent of the program is to provide adequate ''medical aid . . . for needy people, and should ''make the best of modem medicine more readily available to the aged.''

While the Medicare Modernization Act provided some improvements such as: It also had some unfortunate consequences on the Medicare beneficiaries in Washington State. Medicare payments per beneficiary will be further exacerbated and continue to penalize Washington state for our efficient healthcare system. Fifty-seven percent of Washington state physicians are limiting or dropping Medicare patients from their practices. Washington falling to 45th in the Nation on reimbursements will not help the situation.

A survey conducted by the Medicare Payment Advisory Council, MedPAC, found that 22 percent of patients already have some problems finding a primary care physician and 27 percent report delays getting an appointment. Physicians are the foundation of our Nation's health care system. Continual cuts, or even the threat of repeated cuts, put Medicare patient access to physicians' services at risk. They also threaten to destabilize the Medicare program and create a ripple effect across other programs. Indeed, Medicare cuts jeopardize access to medical care for millions of our active duty military family members and military retirees because their TRICARE insurance ties its payment rates to Medicare.

Now we are told by the Medicare board of Trustees that if Congress does not act by the end of the year, the Medicare physician payment formula will likely produce a 4.3 percent decrease next year with similar reductions to follow in the years to come. The Medicare Board of Trustees also estimates that the cost of providing medical care will increase by an estimated 15 percent over the next six years, while current reimbursement levels are scheduled to drop by an estimated 26 percent over the same time period.

After adjusting for inflation, Medicare payments to physicians in 2013 will be less than half of what they were in 1991. That declining reimbursement rate would likely mean a growing percentage of family physicians would decline to see new Medicare patients and, as a result, access to care would suffer.

Washington stands to lose $39 million in 2006 and 1.9 billion from 2006–2014 if these cuts go through. For physicians in Washington, the cuts over this period will average $13,000 per year for each physician in the State.

The American Medical Association conducted a survey of physicians in February and March 2005 concerning significant Medicare pay cuts from 2006 through 2013 (as forecast in the 2004 Medicare Trustees report). Results from the survey indicate that if the projected cuts in Medicare physician payment rates begin in 2006: more than a third of physicians (38 percent) plan to decrease the number of new Medicare patients they accept; more than half of physicians (54 percent) plan to defer the purchase of information technology, which is necessary to make value-based purchasing work; a majority of physicians (53 percent) will be less likely to participate in a Medicare Advantage plan; about a quarter of physicians plan to close satellite offices (24 percent) and/or discontinue rural outreach services (29 percent) if payments are cut in 2006. If the pay cuts continue through 2013, close to half of physicians plan to close satellite offices (42 percent) and/or discontinue rural outreach (44 percent); and one-third of physicians (34 percent) plan to discontinue nursing home visits if payments are cut in 2006. By the time the cuts end, half (50 percent) of physicians will have discontinued nursing home visits.

Physicians can simply not absorb cuts these cuts and still deliver high quality care. We must ensure our doctors have the resources they need to ensure that our seniors have access to their physicians.

There have been efforts made to address the physician payment issue however; they have not addressed the impact on Medicare beneficiaries and their premiums. I'm concerned some of the proposals would result in an additional burden being placed on the Medicare beneficiary by way of a $24 billion increase in part B premiums in 2006 and a $60 billion increase in 2007.

This happens because by law, the monthly Part B premium is set at 25 percent of the part B Trust Fund costs. Administrative or legal changes to increase physician payment rates that don't include a hold-harmless clause, increase Medicare part B expenditures and ultimately, the Part B premiums paid by beneficiaries.

This is not a viable solution either as the beneficiaries are already being hit with premium increases and additional cost sharing due to implementation of the prescription drug benefit. For this reason, along with my colleagues, I have chosen to introduce legislation that provides the update for physician reimbursement rates but also holds the part B premiums harmless.

I look forward to working my colleagues to pass this legislation to ensure that access to care for our seniors is preserved and enhanced.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1574

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 ''Affordable Access to Medicare Providers Act of 2005''.

SEC. 2. MINIMUM UPDATE FOR PHYSICIANS' SERVICES FOR 2006 AND 2007.

(a) MINIMUM UPDATE.—

(1) IN GENERAL.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)) is amended by adding at the end the following new paragraphs:

''(6) UPDATE FOR 2006.—The update to the single conversion factor established in paragraph (1)(C) for 2006 shall not be less than 2.7 percent.

''(7) UPDATE FOR 2007.—

''(A) IN GENERAL.—The update to the single conversion factor established in paragraph (1)(C) for 2007 shall not be less than the product of—

''(i) 1 plus the Secretary's estimate of the percentage change in the value of the input price index (as provided under subparagraph (B)(ii)) for 2007 (divided by 100); and

''(ii) 1 minus the Secretary's estimate of the productivity adjustment factor under subparagraph (C) for 2007.

''(B) INPUT PRICE INDEX.—

''(i) ESTABLISHMENT.—Taking into account the mix of goods and services included in computing the medicare economic index (referred to in the fourth sentence of section 1842(b)(3)), the Secretary shall establish an index that reflects the weighted-average input prices for physicians' services for 2006. Such index shall only account for input prices and not changes in costs that may result from other factors (such as productivity).

''(ii) ANNUAL ESTIMATE OF CHANGE IN INDEX.—The Secretary shall estimate, before the beginning of 2007, the change in the value of the input price index under clause (i) from 2006 to 2007.

''(C) PRODUCTIVITY ADJUSTMENT FACTOR.—The Secretary shall estimate, and cause to be published in the Federal Register not later than November 1, 2006, a productivity adjustment factor for 2007 that reflects the Secretary's estimate of growth in multifactor productivity in the national economy, taking into account growth in productivity attributable to both labor and nonlabor factors. Such adjustment may be based on a multi-year moving average of productivity (based on data published by the Bureau of Labor Statistics).''.

(2) CONFORMING AMENDMENT.—Section 1848(d)(4)(B) of the Social Security Act (42 U.S.C. 1395w–4(d)(4)(B)) is amended, in the matter preceding clause (i), by striking ''and

paragraph (5)'' and inserting ''paragraphs (5), (6), and (7)''.

(b) EXCLUSION OF COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839(g) (42 U.S.C. 1395r(g)) is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(3) the application of the amendments made by section 2(a) of the Affordable Access to Medicare Providers Act of 2005 (relating to a minimum update for physicians' services in 2006 and 2007).''.

Mr. BINGAMAN (for himself, Mr. CORNYN, Ms. MIKULSKI, Ms. COLLINS, Mr. JEFFORDS, Mrs. MURRAY, Mr. REED, Mr. NELSON of Nebraska, Ms. CANTWELL, Mr. DURBIN, Mr. CORZINE, Ms. LANDRIEU, Mr. KERRY, Mr. LAUTENBERG, and Mr. INOUYE):

S. 1575. A bill to amend the Public Health Service Act to authorize a demonstration program to increase the number of doctorally-prepared nurse faculty; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, today I introduce legislation that will help address the critical nurse faculty shortage facing our Nation today. The Bureau of Labor statistics estimates that 1,000,000 new and replacement nurses will be needed by 2012. With a nurse faculty workforce that averages 53.5 years of age, we cannot and must not wait any longer to address nurse faculty shortages. Quite simply, we need to educate more doctoral level faculty, or we, as a Nation, will not have enough trained nurses to meet the needs of our aging society.

In a 2002 report, the Commission on Higher Education and the University of New Mexico Health Sciences Center assembled nursing educators, healthcare providers, business organizations, professional associations, legislators, and New Mexico state agencies to develop a statewide strategic framework for addressing New Mexico's nursing shortage. The initiative revealed that 72 percent of hospitals have curtailed services, 38 percent of home care agencies have refused referrals, 15 percent of long term care facilities have refused admissions, and public health offices have decreased public health services. The number one priority listed in the statewide initiative was to double the number of licensed nursing graduates in the State. And yet, this one simple priority is not so simple. With a doctoral nurse faculty of 53.4 years of age, on average, and 46 vacant nurse faculty positions, in New Mexico, the necessary expansion of programs is not possible. New Mexico is not alone in facing nurse and nurse faculty shortages. The nationwide nursing shortage is expected to more than triple, because the average age of the workforce is near retirement, the population is aging and has increasing healthcare needs, and the shortage is one that affects the entire nation.

There is a well-known saying, ''a problem clearly stated is a problem half solved.'' In 2004–2005, over 30,000 qualified nursing school applicants were not accepted into nursing baccalaureate programs. Estimates from the National League for Nursing indicate that over 123,000 qualified applications could not be accommodated in registered nurse educational programs in 2004. The primary reason students are not admitted is lack of trained faculty, funds, and program resources. The real nursing workforce problem that we need to address at the current time is lack of an adequate number of qualified nurse faculty members.

The Nurse Faculty Education Act will amend the Nurse Reinvestment Act, P.L. 107–205, to help alleviate the faculty shortage by providing funds to help nursing schools increase enrollment and graduation from nursing doctoral programs. The act will increase partnering opportunities, enhance cooperative education, help support marketing outreach, and strengthen mentoring programs. The bill will increase the number of nurses who complete nursing doctoral programs and seek employment as faculty members and nursing leaders in academic institutions. By addressing the faculty shortage, we are addressing the nursing shortage.

The provisions of the Nurse Faculty Education Act are vital to overcoming nursing workforce challenges. By addressing nurse faculty shortages, we will enhance both access to care and the quality of care. Our families and our Nation will be well-served by integration of the Nurse Faculty Education Act into the Nurse Reinvestment Act.

Mr. President, I ask unanimous consent that the text of this bill be printed the RECORD at this point.

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

S. 1575

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 ''Nurse Faculty Education Act of 2005''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Nurse Reinvestment Act (Public Law 107-205) has helped to support students preparing to be nurse educators. Yet, nursing schools nationwide are forced to deny admission to individuals due to lack of qualified nurse faculty.

(2) According to the February 2004 Monthly Labor Review of the Bureau of Labor Statistics, more than 1,000,000 new and replacement nurses will be needed by 2012.

(3) According to the American Association of Colleges of Nursing, in the 2004-2005 academic year, 29,425 individuals, or 35 percent of the qualified applicants were not accepted into nursing baccalaureate programs. 2,748 potential nursing master's students and over 200 nurses qualified for admission to doctoral programs were not accepted. Estimates from the National League of Nursing indicate that over 123,000 qualified applications could not be accommodated in associate degree, diploma, and baccalaureate registered nurse educational programs in 2004.

(4) Seventy-six percent of schools report insufficient faculty as the primary reason for not accepting qualified applicants. The primary reasons for lack of faculty are lack of funds to hire new faculty, inability to identify, recruit and hire faculty in the current competitive job market, and lack of nursing faculty available in different geographic areas.

(5) Despite the fact that 75 percent of graduates of doctoral nursing program enter education roles (versus about 5 percent of graduates of nursing master's programs), the 93 doctoral programs nationwide produce only 400 graduates. This annual graduation rate is insufficient to meet current needs for nurse faculty. In keeping with other professional academic disciplines, nurse faculty at colleges and universities are typically doctorally-prepared.

(6) With the average age of nurse faculty at retirement at 62.5 years of age and the average age of doctorally-prepared faculty currently at 53.5 years, the health care system faces unprecedented workforce and health access challenges with current and future shortages of deans, nurse educators, and nurses.

SEC. 3. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

Part D of title VIII of the Public Health Service Act (42 U.S.C. 296p et seq.) is amended by adding at the end the following:

''SEC. 832. NURSE FACULTY EDUCATION.

''(a) ESTABLISHMENT.—The Secretary, acting through the Health Resources and Services Administration, shall establish a Nurse Faculty Education Program to ensure an adequate supply of nurse faculty through the awarding of grants to eligible entities to—

''(1) provide support for the hiring of new faculty, the retaining of existing faculty, and the purchase of educational resources;

''(2) provide for increasing enrollment and graduation rates for students from doctoral programs; and

''(3) assist graduates from the entity in serving as nurse faculty in schools of nursing;

''(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

''(1) be a school of nursing that offers a doctoral degree in nursing in a State or territory;

''(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

''(3) develop and implement a plan in accordance with subsection (c);

''(4) agree to submit an annual report to the Secretary that includes updated information on the doctoral program involved, including information with respect to—

''(A) student enrollment;

''(B) student retention;

''(C) graduation rates;

''(D) the number of graduates employed part-time or full-time in a nursing faculty position; and

''(E) retention in nursing faculty positions within 1 year and 2 years of employment;

''(5) agree to permit the Secretary to make on-site inspections, and to comply with the requests of the Secretary for information, to determine the extent to which the school is complying with the requirements of this section. and

''(6) meet such other requirements as determined appropriate by the Secretary.

''(c) USE OF FUNDS.—Not later than 1 year after the receipt of a grant under this section, an entity shall develop and implement a plan for using amounts received under this

grant in a manner that establishes not less than 2 of the following:

''(1) Partnering opportunities with practice and academic institutions to facilitate doctoral education and research experiences that are mutually beneficial.

''(2) Partnering opportunities with educational institutions to facilitate the hiring of graduates from the entity into nurse faculty, prior to, and upon completion of the program.

''(3) Partnering opportunities with nursing schools to place students into internship programs which provide hands-on opportunity to learn about the nurse faculty role.

''(4) Cooperative education programs among schools of nursing to share use of technological resources and distance learning technologies that serve rural students and underserved areas.

''(5) Opportunities for minority and diverse student populations (including aging nurses in clinical roles) interested in pursuing doctoral education.

''(6) Pre-entry preparation opportunities including programs that assist returning students in standardized test preparation, use of information technology, and the statistical tools necessary for program enrollment.

''(7) A nurse faculty mentoring program.

''(8) A Registered Nurse baccalaureate to Ph. D. program to expedite the completion of a doctoral degree and entry to nurse faculty role.

''(9) Career path opportunities for 2nd degree students to become nurse faculty.

''(10) Marketing outreach activities to attract students committed to becoming nurse faculty.

''(d) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to entities from States and territories that have a lower number of employed nurses per 100,000 population.

''(e) NUMBER AND AMOUNT OF GRANTS.—Grants under this section shall be awarded as follows:

''(1) In fiscal year 2006, the Secretary shall award 10 grants of $100,000 each.

''(2) In fiscal year 2007, the Secretary shall award an additional 10 grants of $100,000 each and provide continued funding for the existing grantees under paragraph (1) in the amount of $100,000 each.

''(3) In fiscal year 2008, the Secretary shall award an additional 10 grants of $100,000 each and provide continued funding for the existing grantees under paragraphs (1) and (2) in the amount of $100,000 each.

''(4) In fiscal year 2009, the Secretary shall provide continued funding for each of the existing grantees under paragraphs (1) through (3) in the amount of $100,000 each.

''(5) In fiscal year 2010, the Secretary shall provide continued funding for each of the existing grantees under paragraphs (1) through (3) in the amount of $100,000 each.

''(f) LIMITATIONS.—

''(1) PAYMENT.—Payments to an entity under a grant under this section shall be for a period of not to exceed 5 years.

''(2) IMPROPER USE OF FUNDS.—An entity that fails to use amounts received under a grant under this section as provided for in subsection (c) shall, at the discretion of the Secretary, be required to remit to the Federal Government not less than 80 percent of the amounts received under the grant.

''(g) REPORTS.—

''(1) EVALUATION.—The Secretary shall conduct an evaluation of the results of the activities carried out under grants under this section.

''(2) REPORTS.—Not later than 3 years after the date of the enactment of this section, the Secretary shall submit to Congress an interim report on the results of the evaluation conducted under paragraph (1). Not later than 6 months after the end of the program under this section, the Secretary shall submit to Congress a final report on the results of such evaluation.

''(h) STUDY.—

''(1) IN GENERAL.—Not later than 3 years after the date of the enactment of this section, the Comptroller General of the United States shall conduct a study and submit a report to Congress concerning activities to increase participation in the nurse educator program under the section.

''(2) CONTENTS.—The report under paragraph (1) shall include the following:

''(A) An examination of the capacity of nursing schools to meet workforce needs on a nationwide basis.

''(B) An analysis and discussion of sustainability options for continuing programs beyond the initial funding period.

''(C) An examination and understanding of the doctoral degree programs that are successful in placing graduates as faculty in schools of nursing.

''(D) An analysis of program design under this section and the impact of such design on nurse faculty retention and workforce shortages.

''(E) An analysis of compensation disparities between nursing clinical practitioners and nurse faculty and between higher education nurse faculty and higher education faculty overall.

''(F) Recommendations to enhance faculty retention and the nursing workforce.

''(i) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the costs of carrying out this section (except the costs described in paragraph (2), there are authorized to be appropriated $1,000,000 for fiscal year 2006, $2,000,000 for fiscal year 2007, and $3,000,000 for each of fiscal years 2008 through 2010.

''(2) ADMINISTRATIVE COSTS.—For the costs of administering this section, including the costs of evaluating the results of grants and submitting reports to the Congress, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2006 through 2010.''.

By Mr. BURNS (for himself, Mr. DORGAN, Mr. JOHNSON, Mr. DAYTON, Mr. BAUCUS, and Mr. CONRAD):

S. 1579. A bill to amend the Federal Insecticide, Fungicide, and Rodentcide Act to permit the distribution and sale of certain pesticides that are registered in both the United States and another country; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. BURNS. Mr. President, today I am introducing, along with my colleague Senator DORGAN, a bill that addresses a persistent inequity in the agriculture industry.

Since the passage of the North American Free Trade Agreement—in fact, even before then—Montana farmers have battled against false barriers to trade that harm their ability to compete in a global market. While most inputs to production agriculture—fertilizer, seed, equipment—can move easily across the U.S.-Canadian border, pesticides remain segmented. The pesticide industry has a vested interest in preserving these borders, because the barriers allow for price distortions that harm producers on both sides of the border.

The legislation I am introducing today is designed to tear down these barriers, and begin the process of harmonizing the pesticide registration process. The bill establishes a process by which interested growers can petition the Environmental Protection Agency to require a pesticide to be jointly labeled, if the product is already registered in both countries. See—there's the problem. We are talking here about the exact same chemical, produced by the same company, but priced at very different levels. Because the products have two different labels, the lower-price chemical remains out of reach of U.S. growers. When Montana farmers have to compete against Canadian growers who are getting their pesticides at a substantially lower price, that is an example of free trade gone wrong. In addition, this bill gives EPA the authority needed to require a joint label on a new product that is being introduced into the market.

It is important to note that this legislation is not restricted to Canada, so as not to violate U.S. trade agreements. The bill authorizes EPA to enter into negotiations to harmonize regulatory processes and requirements with other countries, as appropriate. The United States and Canada have been working for over a decade to streamline their registration processes, harmonize the requirements, and develop protocols for work sharing and joint reviews. A lot of groundwork has already been done between the U.S. and Canada, so we can move quickly towards development of a joint label between our two countries.

And there is no reason not to. Again, we are talking about the exact same product, being sold at two different prices to growers who have to compete against each other in the world market. NAFTA was supposed to tear down borders between the U.S., Canada, and Mexico, and yet this barrier remains. It is an irritant to Montana growers who are farming along the border.

It is also a problem for Canadian growers, and I look forward to working with Canada to resolve this issue in a mutually beneficial way. There are times when pesticides are cheaper in the U.S., and U.S. growers often have access to a wider variety of products. So there is a shared interest in tearing down this barrier to free trade.

A recent study done by Montana State University underscored this point. For 13 pesticides widely used in Montana and Alberta, seven were less expensive in Canada, five were less expensive in the U.S., and one, glyphosate, showed little or no difference in price. False barriers that prevent pesticides from moving across the border are creating significant price distortions in the market, and those barriers need to come down.

Certainly, there are a number of factors that impact pricing, but there can be no doubt that trade barriers allow price differentiation, and that's not right. There will always be some price fluctuations—they exist now, between

states, even between communities in the same state. But for a person farming along the Montana-Alberta border, who can see his competitor across that border and knows that his competitor's input costs are lower for no other reason than a trade barrier that should have been eliminated, that's going to bother him. If the guy one town over has better prices on pesticides, I can drive to get those, or negotiate with my local dealer. But if the guy across the border has better prices, I have no options, no bargaining power. That's just not right.

This is not an anti-industry bill. Growers need the crop protection industry, and it is important that the research and innovation in that sector continue. This bill will help to streamline regulatory processes and reduce the obstacles to registration, by requiring only one label. It simplifies distribution systems, by allowing companies to have just one label for the same product, even when it is being sold in two countries. So while this bill will address the sort of price distortions that farmers on the northern border find unfair, it also reduces cost to industry, and will ideally result in smoother registration processes.

In fact, representatives of the crop protection industry have said that the solution to trade barriers along the northern border is a joint label, and have testified in support of regulatory harmonization before the Senate Agriculture Committee. Since the passage of NAFTA, a technical working group on pesticide harmonization has worked diligently on the development of joint registration and labeling procedures, and has enjoyed the cooperation of the industry in those discussions. This bill accomplishes what both the industry and the producers have said is needed: regulatory harmonization between two nations, joint registration, and joint labeling.

This legislation is supported by the National Association of Wheat Growers, the National Barley Growers Association, the U.S. Durum Growers Association, the National Farmers Union, the Montana Grain Growers Association, and the North Dakota Grain Growers Association. It is time these barriers be eliminated. If we are going to have free trade in grain, then we need free train in the input costs for production agriculture. This bill accomplishes that. I ask Members to take a close look at this bill, and consider it seriously. Our growers deserve an end to the practice of artificially inflating the price of pesticides simply to take advantage of false barriers.

Mr. DORGAN. Mr. President, today I am reintroducing bipartisan legislation to remedy a long-standing and glaring inequity in our so-called free-trade system. There are significant and costly differences in prices between agricultural chemicals sold in Canada and similar—and in some cases, identical—chemicals sold in the United States. This disparity in prices puts an extra burden on American farmers, and it puts them at a distinct disadvantage when it comes to competing in the world market.

Currently, American and Canadian farmers use many of the same products on their fields. These products use the same chemicals, are made by the same company, and are sometimes even marketed under the same name; but they are often sold at a much lower cost north of the border.

For example, U.S. farmers use the pesticide Garlon, which is sold as Remedy in Canada. It is manufactured by the same company, with the same chemicals. But American farmers pay $8.02 more per acre than their Canadian counterparts. The pesticide Puma, which is widely used on wheat and barley, costs farmers in North Dakota $2.82 more per acre than Canadian farmers pay for Puma 120 Super, which is the same product, made by the same company. That means North Dakota farmers paid nearly $7.9 million more to treat their fields with Puma than they would have paid if they could have accessed it at prices paid by Canadian farmers.

This legislation would address that inequity by setting up a process that would allow American farmers to access these chemicals, which are lower priced, but identical to those already approved for use in the United States.

Data collected by the North Dakota Department of Agriculture show that farmers in just my home State of North Dakota alone would have saved nearly $11 million last year if they had been able to access agricultural chemicals at Canadian prices.

But this problem does not just affect farmers in North Dakota. Farmers all across the northern tier of the United States would benefit if they were able to access U.S.-approved pesticides at Canadian prices.

I have come before the Senate time and again to talk about the hidden inequities of trade. For trade to benefit our country, it must be fair. But the pricing inequities in the Canadian and U.S. pesticide markets are a failure of our current trade system.

This legislation I am introducing today, along with the Senator from Montana, Mr. BURNS, authorizes the Environmental Protection Agency to require that certain agricultural chemicals which have already been approved in the U.S. carry a joint label, which would allow them to cross the border freely.

The new labels would still be under the strict scrutiny of the Environmental Protection Agency, as would the use of these products. The EPA would continue to insure the health and safety standards that govern the products we use in our food supply. This bill keeps those priorities intact.

This bill is not an ending but a beginning. Hidden trade barriers and schemes riddle the fabric of our trade agreements. We cannot continue to accept trade practices that, on the one hand, hamstring Americans, and on the other hand, unduly promote our competitors. We ought not accept second best all of the time, and this bill is a step in bringing American producers back to a level playing field.

By Mr. AKAKA (for himself, Mr. REID, Mr. DURBIN, Mr. BINGAMAN, Mr. CORZINE, Mrs. MURRAY, Mr. KENNEDY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. INOUYE, Mr. PRYOR, Ms. MIKULSKI, Mr. OBAMA, Mr. DODD, Mr. LIEBERMAN, and Mrs. CLINTON):

S. 1580. A bill to improve the health of minority individuals; to the Committee on Finance.

Mr. AKAKA. Mr. President, I am proud to introduce the Healthcare Equality and Accountability Act, along with my colleagues Senators REID, DURBIN, BINGAMAN, CORZINE, MURRAY, KENNEDY, LANDRIEU, LAUTENBERG, INOUYE, PRYOR, MIKULSKI, OBAMA, DODD, LIEBERMAN, and CLINTON. I want to thank them, as well as my colleagues in the other body, for all of their contributions to this important legislation.

This bill will improve access to and the quality of health care for indigenous people and racial and ethnic minorities who often lack access and suffer disproportionately from certain diseases. It is essential that we expand and improve the health care safety net so that everyone can access the health care services that they need. This legislation will expand health coverage and includes provisions that will increase access to culturally-appropriate and relevant services for our communities.

In addition to improving treatments for the diseases that disproportionately effect indigenous people and racial and ethnic minorities, we need to also focus on preventing these diseases in the first place. This legislation will help combat heart disease, asthma, HIV/AIDS, and diabetes. Diabetes is a disease that disproportionately affects Pacific Islanders, including Native Hawaiians. Among populations in Hawaii, Native Hawaiians had the highest age-adjusted mortality rates due to diabetes for the years 2000 to 2002.

Statistics for U.S.-related Pacific Jurisdictions are difficult to obtain due to underdeveloped reporting and data collection systems. However, available data suggests that diabetes and its complications are growing problems that are creating a greater burden on the health care delivery systems of the Pacific Jurisdictions. For example, in the Republic of the Marshall Islands, mortality data for 1996–2000 reflects that complications from diabetes are the leading cause of death and accounted for 30 percent of all deaths during that period. In American Samoa, mortality data for 1998–2001 shows that diabetes is the third leading cause of death accounting for nine percent of all deaths for that period. In

Guam, diabetes has been identified as the fifth leading cause of death and the prevalence rate has been estimated to be seven times that of the United States. Local governments have had to focus on expensive off-island tertiary hospital care and curative services, resulting in the reduction of funds available for community-based primary preventive care and pnblic health services throughout the Pacific Jurisdictions.

There is a need for more comprehensive diabetes awareness education efforts targeted at communities with Native Hawaiian and other Pacific Islander populations. Papa Ola Lokahi, a non-profit agency created in 1988 that functions as a consortium with private and state agencies in Hawaii to improve the health status of Native Hawaiians and other Pacific Islanders, has established the Pacific Diabetes Today Resource Center. Pacific Diabetes Today is designed to provide community members with basic knowledge and skills to plan and implement community-based diabetes prevention and control activities. Since 1998, the Pacific Diabetes Today program has provided training and technical assistance to 11 communities in Hawaii and the Pacific Jurisdictions. However, more can be done to ensure that the diabetic health needs of Native Hawaiians and other Pacific Islanders are being met.

Community-based diabetes programs need to be better integrated into the larger infrastructure of diabetes prevention and control. Comprehensive, specific programs are needed to mobilize Native Hawaiian and other Pacific Islander communities and develop appropriate interventions for diabetes complications prevention and improve diabetes care. My bill, therefore, includes a provision that would authorize a comprehensive program to prevent and better manage the overlapping health problems that are often related to diabetes such as obesity, hypertension, and cardiovascular disease.

I am also pleased that a provision has been included in this bill that would restore Medicaid eligibility for Freely Associated States, FAS, citizens in the United States. The political relationship between the United States and the FAS is based on mutual support. In exchange for the United States having strategic denial and a defense veto over the FAS, the United States provides military and economic assistance to the Republic of Marshall Islands, Federated States of Micronesia and Palau with the goal of assisting these countries in achieving economic self-sufficiency following the termination of their status as U.N. Trust territories. Pursuant to the Compact, FAS citizens are allowed to freely enter the United States. They come to seek economic opportunity, education, and health care. Unfortunately, FAS citizens lost many of their public benefits as a result of the Personal Responsibility and Work Opportunity Act, PRWORA, of 1996, including Medicaid coverage. FAS citizens were previously eligible for Medicaid as aliens permanently residing under color of law in the United States.

After the enactment of PRWORA, the State of Hawaii was informed that it could not claim Federal matching funds for services rendered to FAS citizens. Since then, the State of Hawaii, and the territories of Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, CNMI, have continued to incur substantial costs to meet the health care needs of FAS citizens that have immigrated to these areas.

The Federal Government must provide Federal resources to help States meet the healthcare needs of the FAS citizens that have been brought about by a Federal commitment. It is inequitable for a state or territory to be responsible for all of the financial burden of providing necessary social services to individuals that are residing there due to a Federal commitment. Mr. President, FAS citizen eligibility must be restored. Furthermore, the State of Hawaii, and the territories of Guam, American Samoa, and the CNMI, should be reimbursed for all of the Medicaid expenses of FAS citizens, and must not be responsible for the costs of providing essential health care services for FAS citizens.

Finally, there is another provision in this bill is of extreme importance to the State of Hawaii, taken from legislation that my colleague from Hawaii, Senator INOUYE, has introduced. The provision would provide a 100 percent Federal Medicaid Assistance Percentage, FMAP, of health care costs of Native Hawaiians who receive health care from Federally Qualified Health Centers or the Native Hawaiian Health Care System. This would provide similar treatment for Native Hawaiians as already granted to Native Alaskans by the Indian Health Service or tribal organizations. The increased FMAP will ensure that Native Hawaiians have access to the essential health services provided by community health centers and the Native Hawaiian Health Care System.

This bill would significantly improve the quality of life for indigenous people and ethnic and racial minorities, and I encourage all of my colleagues to support this legislation.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator AKAKA and Senator REID in introducing the Healthcare Equality and Accountability Act. Our goal is to eliminate racial and ethnic disparities in health care, so that all citizens, regardless of income or background, have the best possible health care our Nation can provide.

The Institute of Medicine has documented the severity of ethnic and racial disparities in health care. People of color face unequal treatment and unequal outcomes in heart disease, infant mortality, HIV/AIDS, diabetes, asthma, and other serious illnesses. The health care needs of communities of color are often more severe than those of white Americans. Minorities often face significant obstacles, including poverty and the lack of health insurance. We need to attack disparities in all their forms.

A critical first step is to see that health insurance and decent health care are available and affordable for all Americans. This bill strengthens the health care safety net by expanding access to Medicaid and the Children's Health Insurance Program, and improving health care for Indian tribes, migrant workers, and farm workers.

The bill also contains essential measures for removing cultural and linguistic barriers to good care. The United States is a Nation of immigrants, and all Americans deserve to understand what their doctor is telling them. Interpreter and translator services save money in the long run by avoiding harm when patients do not understand their diagnosis or the health advice they receive. Health care institutions deserve to be reimbursed for providing these critically needed services.

Other important initiatives to reduce health disparities include diversifying the health care workforce. Minority providers are more likely to serve low-income communities of color, and this bill addresses the shortage of these providers.

Federal agencies can do more in this battle too. The bill requires all Federal health agencies to develop specific plans to eliminate disparities. The bill expands the Office of Civil Rights and the Office of Minority Health at the Department of Health and Human Services, and creates minority health offices within the Food and Drug Administration and the Centers for Medicare and Medicaid Services.

In addition, the bill strengthens investments in prevention and behavioral health and improves research and data collection. It strengthens health institutions that serve communities of color, provides grants for community initiatives, and funds programs on chronic disease. In each of these ways, we can reduce the gap in health care between people of color and whites, so that all Americans can benefit from the remarkable advances being made in modern health care.

It's time for Congress, the administration, and the Nation to end the shameful inequality in health care that plagues the lives of so many people in our society. This bill contains numerous provisions intended to make that happen, and it can have a major impact on the lives of millions of Americans. I commend Senators AKAKA and REID for their leadership on this important health issue. We intend to do all we can in this Congress to see that effective legislation to combat health disparities is enacted into law and funded adequately to do the job.

By Mr. BINGAMAN (for himself and Mr. BUNNING):

S. 1581. A bill to facilitate the development of science parks, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today with my colleague, Senator BUNNING, to introduce the Science Park Administration Act of 2005.

This legislation is a result of my travels to Taiwan, China, Hong Kong, and India to learn more about their science and technology policies, as well as to discover how they have successfully encouraged similar industries and research entities to work so closely together in these research parks.

Let me discuss some findings from my fact finding trips regarding the role of science parks in economic development.

Last summer, I visited the Hong Kong Science and Technology Park which the Hong Kong Government is funding at $423 million. By 2006, this investment will help construct 10 buildings, over 1 million square feet of office and laboratory space, that will cluster IC design, photonics, biotechnology and information technology.

This science park, like the others I visited in Asia, teams up with the local universities on collaborative research efforts. It has an incubation center with 83 start-up companies, and provides them low cost space, business planning, marketing, and employee training, as well as research and development grants from the Hong Kong Government to overcome the ''valley of death'' challenges so many new technology companies frequently face.

One of the most impressive features of this park is the Integrated Circuit, IC, Design and Development Support Center. This is a user facility with shared state of the art equipment to support the entire IC product development cycle, from initiation design to production release. For example, as many as 16 vendors can combine their designs onto a single wafer, thus reducing initial prototype foundry costs by 94 percent.

I was also briefed on the Hong Kong Cyber Port, another science park devoted solely to information technology, IT, and multimedia companies that trains employees and conducts collaborative research. The Hong Kong Government is investing $2 billion between 2000 and 2007 to house 10,000 IT professionals and 100 IT companies in over 1 million square feet of work space.

The Hong Kong Government's combined investment in developing the infrastructure to attract science-based companies to these two parks is about $400 million annually over a period of six years. On a comparable GDP scale, the United States would have to spend $31 billion annually for that same period for a total of $186 billion.

This past January, I spent 10 days in India reviewing their science and technology policies, and was particularly impressed with their development of Software Technology Parks. These parks were first developed in 1991 by the Ministry of Information Technology and Communications as a semi-autonomous entity to promote India's developing IT industry. They provide the infrastructure in terms of space, internet access, tax breaks and-one stop clearances for government approvals. Generous tax considerations exempt companies until 2010 from corporate income tax and excise duties on purchased goods.

As my colleagues are aware, the growth rate of India's IT industry have been phenomenal. There are now more than 1,000 companies in 44 such software parks in India, the largest located around Hyderabad and Bangalore considered to be India's ''Silicon Valleys.''. Last year these parks had a combined net export value of $50 billion, up 37 percent from the prior year.

Companies such as Infosys, which maintains software for large firms overseas, are located in these parks, and their 2004 revenues jumped by 50 percent. Last year, they received 1.2 million online job applications; they gave a standardized test to 300,000, interviewed 30,000, and hired 10,000. Much of India's success in the IT industry can be attributed not only to their universities, but to the government's decision 1991 to establish these Software Technology Parks.

Building on that success, and with the government's encouragement, these Software Parks are now set to launch biotechnology parks.

Taiwan's success in the global market place is a result of building the Hsinchu Science Park in the 1980s. Today, Hsinchu has over 100,000 technically trained people, 325 companies, 6 national labs and $22 billion in gross revenue. The government has duplicated these parks in two other locations of the island. The science parks being built throughout Asia are modeled after Taiwan's Hsinchu Science Park.

Let me note that these Asian science parks have several common features:

First the Government commits to provide a first-class infrastructure to accommodate all levels of science-based companies, from small start-ups in incubators to large manufacturing plants.

Second, these parks align companies of similar interests to mutually reinforce each other along the supply and management chain.

Third, the Government provides virtually one-stop shopping for government approvals, even including loans.

Fourth, the Government provides tax incentives, usually in the form of waiving taxes on the first several years of profit, and capital gains on acquired stock.

Fifth, and most importantly, the Government takes the long view of partnering with the local governments to ensure that a trained workforce is readily available to support the parks' growth, by teaming with universities and national laboratories.

If we fail to learn from these Asian success stories, we are in danger of losing the very high technology industries we first started, because the low cost manufacturing operations in Asia are now moving up the value chain to research intensive industries, which the Government facilitates by building science parks.

That leads me to the legislation we are introducing today.

The premise of the legislation is straight forward. It does not pick industry winners or losers. Rather, it simply provides a synergistic science-based infrastructure that companies may compete for and thrive in. Just like in Asia, the government acts as a facilitator not micromanager.

The legislation first proposes a series of competitively peer-reviewed science park planning grants to local governments.

A revolving loan fund in six regional centers is proposed to allow existing science parks to upgrade their infrastructure.

The legislation proposes a loan guarantee fund for the construction of new science parks.

Additionally, the legislation proposes a Science Park Venture Capital Fund similar to SBIC's, that would guarantee debentures issued by the Fund to raise capital for start-up companies trying to bridge that valley of death, where ideas must move from the laboratory to working prototype.

Moreover, the legislation proposes several tax incentives to locate in the park. The full cost of property placed in the park could be deducted in the year it was purchased without regard to the existing caps. Many times high-tech equipment is expensive and loses its value quickly, and this provision would cover that loss. The legislation proposes a flat 20 percent R&D tax credit without regard to any expenditure in the base period to spur greater research investment on a broader range of projects. Finally, the legislation ensures that the status of tax exempt bonds used to fund science park infrastructure remain tax exempt eliminating the uncertainty associated with its interpretation under the Bayh-Dole Act.

I believe this legislation combines many of the best ideas I have discovered on my Asian fact finding trips. I hope it attracts the support from both sides of the aisle as a truly bipartisan effort as we need this type of infrastructure investment more than ever before if we are to successfully compete in today's global environment.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1581

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 ''Science Park Administration Act of 2005''.

SEC. 2. DEVELOPMENT OF SCIENCE PARKS.

(a) FINDING.—Section 2 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701) is amended by adding at the end the following new paragraph:

''(12) It is in the best interests of the Nation to encourage the formation of science parks to promote the clustering of innovation through high technology activities.''.

(b) DEFINITION.—Section 4 of such Act (15 U.S.C. 3703) is amended by adding at the end the following new paragraphs:

''(14) 'Science park' means a group of interrelated companies and institutions, including suppliers, service providers, institutions of higher education, start-up incubators, and trade associations that cooperate and compete and are located in a specific area whose administration promotes real estate development, technology transfer, and partnerships between such companies and institutions, and does not mean a business or industrial park.

''(15) 'Business or industrial park' means primarily a for-profit real estate venture of businesses or industries which do not necessarily reinforce each other through supply chain or technology transfer mechanisms.

''(16) 'Science park infrastructure' means facilities that support the daily economic activity of a science park.''.

(c) PROMOTION OF DEVELOPMENT OF SCIENCE PARKS.—Section 5(c) of such Act (15 U.S.C. 3704(c)) is amended—

(1) in paragraph (14), by striking ''and'' at the end;

(2) in paragraph (15), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(16) promote the formation of science parks.''.

(d) SCIENCE PARKS.—Such Act is further amended by adding at the end the following new section:

''SEC. 24. SCIENCE PARKS.

''(a) DEVELOPMENT OF PLANS FOR CONSTRUCTION OF SCIENCE PARKS.—

''(1) IN GENERAL.—The Secretary shall award grants for the development of feasibility studies and plans for the construction of new or expansion of existing science parks.

''(2) LIMITATION ON AMOUNT OF GRANTS.—The amount of a grant awarded under this subsection may not exceed $750,000.

''(3) AWARD.—

''(A) COMPETITION REQUIRED.—The Secretary shall award any grant under this subsection pursuant to a full and open competition.

''(B) ADVERTISING.—The Secretary shall advertise any competition under this paragraph in the Commerce Business Daily.

''(C) SELECTION CRITERIA.—The Secretary shall publish the criteria to be utilized in any competition under this paragraph for the selection of recipients of grants under this subsection. Such criteria shall include requirements relating to—

''(i) the number of jobs to be created at the science park each year for a period of 5 years;

''(ii) the funding to be required to construct or expand the science park over the first 5 years;

''(iii) the amount and type of cost matching by the applicant;

''(iv) the types of businesses and research entities expected in the science park and surrounding community;

''(v) letters of intent by businesses and research entities to locate in the science park;

''(vi) the capacity of the science park for expansion over a period of 25 years;

''(vii) the quality of life at the science park for employees at the science park;

''(viii) the capability to attract a well trained workforce to the science park;

''(ix) the management of the science park;

''(x) expected risks in the construction and operation of the science park;

''(xi) risk mitigation;

''(xii) transportation and logistics;

''(xiii) physical infrastructure, including telecommunications;

''(xiv) ability to collaborate with other science parks throughout the world.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2006 through 2011, $7,500,000 to carry out this subsection.

''(b) REVOLVING LOAN PROGRAM FOR DEVELOPMENT OF SCIENCE PARK INFRASTRUCTURE.—

''(1) IN GENERAL.—The Secretary shall make grants to six regional centers for the development of existing science park infrastructure through the operation of revolving loan funds by such centers.

''(2) SELECTION OF CENTERS.—

''(A) IN GENERAL.—The Secretary shall select the regional centers to be awarded grants under this subsection utilizing such criteria as the Secretary shall prescribe.

''(B) CRITERIA.—The criteria prescribed by the Secretary under this paragraph shall include criteria relating to revolving loan funds and revolving loan fund operators under paragraph (4), including—

''(i) the qualifications of principal officers;

''(ii) non-Federal cost matching requirements; and

''(iii) conditions for the termination of loan funds.

''(3) LIMITATION ON LOAN AMOUNT.—The amount of any loan for the development of existing science park infrastructure that is funded under this subsection may not exceed $3,000,000.

''(4) REVOLVING LOAN FUNDS.—

''(A) IN GENERAL.—A regional center receiving a grant under this subsection shall fund the development of existing science park infrastructure through the utilization of a revolving loan fund.

''(B) OPERATION AND INTEGRITY.—The Secretary shall prescribe regulations to maintain the proper operation and financial integrity of revolving loan funds under this paragraph.

''(C) EFFICIENT ADMINISTRATION.—The Secretary may—

''(i) at the request of a grantee, amend and consolidate grant agreements governing revolving loan funds to provide flexibility with respect to lending areas and borrower criteria;

''(ii) assign or transfer assets of a revolving loan fund to a third party for the purpose of liquidation, and a third party may retain assets of the fund to defray costs related to liquidation; and

''(iii) take such actions as are appropriate to enable revolving loan fund operators to sell or securitize loans (except that the actions may not include issuance of a Federal guaranty by the Secretary).

''(D) TREATMENT OF ACTIONS.—An action taken by the Secretary under this paragraph with respect to a revolving loan fund shall not constitute a new obligation if all grant funds associated with the original grant award have been disbursed to the recipient.

''(E) PRESERVATION OF SECURITIES LAWS.—

''(i) NOT TREATED AS EXEMPTED SECURITIES.—No securities issued pursuant to subparagraph (C)(iii) shall be treated as exempted securities for purposes of the Securities Act of 1933 or the Securities Exchange Act of 1934, unless exempted by rule or regulation of the Securities and Exchange Commission.

''(ii) PRESERVATION.—Except as provided in clause (i), no provision of this paragraph or any regulation issued by the Secretary under this paragraph shall supersede or otherwise affect the application of the securities laws (as such term is defined in section 2(a)(47) of the Securities Exchange Act of 1934) or the rules, regulations, or orders of the Securities and Exchange Commission or a self-regulatory organization thereunder.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2006 through 2011, $60,000,000 to carry out this subsection.

''(c) LOAN GUARANTEES FOR SCIENCE PARK INFRASTRUCTURE.—

''(1) IN GENERAL.—The Secretary shall guarantee up to 80 percent of the loan amount for loans exceeding $10,000,000 for projects for the construction of science park infrastructure.

''(2) LIMITATIONS ON GUARANTEE AMOUNTS.—The maximum amount of loan principal guaranteed under this subsection may not exceed—

''(A) $50,000,000 with respect to any single project; and

''(B) $500,000,000 with respect to all projects.

''(3) SELECTION OF GUARANTEE RECIPIENTS.—The Secretary shall select recipients of loan guarantees under this subsection based upon the ability of the recipient to collateralize the loan amount through bonds, equity, property, and other such criteria as the Secretary shall prescribe.

''(4) TERMS AND CONDITIONS FOR LOAN GUARANTEES.—For purposes of this section, the loans guaranteed shall be subject to such terms and conditions as the Secretary may prescribe, except that—

''(A) the final maturity of such loans made or guaranteed shall not exceed (as determined by the Secretary) the lesser of—

''(i) 30 years and 32 days, or

''(ii) 90 percent of the useful life of any physical asset to be financed by such loan;

''(B) no loan made or guaranteed may be subordinated to another debt contracted by the borrower or to any other claims against the borrowers in the case of default;

''(C) no loan may be guaranteed unless the Secretary determines that the lender is responsible and that adequate provision is made for servicing the loan on reasonable terms and protecting the financial interest of the United States;

''(D) no loan may be guaranteed if the income from such loan is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1986, or if the guarantee provides significant collateral or security, as determined by the Secretary, for other obligations the income from which is so excluded;

''(E) any guarantee shall be conclusive evidence that said guarantee has been properly obtained, that the underlying loan qualified for such guarantee, and that, but for fraud or material misrepresentation by the holder, such guarantee shall be presumed to be valid, legal, and enforceable;

''(F) the Secretary shall prescribe explicit standards for use in periodically assessing the credit risk of new and existing direct loans or guaranteed loans;

''(G) the Secretary must find that there is a reasonable assurance of repayment before extending credit assistance; and

''(H) new loan guarantees may not be committed except to the extent that appropriations of budget authority to cover their costs are made in advance, as required in section 504 of the Federal Credit Reform Act of 1990.

''(5) PAYMENT OF LOSSES.—For purposes of this section—

''(A) IN GENERAL.—If, as a result of a default by a borrower under a guaranteed loan, after the holder thereof has made such further collection efforts and instituted such enforcement proceedings as the Secretary may require, the Secretary determines that

the holder has suffered a loss, the Secretary shall pay to such holder the percentage of such loss (not more than 80 percent) specified in the guarantee contract. Upon making any such payment, the Secretary shall be subrogated to all the rights of the recipient of the payment. The Secretary shall be entitled to recover from the borrower the amount of any payments made pursuant to any guarantee entered into under this section.

''(B) ENFORCEMENT OF RIGHTS.—The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States as a result of the issuance of any guarantee under this section.

''(C) FORBEARANCE.—Nothing in this section may be construed to preclude any forbearance for the benefit of the borrower which may be agreed upon by the parties to the guaranteed loan and approved by the Secretary, if budget authority for any resulting subsidy costs (as defined under the Federal Credit Reform Act of 1990) is available.

''(D) MANAGEMENT OF PROPERTY.—Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary shall have the right in the Secretary's discretion to complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell any property acquired by the Secretary pursuant to the provisions of this section.

''(6) REVIEW.—The Comptroller General of the United States shall, within 2 years of the date of enactment of this section, conduct a review of the subsidy estimates for the loan guarantees under this subsection, and shall submit to Congress a report on the review conducted under this paragraph.

''(7) TERMINATION.—No loan may be guaranteed under this subsection after September 30, 2011.

''(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated—

''(A) such sums as may be necessary for the cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of guaranteeing $500,000,000 of loans under this subsection, and

''(B) $6,000,000 for administrative expenses for fiscal year 2006 and such sums as necessary thereafter for administrative expenses in subsequent years.

''(d) NATIONAL ACADEMY OF SCIENCES EVALUATION.—

''(1) IN GENERAL.—The Secretary shall enter into an agreement with the National Academy of Sciences under which the Academy shall evaluate, on a tri-annual basis, the activities under this section.

''(2) TRI-ANNUAL REPORT.—Under the agreement under paragraph (1), the Academy shall submit to the Secretary a report on its evaluation of science park development under that paragraph. Each report may include such recommendations as the Academy considers appropriate for additional activities to promote and facilitate the development of science parks in the United States.

''(e) TRI-ANNUAL REPORT.—Not later than March 31 of every third year, the Secretary shall submit to Congress a report on the activities under this section during the preceding 3 years, including any recommendations made by the National Academy of Sciences under subsection (d)(2) during such period. Each report may include such recommendations for legislative or administrative action as the Secretary considers appropriate to further promote and facilitate the development of science parks in the United States.

''(f) REGULATIONS.—

''(1) REGULATIONS.—Consistent with Office of Management and Budget Circular A-129, 'Policies for Federal Credit Programs and Non-Tax Receivables', the Secretary shall prescribe regulations to carry out this section.

''(2) DEADLINE.—The Secretary shall prescribe such regulations not later than one year after the date of enactment of this section.''.

SEC. 3. SCIENCE PARK VENTURE CAPITAL FUND PILOT PROGRAM.

Title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.) is amended by adding at the end the following:

''PART C—SCIENCE PARK VENTURE CAPITAL FUND PILOT PROGRAM

''SEC. 1. DEFINITIONS.

''As used in this part, the following definitions shall apply:

''(1) BUSINESS OR INDUSTRIAL PARK.—The term 'Business or industrial park' means primarily a for-profit real estate venture of businesses or industries which do not necessarily reinforce each other through supply chain or technology transfer mechanisms.

''(2) EQUITY CAPITAL.—The term 'equity capital' means common or preferred stock or a similar instrument, including subordinated debt with equity features.

''(3) HIGH-TECHNOLOGY.—The term 'high-technology' means any of the high technology industries in the North American Industrial Classification System, as listed in table 8–25 of the National Science Board publication entitled 'Science and Engineering Indicators 2004', or as listed in any succeeding editions of such publication.

''(4) LEVERAGE.—The term 'leverage' includes—

''(A) debentures purchased or guaranteed by the Administrator;

''(B) participating securities purchased or guaranteed by the Administrator; and

''(C) preferred securities outstanding as of the date of enactment of this part.

''(5) MEZZANINE FINANCING.—The term 'mezzanine financing' means late-stage venture capital usually associated with the final round of financing prior to an initial public offering.

''(6) OPERATIONAL ASSISTANCE.—The term 'operational assistance' means management, marketing, and other technical assistance that assists high-technology start-up companies with business development.

''(7) PARTICIPATION AGREEMENT.—The term 'participation agreement' means an agreement, between the Administrator and a company granted final approval by the Administrator under section 374(e), that—

''(A) details the operating plan and investment criteria of the company; and

''(B) requires the company to make investments in high-technology start-up companies within a science park.

''(8) PRIVATE CAPITAL.—The term 'private capital'—

''(A) means the total of—

''(i)(I) the paid-in capital and paid-in surplus of a corporate science park venture capital company;

''(II) the contributed capital of the partners of a partnership science park venture capital company; or

''(III) the equity investment of the members of a limited liability company science park venture capital company; and

''(ii) unfunded binding commitments from investors that meet criteria established by the Administrator to contribute capital to the science park venture capital company, except that—

''(I) unfunded commitments may be counted as private capital for purposes of approval by the Administrator of any request for leverage; and

''(II) leverage shall not be funded based on the commitments; and

''(B) does not include—

''(i) any funds borrowed by a science park venture capital company from any source;

''(ii) any funds obtained through the issuance of leverage; or

''(iii) any funds obtained directly or indirectly from Federal, State, or local government, except for—

''(I) funds obtained from the business revenues of any federally chartered or government-sponsored enterprise established before the date of enactment of this part;

''(II) funds invested by an employee welfare benefit plan or pension plan; and

''(III) any qualified nonprivate funds, if the investors of such funds do not directly or indirectly control the management, board of directors, general partners, or members of the science park venture capital company.

''(9) PROGRAM.—The term 'Program' means the Science Park Venture Capital Program established under section 372.

''(10) QUALIFIED NONPRIVATE FUNDS.—The term 'qualified nonprivate funds' means—

''(A) any funds directly or indirectly invested in any applicant or science park venture capital company on or before the date of enactment of this part, by any Federal agency other than the Administration, under a law explicitly mandating the inclusion of those funds in the definition of the term private capital; and

''(B) any funds invested in any applicant or science park venture capital company by 1 or more entities of any State, including any guarantee extended by any such entity, in an aggregate amount not to exceed 33 percent of the private capital of the applicant or science park venture capital company.

''(11) SCIENCE PARK.—The term 'science park' means a group of interrelated companies and institutions, including suppliers, service providers, institutions of higher education, start-up incubators, and trade associations that cooperate and compete and are located in a specific area whose administration promotes real estate development, technology transfer, and partnerships between such companies and institutions, and does not mean a business or industrial park.

''(12) SCIENCE PARK VENTURE CAPITAL.—The term 'science park venture capital' means equity capital investments in high-technology start-up businesses located in science parks to foster economic development and technological innovation.

''(13) SCIENCE PARK VENTURE CAPITAL COMPANY.—The term 'science park venture capital company' means a company that—

''(A) meets the requirements under section 373;

''(B) has been granted final approval by the Administrator under section 374(e); and

''(C) has entered into a participation agreement with the Administrator.

''(14) START-UP COMPANY.—The term 'start-up company' means a company that has developed intellectual property protection of research and development, but has not reached the stage associated with equity or securitized investments typical of venture capital or mezzanine financing.

''(15) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

''SEC. 2. ESTABLISHMENT.

''There is established a Science Park Venture Capital Program, under which the Administrator may—

''(1) enter into participation agreements with companies granted final approval under section 374(e);

''(2) guarantee the debentures issued by science park venture capital companies under section 375; and

''(3) award grants to science park venture capital companies under section 377.

"SEC. 3. REQUIREMENTS FOR SCIENCE PARK VENTURE CAPITAL COMPANIES.

''(a) ORGANIZATION.—For purposes of this part, a science park venture capital company—

''(1) shall be an incorporated body, a limited liability company, or a limited partnership organized and chartered, or otherwise existing under State law solely for the purpose of performing the functions and conducting the activities authorized by this part;

''(2) if incorporated, shall have succession for a period of not less than 30 years unless earlier dissolved by the shareholders of the company;

''(3) if a limited partnership or a limited liability company, shall have succession for a period of not less than 10 years; and

''(4) shall possess the powers reasonably necessary to perform the functions and conduct the activities.

''(b) ARTICLES.—The articles of any science park venture capital company—

''(1) shall specify in general terms—

''(A) the purposes for which the company is formed;

''(B) the name of the company;

''(C) the area or areas in which the operations of the company are to be carried out;

''(D) the place where the principal office of the company is to be located; and

''(E) the amount and classes of the shares of capital stock of the company;

''(2) may contain any other provisions consistent with this part that the science park venture capital company may determine to be appropriate to adopt for the regulation of the business of the company and the conduct of the affairs of the company; and

''(3) shall be subject to the approval of the Administrator.

''(c) CAPITAL REQUIREMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the private capital of each science park venture capital company shall be not less than—

''(A) $5,000,000; or

''(B) $10,000,000, with respect to each science park venture capital company authorized or seeking authority to issue participating securities to be purchased or guaranteed by the Administrator under this part.

''(2) EXCEPTION.—The Secretary may, in the discretion of the Administrator, and based on a showing of special circumstances and good cause, permit the private capital of science park venture capital company described in paragraph (1)(B) to be less than $10,000,000, but not less than $5,000,000, if the Administrator determines that the action would not create or otherwise contribute to an unreasonable risk of default or loss to the Federal Government.

''(3) ADEQUACY.—In addition to the requirements under paragraph (1), the Administrator shall—

''(A) determine whether the private capital of each science park venture capital company is adequate to ensure a reasonable prospect that the company will be operated soundly and profitably, and managed actively and prudently in accordance with the articles of the company;

''(B) determine that the science park venture capital company will be able to comply with the requirements of this part; and

''(C) ensure that the science park venture capital company is designed primarily to meet equity capital needs of the businesses in which the company invests and not to compete with traditional financing by commercial lenders of high-technology startup businesses.

''(d) DIVERSIFICATION OF OWNERSHIP.—The Administrator shall ensure that the management of each science park venture capital company licensed after the date of enactment of this part is sufficiently diversified from, and unaffiliated with, the ownership of the company so as to ensure independence and objectivity in the financial management and oversight of the investments and operations of the company.

"SEC. 4. SELECTION OF SCIENCE PARK VENTURE CAPITAL COMPANIES.

''(a) ELIGIBILITY.—A company is eligible to participate as a science park venture capital company in the Program if the company—

''(1) is a newly formed for-profit entity or a newly formed for-profit subsidiary of an existing entity;

''(2) has a management team in the science park with experience in development financing or relevant venture capital financing;

''(3) has a primary objective of economic development of the science park and its surrounding geographic area; and

''(4) promotes innovation of science and technology in the science park.

''(b) APPLICATION.—Any eligible company that desires to participate as a science park venture capital company in the Program shall submit an application to the Administrator, which shall include—

''(1) a business plan describing how the company intends to make successful venture capital investments in start up companies within the science park;

''(2) a description of the qualifications and general reputation of the management of the company;

''(3) an estimate of the ratio of cash to in-kind contributions of binding commitments to be made to the company under the Program;

''(4) a description of the criteria to be used to evaluate whether, and to what extent, the company meets the objectives of the Program;

''(5) information regarding the management and financial strength of any parent firm, affiliated firm, or other firm essential to the success of the business plan of the company; and

''(6) such other information as the Administrator may require.

''(c) STATUS.—Not later than 90 days after the initial receipt by the Administrator of an application under this section, the Administrator shall provide to the applicant a written report that describes the status of the applicants and any requirements remaining for completion of the application.

''(d) MATTERS CONSIDERED.—In reviewing and processing any application under this section, the Administrator—

''(1) shall determine if—

''(A) the applicant meets the requirements under subsection (e); and

''(B) the management of the applicant is qualified and has the knowledge, experience, and capability necessary to comply with this part;

''(2) shall take into consideration—

''(A) the need for and availability of financing for high-technology start-up companies in the science park in which the applicant is to commence business;

''(B) the general business reputation of the owners and management of the applicant; and

''(C) the probability of successful operations of the applicant, including adequate profitability and financial soundness;

''(3) shall not take into consideration any projected shortage or unavailability of grant funds or leverage; and

''(4) shall emphasize the promotion of regional science park venture capital companies to serve multiple research parks in order to avoid geographic dilution of management and capital.

''(e) APPROVAL; LICENSE.—The Administrator may approve an applicant to operate as a science park venture capital company under this part and license the applicant as a science park venture capital company, if—

''(1) the Administrator determines that the application satisfies the requirements under subsection (b);

''(2) the Administrator approves—

''(A) the area in which the science park venture capital company is to conduct its operations; and

''(B) the establishment of branch offices or agencies (if authorized by the articles); and

''(3) the applicant enters into a participation agreement with the Administrator.

"SEC. 5. DEBENTURES.

''(a) GUARANTEES.—The Administrator may guarantee the timely payment of principal and interest, as scheduled, on debentures issued by any science park venture capital company.

''(b) TERMS AND CONDITIONS.—The Administrator may make guarantees under this section on such terms and conditions as the Administrator determines to be appropriate, except that the term of any debenture guaranteed under this section shall not exceed 15 years.

''(c) FULL FAITH AND CREDIT OF THE UNITED STATES.—The full faith and credit of the United States is pledged to pay all amounts that may be required to be paid under any guarantee under this part.

''(d) MAXIMUM GUARANTEE.—The Administrator may—

''(1) guarantee the debentures issued by a science park venture capital company only to the extent that the total face amount of outstanding guaranteed debentures of such company does not exceed the lesser of—

''(A) 300 percent of the private capital of the company, or

''(B) $100,000,000; and

''(2) provide for the use of discounted debentures.

"SEC. 6. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

''(a) ISSUANCE.—The Administrator may issue trust certificates representing ownership of all or a part of debentures issued by a science park venture capital company and guaranteed by the Administrator under this part, if such certificates are based on and backed by a trust or pool approved by the Administrator and composed solely of guaranteed debentures.

''(b) GUARANTEE.—

''(1) IN GENERAL.—The Administrator may, under such terms and conditions as it deems appropriate, guarantee the timely payment of the principal of and interest on trust certificates issued by the Administrator or its agents for purposes of this section.

''(2) LIMITATION.—Each guarantee under this subsection shall be limited to the extent of principal and interest on the guaranteed debentures that compose the trust or pool.

''(3) PREPAYMENT OR DEFAULT.—

''(A) IN GENERAL.—In the event that a debenture in a trust or pool is prepaid, or in the event of default of such a debenture, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture represents in the trust or pool.

''(B) INTEREST.—Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Administrator only through the date of payment of the guarantee.

''(C) REDEMPTION.—At any time during its term, a trust certificate may be called for redemption due to prepayment or default of all debentures.

''(c) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to pay all amounts that may be required to be paid under any guarantee of a

trust certificate issued by the Administrator or its agents under this section.

''(d) SUBROGATION AND OWNERSHIP RIGHTS.—

''(1) SUBROGATION.—If the Administrator pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

''(2) OWNERSHIP RIGHTS.—No provision of Federal, State, or local law shall preclude or limit the exercise by the Administrator of its ownership rights in the debentures residing in a trust or pool against which 1 or more trust certificates are issued under this section.

''(e) MANAGEMENT AND ADMINISTRATION.—

''(1) REGISTRATION.—The Administrator may provide for a central registration of all trust certificates issued under this section.

''(2) CONTRACTING OF FUNCTIONS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, the Administrator may contract with an agent or agents to carry out on behalf of the Administrator the pooling and the central registration functions provided for in this section, including—

''(i) maintenance, on behalf of and under the direction of the Administrator, of such commercial bank accounts or investments in obligations of the United States as may be necessary to facilitate the creation of trusts or pools backed by debentures guaranteed under this part; and

''(ii) the issuance of trust certificates to facilitate the creation of such trusts or pools.

''(B) FIDELITY BOND OR INSURANCE REQUIREMENT.—Any agent performing functions on behalf of the Administrator under this paragraph shall provide a fidelity bond or insurance in such amounts as the Administrator determines necessary to fully protect the interests of the United States.

''(C) REGULATION OF BROKERS AND DEALERS.—The Administrator may regulate brokers and dealers in trust certificates issued under this section.

''(D) ELECTRONIC REGISTRATION.—Nothing in this subsection may be construed to prohibit the use of a book entry or other electronic form of registration for trust certificates issued under this section.

''SEC. 7. OPERATIONAL ASSISTANCE GRANTS.

''(a) IN GENERAL.—

''(1) GRANTS AUTHORIZED.—The Administrator may award grants to science park venture capital companies and other entities to provide operational assistance to high-technology start-up companies financed, or expected to be financed, by such companies.

''(2) TERMS.—Grants under this subsection shall be made over a period not to exceed 10 years, under such other terms as the Administrator may require.

''(3) GRANT AMOUNT.—Each grant awarded under this subsection shall be equal to the lesser of—

''(A) 10 percent of the private capital raised by the science park venture capital company; or

''(B) $1,000,000.

''(4) OTHER ENTITIES.—The amount of a grant made under this subsection to any entity other than a science park venture capital company shall be equal to the resources (in cash or in kind) raised by the entity in accordance with the requirements applicable to science park venture capital companies under this part.

''(b) SUPPLEMENTAL GRANTS.—

''(1) IN GENERAL.—The Administrator may award supplemental grants to science park venture capital companies and other entities, under such terms as the Administrator may require, to provide additional operational assistance to start-up companies financed, or expected to be financed, by such companies or entities.

''(2) MATCHING REQUIREMENT.—The Administrator may require, as a condition of any supplemental grant made under this subsection, that the company or entity receiving the grant provide a matching contribution equal to 50 percent of the amount of the supplemental grant from non-Federal cash or in-kind resources.

''(c) LIMITATION.—None of the assistance made available under this section may be used for any overhead or general and administrative expense of a science park venture capital company or other entity.

''SEC. 8. REPORTING REQUIREMENTS.

''(a) SCIENCE PARK VENTURE CAPITAL COMPANIES.—Each science park venture capital company shall provide the Administrator with such information as the Administrator may require, including information relating to the criteria described in section 374(b)(4).

''(b) PUBLIC REPORTS.—

''(1) IN GENERAL.—The Administrator shall prepare and make available to the public an annual report on the Program, which shall include detailed information on—

''(A) the number of science park venture capital companies licensed by the Administrator during the previous fiscal year;

''(B) the aggregate amount of leverage that science park venture capital companies have received from the Federal Government during the previous fiscal year;

''(C) the aggregate number of each type of leveraged instruments used by science park venture capital companies during the previous fiscal year, and how each such number compares to the number in previous fiscal years;

''(D) for the previous fiscal year, the number of—

''(i) science park venture capital company licenses surrendered; and

''(ii) the number of science park venture capital companies placed in liquidation;

''(E) the amount and type of leverage each such company has received from the Federal Government;

''(F) the amount of losses sustained by the Federal Government as a result of operations under this part during the previous fiscal year and an estimate of the total losses that the Federal Government can reasonably expect to incur as a result of the operations during the current fiscal year;

''(G) actions taken by the Administrator to maximize recoupment of funds of the Federal Government expended to implement and administer the Program during the previous fiscal year and to ensure compliance with the requirements of this part, including implementing regulations;

''(H) the amount of Federal Government leverage that each licensee received in the previous fiscal year and the types of leverage instruments used by each licensee;

''(I) for each type of financing instrument, the sizes, types of geographic locations, and other characteristics of the small business investment companies using the instrument during the previous fiscal year, including the extent to which the investment companies have used the leverage from each instrument to make loans or equity investments in science parks; and

''(J) the actions of the Administrator to carry out this part.

''(2) PROHIBITION.—In compiling the report required under paragraph (1), the Administrator may not—

''(A) compile the report in a manner that permits identification of any particular type of investment by an individual science park venture capital company in which a science park venture capital company invests; or

''(B) release any information that is prohibited under section 1905 of title 18, United States Code.

''SEC. 9. EXAMINATIONS.

''(a) IN GENERAL.—Each science park venture capital company that participates in the Program shall be subject to examinations made at the direction of the Administrator, in accordance with this section.

''(b) ASSISTANCE OF PRIVATE SECTOR ENTITIES.—An examination under this section may be conducted with the assistance of a private sector entity that has the qualifications and expertise necessary to conduct such an examination.

''(c) COSTS.—

''(1) IN GENERAL.—The Administrator may assess the cost of an examination under this section, including compensation of the examiners, against the science park venture capital company examined.

''(2) PAYMENT.—Any science park venture capital company against which the Administrator assesses costs under this subsection shall pay the costs assessed.

''(d) DEPOSIT OF FUNDS.—Funds collected under this section—

''(1) shall be deposited in the account that incurred the costs for carrying out this section;

''(2) shall be made available to the Administrator to carry out this section, without further appropriation; and

''(3) shall remain available until expended.

''SEC. 10. BANK PARTICIPATION.

''(a) IN GENERAL.—Except as provided under subsection (b), any national bank, any member bank of the Federal Reserve System, and, to the extent permitted under applicable State law, any insured bank that is not a member of such system, may invest in—

''(1) any science park venture capital company; or

''(2) any entity established to invest solely in science park venture capital companies.

''(b) LIMITATION.—No bank described in subsection (a) may make investments described in that subsection that are greater than 5 percent of the capital and surplus of the bank.

''SEC. 11. FEES.

''(a) IN GENERAL.—Except as provided under subsection (b), the Administrator may charge such fees as it determines to be appropriate with respect to any guarantee or grant issued under this part.

''(b) EXCEPTION.—The Administrator shall not collect a fee for any guarantee of a trust certificate under this section. Any agent of the Administrator may collect a fee, upon the approval of the Administrator, for the functions described in section 376(e)(2).

''SEC. 12. APPLICABLE LAW.

''(a) IN GENERAL.—The provisions relating to New Market Venture Capital companies under sections 361 through section 366 shall apply to science park venture capital companies.

''(b) PURCHASE OF GUARANTEED OBLIGATIONS.—Section 318 shall not apply to any debenture issued by a science park venture capital company under this part.

''SEC. 13. REGULATIONS.

''Not later than 12 months after the date of enactment of this part, the Administrator shall issue such regulations as it determines necessary to carry out this part.

''SEC. 14. AUTHORIZATIONS OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to the Administration for each of the fiscal years 2006 through 2011, to remain available until expended—

''(1) such sums as may be necessary for the cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of guaranteeing $500,000,000 of debentures under this part; and

''(2) $50,000,000 to make grants under this part.

''(b) FUNDS COLLECTED FOR EXAMINATIONS.—Funds deposited pursuant to section 362(d) may only be used for—

''(1) examinations under section 362; and

''(2) other oversight activities of the Program.''.

SEC. 4. TAX INCENTIVES FOR INVESTMENT IN SCIENCE PARKS.

(a) EXPENSING.—

(1) IN GENERAL.—Section 179(d) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(11) APPLICATION OF SECTION TO PROPERTY PLACED IN SERVICE IN SCIENCE PARKS.—

''(A) IN GENERAL.—In the case of any section 179 property placed in service in any science park, this section shall be applied without regard to paragraphs (1) and (2) of subsection (b).

''(B) SCIENCE PARK.—

''(i) IN GENERAL.—The term 'science park' means a group of interrelated companies and institutions, including suppliers, service providers, institutions of higher education, start-up incubators, and trade associations that cooperate and compete and are located in a specific area whose administration promotes real estate development, technology transfer, and partnerships between such companies and institutions, and does not mean a business or industrial park.

''(ii) BUSINESS OR INDUSTRIAL PARK.—The term 'business or industrial park' means primarily a for-profit real estate venture of businesses or industries which do not necessarily reinforce each other through supply chain or technology transfer mechanisms.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to property placed in service after the date of the enactment of this Act.

(b) TAX CREDIT FOR RESEARCH ACTIVITIES.—

(1) IN GENERAL.—Section 41(a) of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking ''and'' at the end of paragraph (1)(B), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) 20 percent of the qualified research expenses paid or incurred by the taxpayer during the taxable year in carrying on any trade or business located in a science park.''.

(2) SCIENCE PARK.—Section 41(f) of such Code (relating to special rules) is amended by adding at the end the following new paragraph:

''(6) SCIENCE PARK.—

''(A) IN GENERAL.—The term 'science park' means a group of interrelated companies and institutions, including suppliers, service providers, institutions of higher education, start-up incubators, and trade associations that cooperate and compete and are located in a specific area whose administration promotes real estate development, technology transfer, and partnerships between such companies and institutions, and does not mean a business or industrial park.

''(B) BUSINESS OR INDUSTRIAL PARK.—The term 'business or industrial park' means primarily a for-profit real estate venture of businesses or industries which do not necessarily reinforce each other through supply chain or technology transfer mechanisms.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

(c) PRIVATE BUSINESS USE OF A BOND-FINANCED FACILITY DOES NOT INCLUDE PERFORMANCE OF RESEARCH USING FEDERAL GOVERNMENT FUNDING IN SUCH FACILITY.—

(1) IN GENERAL.—Subparagraph (A) of section 141(b)(6) of the Internal Revenue Code of 1986 (defining private business use) is amended by inserting ''or use in the performance of research using, in whole or in part, funds of the United States or any agency or instrumentality thereof'' before ''shall not be taken into account''.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by this subsection shall apply to any use on or after the date of the enactment of this Act.

(B) NO INFERENCE.—Nothing in the amendment made by this subsection shall be construed to create any inference with respect to the use of tax-exempt bond financed facilities before the effective date of such amendment.

By Mr. CHAMBLISS (for himself and Mr. ROBERTS):

S. 1582. A bill to reauthorize the United States Grain Standards Act, to facilitate the official inspection at export port locations of grain required or authorized to be inspected under such Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CHAMBLISS. Mr. President, today I introduce legislation to reauthorize the U.S. Grain Standards Act, which expires September 30, 2005.

The Secretary of Agriculture was granted authority by Congress to establish grain standards in 1916. Sixty years later, Congress authorized the Federal Grain Inspection Service in order to ensure the development and maintenance of uniform U.S. standards, to develop inspection and weighing procedures for grain in domestic and export trade, and to facilitate grain marketing. The U.S. grain inspection system is recognized worldwide for its accuracy and reliability.

On May 25, 2005, the Agriculture Committee held a hearing to review the reauthorization of the Act during which the industry expressed its desire to provide authority to the United States Department of Agriculture, USDA, to utilize third-party entities at export terminals. Inspections at these terminals are currently conducted by Federal inspectors or employees of State Departments of Agriculture. Industry proposes, and commodity groups support, granting USDA the authority to utilize third-party entities at U.S. export terminals in order to improve competitiveness of U.S. agriculture worldwide.

Congress has a unique opportunity to provide this authority to USDA, and I have included the industry's proposal in this legislation. USDA estimates that by 2009, 75 percent of Federal grain inspectors will be eligible for retirement. The short-term staffing situation facing USDA should ease the Department's transition in delivering inspection and weighing services at export terminals.

In addition to providing USDA the authority to use third-party entities at export terminal locations, this 5-year reauthorization bill that I am introducing contains measures to ensure the integrity of the Federal grain inspection system. The bill clearly states that official inspections continue to be the direct responsibility of USDA. USDA will also have the ability to issue rules and regulations to further enhance the work and supervision of these entities. The ability of the U.S. to increase long-term competitiveness coupled with a system that can maintain its strong reputation worldwide certainly holds great potential for success.

This bill is identical to the reauthorization bill recently considered and approved unanimously by the Committee on Agriculture in the House of Representatives. It is my hope that this measure will garner equivalent support in this body as reauthorization of the U.S. Grain Standards Act moves forward.

By Mr. SMITH (for himself, Mr. DORGAN, and Mr. PRYOR):

S. 1583. A bill to amend the Communications Act of 1934 to expand the contribution base for universal service, establish a separate account within the universal service fund to support the deployment of broadband service in unserved areas of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. SMITH. Mr. President, I rise today with Senators DORGAN and PRYOR to introduce the ''Universal Service for the 21st Century Act.'' For more than 70 years, the preservation and advancement of universal service has been a fundamental goal of our telecommunications laws. In order to ensure the long term sustainability of the fund and to add support for broadband services that are increasingly important to our Nation's economic development, our bill reforms the system of payments into the universal service fund and creates a $500 million account to bring broadband to unserved areas of the country.

The achievements of the universal service fund are undeniable. Affordable telephone services are available in many remote and high cost areas of the country, including Oregon, because of the fund. Large and small telecommunications carriers serve sparsely populated rural communities and schools and libraries receive affordable Internet services because of the fund. The need for a robust and sustainable universal service system certainly remains, but it has become increasingly clear that major reforms are needed if the fund is to meet the evolving communications needs of the American people.

In Section 706 of the Telecommunications Act of 1996, Congress directed the Federal Communications Commission, FCC, and the States to encourage deployment of advanced telecommunications services, including broadband, on a reasonable and timely basis. Earlier this month, the FCC released data on broadband connections that shows significant gains, in deployment. According to the report, there were nearly 29 million broadband connections throughout the country in 2004.

But we can do more. Although there have been well documented successes in the deployment of broadband services in many parts of the country, others remain unserved, whether due to geography, low population density or other reasons. These largely rural areas deserve the benefits of an advanced communications infrastructure and increasingly need that infrastructure to build and maintain robust economies.

Accordingly, to meet the needs of these communities, we have created a $500 million ''Broadband for Unserved Areas Account'' within the universal service fund that will be used solely for the deployment of broadband networks in unserved areas. This funding will be awarded competitively based on merit to a single broadband provider in each unserved area. The FCC will establish the guidelines for this new account. All technologies will be eligible for funding.

The bill also directs the FCC to update its definition of broadband to ensure that our communications policies are forward-looking and competitive with the speeds and capabilities available in other industrialized countries. The FCC will revisit its definition annually and will prepare reports for Congress regarding gains in broadband penetration in unserved areas and the need for an increase or decrease in funding.

In addition, the bill addresses a crisis in the structure of the universal service fund which has threatened its long term viability. Currently, the burden of universal service fund contributions is placed on a limited class of carriers, causing inequities in the system and incentives to avoid contribution. As demands on the fund increase, contributors are being forced to pay more. This tension threatens to cripple the fund. Our bill therefore authorizes and directs the FCC to establish a permanent mechanism to support universal service.

By reforming the universal service system and spurring the deployment of broadband services, our legislation will ensure that our Nation's communications infrastructure will continue to grow, and to be the robust and connected network that Americans expect and deserve.

I ask that the bill be printed in the RECORD.

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

S. 1583

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 ''Universal Service for the 21st Century Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The preservation and advancement of universal service is a fundamental goal of the Communications Act of 1934 and the Telecommunications Act of 1996.

(2) Access throughout the nation to high-quality and advanced telecommunications and information services is essential to secure the many benefits of our modern society.

(3) As the Internet becomes a critical element of any economic and social growth, universal service should shift from sustaining voice grade infrastructure promoting the development of efficient and advanced networks that can sustain advanced communications services.

(4) The current structure established by the Federal Communications Commission has placed the burden of universal service support on only a limited class of carriers, causing inequities in the system, incentives to avoid contribution, and a threat to the long term sustainability of the universal service fund.

(5) Current fund contributors are paying an increasing portion of their interstate and international service revenue into the universal service fund.

(6) Any fund contribution system should be equitable, nondiscriminatory and competitively neutral, and the funding mechanism must be sufficient to ensure affordable communications services for all.

SEC. 3. UNIVERSAL SERVICE FUND CONTRIBUTION REQUIREMENTS.

(a) INCLUSION OF INTRASTATE REVENUES.—Section 254(d) of the Communications Act of 1934 (47 U.S.C. 254(d)) is amended—

(1) by striking ''Every'' and inserting ''Notwithstanding section 2(b) of this Act, a'';

(2) by striking ''interstate'' each place it appears; and

(3) by adding at the end ''Nothing in this subsection precludes a State from adopting rules or regulations to preserve and advance universal service within that State as permitted by section 2(b) and subsections (b) and (f) of this section.''.

(b) UNIVERSAL SERVICE PROCEEDING.—

(1) PROCEEDING.—The Federal Communications Commission shall initiate a proceeding, or take action pursuant to any proceeding on universal service existing on the date of enactment of this Act, to establish a permanent mechanism to support universal service, that will preserve and enhance the long term financial stability of universal service, and will promote the public interest.

(2) CRITERIA.—In establishing such a permanent mechanism, the Commission may include collection methodologies such as total telecommunications revenues, the assignment of telephone numbers and any successor identifier, connections (which could include carriers with a retail connection to a customer), and any combination thereof if the methodology—

(A) promotes competitive neutrality among providers and technologies;

(B) to the greatest extent possible ensures that all communications services that are capable of supporting 2-way voice communications be included in the assessable base for universal service support;

(C) takes into account the impact on low volume users, and proportionately assesses high volume users, through a capacity analysis or some other means; and

(D) ensures that a carrier is not required to contribute more than once for the same transaction, activity, or service.

(3) EXCLUDED PROVIDERS.—If a provider of communications services that are capable of supporting 2-way voice communications would not contribute under the methodology established by the Commission, the Commission shall require such a provider to contribute to universal service under an equitable alternative methodology if exclusion of the provider from the contribution base would jeopardize the preservation, enhancement, and long term sustainability of universal service.

(4) DEADLINE.—The Commission shall complete the proceeding and issue a final rule not more than 6 months after the date of enactment of this Act.

SEC. 4. INTERCARRIER COMPENSATION.

(a) JURISDICTION.—Notwithstanding section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)), the Federal Communications Commission shall have exclusive jurisdiction to establish rates for inter-carrier compensation payments and shall establish rules providing a comprehensive, unified system of inter-carrier compensation, including compensation for the origination and termination of intrastate telecommunications traffic.

(b) CRITERIA.—In establishing these rules, and in conjunction with its action in its universal service proceeding under section 3, the Commission, in consultation with the Federal-State Joint Board on Universal Service, shall—

(1) ensure that the costs associated with the provision of interstate and intrastate telecommunications services are fully recoverable;

(2) examine whether sufficient requirements exist to ensure traffic contains necessary identifiers for the purposes of inter-carrier compensation; and

(3) to the greatest extent possible, minimize opportunities for arbitrage.

(c) SUFFICIENT SUPPORT.—The Commission should, to the greatest extent possible, ensure that as a result of its universal service and inter-carrier compensation proceedings, the aggregate amount of universal service support and inter-carrier compensation provided to local exchange carriers with fewer than 2 percent of the Nation's subscriber lines will be sufficient to meet the just and reasonable costs of such local exchange carriers.

(d) NEGOTIATED AGREEMENTS.—Nothing in this section precludes carriers from negotiating their own inter-carrier compensation agreements.

(e) DEADLINE.—The Commission shall complete the pending Intercarrier Compensation proceeding in Docket No. 01–92 and issue a final rule not more than 6 months after the date of enactment of this Act.

SEC. 5. ESTABLISHMENT OF BROADBAND ACCOUNT WITHIN UNIVERSAL SERVICE FUND.

Part I of title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by inserting after section 254 the following:

''SEC. 254A. BROADBAND FOR UNSERVED AREAS ACCOUNT.

''(a) ACCOUNT ESTABLISHED.—

''(1) IN GENERAL.—There shall be, within the universal service fund established pursuant to section 254, a separate account to be known as the 'Broadband for Unserved Areas Account'.

''(2) PURPOSE.—The purpose of the account is to provide financial assistance for the deployment of broadband communications services to unserved areas throughout the United States.

''(b) IMPLEMENTATION.—

''(1) IN GENERAL.—The Commission shall by rule establish—

''(A) guidelines for determining which areas may be considered to be unserved areas for purposes of this section;

''(B) criteria for determining which facilities-based providers of broadband communications service, and which projects, are eligible for support from the account;

''(C) procedural guidelines for awarding assistance from the account on a merit-based and competitive basis;

''(D) guidelines for application procedures, accounting and reporting requirements, and other appropriate fiscal controls for assistance made available from the account; and

''(E) a procedure for making funds in the account available among the several States on an equitable basis.

''(2) STUDY AND ANNUAL REPORTS ON UNSERVED AREAS.—

''(A) IN GENERAL.—Within 6 months after the date of enactment of the Universal Service for the 21st Century Act, the Commission shall conduct a study to determine which areas of the United States may be considered to be 'unserved areas' for purposes of this section. For purposes of the study and for purposes of the guidelines to be established under subsection (a)(1), the availability of broadband communications services by satellite in an area shall not preclude designation of that area as unserved if the Commission determines that subscribership to the service in that area is de minimis.

''(B) ANNUAL UPDATES.—The Commission shall update the study annually.

''(C) REPORT.—The Commission shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce setting forth the findings and conclusions of the Commission for the study and each update under this paragraph and making recommendations for an increase or decrease, if necessary, in the amounts credited to the account under this section.

''(3) STATE INVOLVEMENT.—The Commission may delegate the distribution of funding under this section to States subject to Commission guidelines and approval by the Commission.

''(c) LIMITATIONS.—

''(1) ANNUAL AMOUNT.—Amounts obligated or expended under subsection (c) for any fiscal year may not exceed $500,000,000.

''(2) USE OF FUNDS.—To the extent that amounts in the account are not obligated or expended for financial assistance under this section, they shall be used to support universal service under section 254.

''(3) SUPPORT LIMITED TO FACILITIES-BASED SINGLE PROVIDER PER UNSERVED AREA.—Assistance under this section may be provided only to—

''(A) facilities-based providers of broadband communications service; and

''(B) 1 facility-based provider of broadband communications service in any unserved area.

''(d) APPLICATION WITH SECTIONS 214, 254, AND 410.—

''(1) SECTION 214(e).—Section 214(e) shall not apply to the Broadband for Unserved Areas Account.

''(2) SECTION 254.—Section 254 shall be applied to the Broadband for Unserved Areas Account—

''(A) by disregarding—

''(i) subsections (a) and (e) thereof; and

''(ii) any other provision thereof determined by the Commission to be inappropriate or inapplicable to implementation of this section; and

''(B) by reconciling, to the maximum extent feasible and in accordance with guidelines prescribed by the Commission, the implementation of this section with the provisions of subsections (h) and (l) thereof.

''(3) SECTION 410.—Section 410 shall not apply to the Broadband for Unserved Areas Account.

''(e) DEFINITIONS.—In this section:

''(1) BROADBAND.—

''(A) IN GENERAL.—The term 'broadband' shall be defined by the Commission in accordance with the requirements of this paragraph.

''(B) REVISION OF INITIAL DEFINITION.—Within 30 days after the date of enactment of the Universal Service for the 21st Century Act, the Commission shall revise its definition of broadband to require a data rate—

''(i) greater than the 200 kilobits per second standard established in its Section 706 Report (14 FCC Rec. 2406); and

''(ii) consistent with data rates for broadband communications services generally available to the public on the date of enactment of that Act.

''(C) ANNUAL REVIEW OF DEFINITION.—The Commission shall review its definition of broadband no less frequently than once each year and revise that definition as appropriate.

''(2) BROADBAND COMMUNICATIONS SERVICE DEFINED.—The term 'broadband communications service' means a high-speed communications capability that enables users to originate and receive high-quality voice, data, graphics, and video communications using any technology.''.

SEC. 6. IMPLEMENTATION OF SECTION 254A.

The Federal Communications Commission shall complete a proceeding and issue a final rule to implement section 254A of the Communications Act of 1934 not more than 6 months after the date of enactment of this Act.

Mr. DORGAN. Mr. President, today my colleagues Senators SMITH, PRYOR and I are introducing legislation to ensure the sustainability and longevity of the Universal Service Fund and to support the deployment of broadband to unserved areas.

Section 254 of the 1996 Telecommunications Act sets forth the principles of universal service. Section 254 states that all citizens, including rural consumers, deserve access to telecommunications services that are reasonably comparable to those services provided in urban areas, at reasonably comparable rates.

This goal to ensure that rural consumers are not left behind continues to be critical, particularly as technology advances in leaps and bounds in this 21st century. Access to a robust communications infrastructure is a necessity for all Americans.

Our bill will further that goal in two ways. First, it will ensure that the Federal Communications Commission, FCC, will address reform of universal service and intercarrier compensation to support the cost of a national, quality communications network.

Over time, the Universal Service Fund has become increasingly strained, with the burden of support placed on only a limited class of carriers, creating inequities in the system and incentives to avoid contribution.

Reform is needed, and our bill directs the FCC to embark upon this reform, with specific guidelines to ensure equity and fairness and continuing sufficient support for networks.

In addition, our legislation will set up an account within the Universal Service Fund for broadband deployment to unserved areas. This will enable deployment of broadband to areas of the country that remain prohibitively expensive to serve, leaving consumers in those areas behind the technological curve.

This legislation is only a starting point. I believe more dialogue is necessary among my colleagues and industry, in order to achieve comprehensive universal service reform. I invite my colleagues to join me in this dialogue and in cosponsoring this bill.

Mr. President, I ask unanimous consent that a summary of this bill be printed in the RECORD following my statement.

By Mr. BINGAMAN (for himself and Mr. INOUYE):

S. 1585. A bill to amend title XIX of the Social Security Act to reduce the costs of prescription drugs for enrollees of medicaid managed care organizations by extending the discounts offered under fee-for-service medicaid to such organizations; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I am introducing legislation today with Senator INOUYE entitled the Medicaid Health Plan Rebate Act of 2005.

I ask unanimous consent that a summary of the legislation developed by the Association for Community Affiliated Plans, a policy statement by the American Public Human Services Association on the issue, and a letter of support from the Medicaid Health Plans of America be printed in the RECORD.

I further ask for unanimous consent that the text of the legislation be printed in the RECORD.

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

ASSOCIATION FOR COMMUNITY AFFILIATED PLANS—REDUCING MEDICAID COSTS WITHOUT CUTTING BENEFITS OR BENEFICIARIES: CONGRESS SHOULD EQUALIZE DESCRIPTION DRUG COSTS FOR BENEFICIARIES IN MEDICAID MANAGED CARE

REQUEST

As Congress and the States struggle to control the skyrocketing costs of Medicaid, the Association for Community Affiliated Plans (ACAP) supports a solution that will save Federal, State governments and Medicaid Managed Care Organizations (MCOs) up to $2 billion over ten years by equalizing the treatment of prescription drug discounts between Medicaid managed care and Medicaid fee- for-service. In offering Medicaid managed care plans access to the Medicaid drug rebate, Congress will provide relief for federal and state budgets, thereby mitigating the need for added cuts to Medicaid benefits or populations.

BACKGROUND

Created by the Omnibus Budget Reconciliation Act (OBRA) of 1990, the Medicaid Drug Rebate Program requires a drug manufacturer to have a rebate agreement with the Secretary of the Department of Health and Human Services for States to receive federal funding for outpatient drugs dispensed to Medicaid patients. At the time the law was enacted, managed care organizations were excluded from access to the drug rebate program. In 1990, only 2.8 million people were enrolled in Medicaid managed care and so the savings lost by the carve-out were relatively small. Today, 12 million people are enrolled in capitated managed care plans. This migration of beneficiaries into managed care has, in turn, increased States' Medicaid pharmacy costs because fewer beneficiaries have access to the drug rebate.

CHALLENGE FOR MEDICAID PLANS

Under the drug rebate, States receive between 18 and 20 percent discount on brand

name drug prices and between 10 and 11 percent for generic drug prices. At the time the rebate was enacted, many of the plans in Medicaid were large commercial plans who believed that they could get better discounts than the federal rebate. Today, Medicaid-focused plans are the fastest growing sector in Medicaid managed care. According to a study by the Lewin Group, Medicaid-focused MCOs typically only receive about a 6 percent discount on brand name drugs and no discount on generics. Because many MCOs (particularly smaller Medicaid-focused MCOs) do not have the capacity to negotiate deeper discounts with drug companies, Medicaid is overpaying for prescription drugs for enrollees in Medicaid health plans.

OPPORTUNITY OR MEDICAID SAVINGS

The Lewin Group estimates that this proposal could save up to $2 billion over 10 years. This legislation has been endorsed by organizations representing both state government and the managed care industry, including the National Association of State Medicaid Directors, and the Association for Community Affiliated Plans.

As Congress is forced to make tough choices to control the costs of the Medicaid program, this proposal offers a ''no-harm'' option to control costs and ensure that there is not a prima facie pharmacy cost disadvantage states using managed care as a cost effective alternative to Medicaid fee-for-service.

AMERICAN PUBLIC HUMAN SERVICES ASSOCIATION

NATIONAL ASSOCIATION OF STATE MEDICAID DIRECTORS

POLICY STATEMENT: MCO ACCESS TO THE MEDICAID PHARMACY REBATE PROGRAM

Background

The Omnibus Budget Reconciliation Act of 1990 (OBRA '90) established a Medicaid drug rebate program that requires pharmaceutical manufacturers to provide a rebate to participating state Medicaid agencies. In return, states must cover all prescription drugs manufactured by a company that participates in the rebate program. At the time of this legislation, only a small percentage of Medicaid beneficiaries were enrolled in capitated managed care plans and were primarily served by plans that also had commercial lines of business. These plans requested to be excluded from the drug rebate program as it was assumed that they would be able to secure a better rebate on their own. Though regulations have not yet been promulgated, federal interpretation to date has excluded Medicaid managed care organizations from participating in the federal rebate program.

Today, the situation is quite different. 58% of all Medicaid beneficiaries are enrolled in some type of managed care delivery system, many in capitated health plans. Some managed care plans, especially Medicaid-dominated plans that make up a growing percentage of the Medicaid marketplace, are looking at the feasibility of gaining access to the Medicaid pharmacy rebate. However, a number of commercial plans remain content to negotiate their own pharmacy rates and are not interested in pursuing the Medicaid rebate.

Policy Statement

The National Association of State Medicaid Directors is supportive of Medicaid managed care organizations (MCOs), in their capacity as an agent of the state, being able to participate fully in the federal Medicaid rebate program. To do so, the MCO must adhere to all of the federal rebate rules set forth in OBRA '90 and follow essentially the same ingredient cost payment methodology used by the state. The state will have the ability to make a downward adjustment in the MCO's capitation rate based on the assumption that the MCO will collect the full rebate instead of the state. Finally, if a pharmacy benefit manager (PBM) is under contract with an MCO to administer the Medicaid pharmacy benefit for them, then the same principal shall apply, but in no way should both the MCO and the PBM be allowed to claim the rebate.

MEDICAID HEALTH PLANS OF AMERICA,
Washington, DC, April 7, 2005.

MARGARET A. MURRAY,
Executive Director, Association for Community Affiliated Plans, Washington, DC.

DEAR MS. MURRAY: The Medicaid Health Plans of America (MHPOA) supports your proposed initiative to provide Medicaid managed care organizations with access to the Medicaid drug rebate found in Section 1927 of the Social Security Act. We support this effort and urge Congress to enact this common sense provision.

Medicaid Health Plans of America, formed in 1993 and incorporated in 1995, is a trade association representing health plans and other entities participating in Medicaid managed care throughout the country It's primary focus is to provide research, advocacy, analysis, and organized forums that support the development of effective policy solutions to promote and enhance the delivery of quality healthcare. The Association initially coalesced around the issue of national healthcare reform, and as the policy debate changed from national healthcare reform to national managed care reform, the areas of focus shifted to the changes in Medicaid managed care.

Your proposal to allow Medicaid managed care organizations access to the Medicaid drug rebate makes sense given the migration of Medicaid beneficiaries from fee-for-service to managed care since 1990. Increasingly, states have not been able to take advantage of the drug rebate for those enrollees in managed care, thus driving up federal and state Medicaid costs. The savings estimated in the Lewin Group study are significant and may help to mitigate the needs for other cuts in the program. In addition, it demonstrates a proactive effort to offer solutions to improving the Medicaid program. We applaud this effort.

MHPOA is proud to support this legislative proposal and will endorse any legislation in Congress to enact this proposal.

Sincerely,

THOMAS JOHNSON,
Executive Director.

S. 1585

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicaid Health Plan Rebate Act of 2005''.

SEC. 2. EXTENSION OF PRESCRIPTION DRUG DISCOUNTS TO ENROLLEES OF MEDICAID MANAGED CARE ORGANIZATIONS.

(a) IN GENERAL.—Section 1927(j) of the Social Security Act (42 U.S.C. 1396r–8(j)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively, and realigning the left margins of such paragraphs accordingly;

(3) in paragraph (1) (as redesignated by paragraph (2) of this section), by striking ''The State'' and inserting ''IN GENERAL.—The State''; and

(4) in paragraph (2) (as so redesignated), by striking ''Nothing'' and inserting ''RULE OF CONSTRUCTION.—Nothing''.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act and apply to rebate agreements entered into or renewed under section 1927 of the Social Security Act (42 U.S.C. 1396r–8) on or after such date.

Mr. REID. Mr. President, I rise to express my support for the Healthcare Equality and Accountability Act that Senator AKAKA and I are introducing today. We are pleased that Congressman Honda, Chair of the Congressional Asian Pacific American Caucus, is introducing this legislation in the House of Representatives with the support of the Congressional Black Caucus, the Congressional Hispanic Caucus, and the Congressional Native American Caucus.

My first elected position was on the board of trustees of the largest public hospital in Southern Nevada—a hospital known today as University Medical Center (UMC) of Southern Nevada.

Since my time on the hospital board, Nevada has become not just one of the fastest growing states in the nation, but one of the most diverse. The Asian and Hispanic populations have grown by over 200 percent, and the African-American population in Nevada has increased by 91 percent. As a result, health care providers are struggling to meet the needs of Nevada's diverse population.

In one example, a woman arrived at a Las Vegas emergency room hemorrhaging. Doctors determined that she needed a hysterectomy, but she did not speak English. Her young son had to interpret, but was embarrassed to explain the diagnosis, so instead he told his mother she had a tumor in her stomach.

In areas with rapidly growing diverse populations, miscommunications like this one are all too common.

In another incident, a woman at a lab in Las Vegas was diagnosed with breast cancer, but lab employees couldn't find anyone to explain her test results to her in Spanish.

Unfortunately, a shortage of interpreters and translated material is just one problem that contributes to the high rate of health disparities among racial and ethnic groups.

According to a recent report by the Centers for Disease Control, African-Americans are 30 percent more likely to die from heart disease and cancer than whites, and 40 percent more likely to die from stroke.

Yet, despite a substantial need for health care, minority groups are less likely to have health insurance and are less likely to receive appropriate care.

If we do nothing, the health care divide will only get worse. Since 2000, millions more Americans are without health insurance and health care cost have skyrocketed. About 33 percent of Hispanics, 19 percent of African Americans and 19 percent of Asians are uninsured.

In just one year—from 2002 to 2003—the number of Hispanics without health insurance increased by one million people.

And for the first time in four decades, infant mortality rates in this nation have increased. The infant mortality rate for African Americans is more than twice as high than for whites; and is 70 percent higher for American Indian and Alaska Native infants.

The legislation we are introducing today will help to: expand the health care safety net, diversify the health care work force, combat diseases that disproportionately affect racial and ethnic minorities, emphasize prevention and behavioral health, promote the collection and dissemination of data and enhance medical research, and provide interpreters and translation services in the delivery of health care.

Everyone deserves equal treatment in health care. I hope that all of my colleagues will support the Healthcare Equality and Accountability Act so we may begin to close the health care divide.

By Mr. BINGAMAN (for himself, Mr. DOMENICI, Mrs. MURRAY, Mr. JEFFORDS, Mr. ALEXANDER, Ms. CANTWELL, Mr. AKAKA, Mr. REED, Mr. CHAFEE, Mr. LEAHY, Mr. DODD, and Mr. DAYTON):

S. 1587. A bill to amend title XXI of the Social Security Act to permit qualifying States to use a portion of their allotments under the State children's health insurance program for any fiscal year for certain medicaid expenditures; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, today with Senators DOMENICI, MURRAY, JEFFORDS, ALEXANDER, CANTWELL, AKAKA, REED, CHAFEE, LEAHY, DODD, and DAYTON we introduce legislation entitled the ''Children's Health Equity Act of 2005.''

This legislation would extend provisions that were included in Public Laws #108–74 and 108–127 that amended the State Children's Health Insurance Program, or SCHIP, to permit the states of Connecticut, Hawaii, Maryland, Minnesota, New Hampshire, New Mexico, Rhode Island, Tennessee, Vermont, Washington, and Wisconsin to apply some of their enhanced SCHIP matching funds toward the coverage of certain children enrolling in Medicaid that were part of expansions of coverage to children through Medicaid in those 11 states prior to the enactment of SCHIP.

As a article in the September/October 2004 issue of Health Affairs by Genevieve Kenney and Debbie Chang points out, when SCHIP was created, ''Inequities were . . . introduced across states because those that had already expanded Medicaid coverage to children could not receive the higher SCHIP matching rate for these children . . . [and this] meant that states that had been ahead of the curve in expanding Medicaid eligibility for children were penalized financially relative to states that expanded coverage after SCHIP.''

The article adds that ''additional cross-state inequities were introduced'' during the creation of SCHIP because three states had their prior expansions grandfathered in during the bill's consideration. Left behind were the aforementioned 11 states.

Fortunately, with the passage of Public Laws #108–74 and 108–127 in 2003, the inequity was recognized and the 11 states, including New Mexico, were allowed to use up to 20 percent of our State's enhanced SCHIP allotments to pay for Medicaid eligible children above 150 percent of poverty that were part of Medicaid expansions prior to the enactment of SCHIP. As the Congressional Research Service notes, ''The primary purpose of the 20 percent allowance was to enable qualifying states to receive the enhanced FMAP [Federal Medical Assistance Percentage] for certain children who likely would have been covered under SCHIP had the state not expanded their regular Medicaid coverage before SCHIP's enactment in August 1997.''

Unfortunately, one major problem with the compromise was that it only allowed the 11 states flexibility with their SCHIP funds for allotments between 1998 and 2001 and not in the future. Therefore, the inequity continues with SCHIP allotments from 2002 and on. In fact, with the expiration of SCHIP funds from FY 1998–2000 as of September 2004, that leaves the 11 states with only the ability to spend FY 2001 SCHIP allotments on expansion children. For those states, such as Vermont and Rhode Island, that have already spent their 2001 SCHIP allotments, they no longer benefit from the passage of this provision. Furthermore, the FY 2001 funds will also expire at the end of September 2005. Thus, under current law, no spending under these provisions will be permitted in fiscal year 2006 or thereafter.

Therefore, our legislation today prevents the full expiration of this provision for our 11 states and ensures that the compromise language is extended in the future. It is important to states such as New Mexico that have been severely penalized for having expanded coverage to children through Medicaid prior to the enactment of SCHIP. In fact, due to the SCHIP inequity, New Mexico has been allocated $266 million from SCHIP between fiscal years 1998 and 2002, and yet, has only been able to spend slightly over $26 million as of the end of last fiscal year. In other words, New Mexico has been allowed to spend less than 10 percent of its federal SCHIP allocations because the expansion children have been previously ineligible for the enhanced SCHIP matching funds.

As the health policy statement by the National Governors' Association reads, ''The Governors believe that it is critical that innovative states not be penalized for having expanded coverage to children before the enactment of S–CHIP, which provides enhanced funding to meet these goals. To this end, the Governors support providing additional funding flexibility to states that had already significantly expanded coverage to the majority of uninsured children in their states.''

It is important to note the bill does not take money from other states' CHIP allotments. It simply allows our states to spend our States' specific CHIP allotments from the federal government on our uninsured children—just as other states across the country are doing.

According to an analysis by the Congressional Research Service, thus far eight states have benefited financially from the passage of the legislation. In the fourth quarter of 2003 and for all four quarters in 2004, Hawaii reported federal SCHIP expenditures using the 20 percent allowance in the amount of $380,000, Maryland received $106,000, New Hampshire received $2.1 million, New Mexico received $2.3 million, Rhode Island received $485,000, Tennessee received $4.5 million, Vermont received $475,000, and Washington received $22.2 million.

I urge that this very important provision for our states be included in the budget reconciliation package the Congress is preparing to consider in September and ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1587

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Children's Health Equity Technical Amendment Act of 2005''.

SEC. 2. AUTHORITY FOR QUALIFYING STATES TO USE PORTION OF SCHIP ALLOTMENT FOR ANY FISCAL YEAR FOR CERTAIN MEDICAID EXPENDITURES.

(a) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking ''fiscal year 1998, 1999, 2000, or 2001'' and inserting ''a fiscal year''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on October 1, 2004.

By Mr. BINGAMAN (for himself, Mr. ROCKEFELLER, Mr. FEINGOLD, Mr. CORZINE, Mr. KOHL, Ms. MIKULSKI, Mr. DURBIN, and Mr. HARKIN):

S. 1589. A bill to amend title XVIII of the Social Security Act to provide for reductions in the medicare part B premium through elimination of certain overpayments to Medicare Advantage organizations; to the Committee on Finance.

S. 1589

Mr. BINGAMAN. Mr. President, I am introducing legislation today with Senators ROCKEFELLER and FEINGOLD that is similar to S. 2906 in the 108th Congress and will have more to say about this legislation when we return in September.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1589

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 ''Affordability in Medicare Premiums Act of 2005''.

SEC. 2. REDUCTION OF MEDICARE PART B PREMIUM FOR INDIVIDUALS NOT ENROLLED IN A MEDICARE ADVANTAGE PLAN.

Section 1839(a) of the Social Security Act (42 U.S.C. 1395r(a)) is amended—

(1) in paragraph (3), in the first sentence, by striking ''The Secretary'' and inserting ''Subject to paragraph (5), the Secretary''; and

(2) by adding at the end the following new paragraph:

''(5)(A) For each year (beginning with 2006), the Secretary shall reduce the monthly premium rate determined under paragraph (3) for each month in the year for individuals who are not enrolled in a Medicare Advantage plan (including such individuals subject to an increased premium under subsection (b) or (i)) so that the aggregate amount of such reductions in the year is equal to the aggregate amount of reduced expenditures from the Federal Supplementary Medicare Insurance Trust Fund that the Secretary estimates would result in the year if the annual Medicare+Choice capitation rate for the year was equal to the amount specified under subparagraph (D) of section 1853(c)(1), and not subparagraph (A), (B), or (C) of such section.

''(B) In order to carry out subsections (a)(1) and (b)(1) of section 1840, the Secretary shall transmit to the Commissioner of Social Security and the Railroad Retirement Board by the beginning of each year (beginning with 2006), such information determined appropriate by the Secretary, in consultation with the Commissioner of Social Security and the Railroad Retirement Board, regarding the amount of the monthly premium rate determined under paragraph (3) for individuals after the application of subparagraph (A).''.

SEC. 3. FUNDING REDUCTIONS IN THE MEDICARE PART B PREMIUM THROUGH REDUCTIONS IN PAYMENTS TO MEDICARE ADVANTAGE ORGANIZATIONS.

Section 1839(a) of the Social Security Act (42 U.S.C. 1395r(a)), as amended by section 2, is amended—

(1) in paragraph (3), in the first sentence, by striking ''paragraph (5)'' and inserting ''paragraphs (5) and (6)''; and

(2) by adding at the end the following new paragraph:

''(6) For each year (beginning with 2006), the Secretary shall reduce the monthly premium rate determined under paragraph (3) for each month in the year for each individual enrolled under this part (including such an individual subject to an increased premium under subsection (b) or (i)) so that the aggregate amount of such reductions in the year is equal to an amount equal to—

''(A) the aggregate amount of reduced expenditures from the Federal Supplementary Medicare Insurance Trust Fund in the year that the Secretary estimates will result from the provisions of, and the amendments made by, sections 4 and 5 of the Affordability in Medicare Premiums Act of 2005; minus

''(B) the aggregate amount of reductions in the monthly premium rate in the year pursuant to paragraph (5)(A).''.

SEC. 4. APPLICATION OF RISK ADJUSTMENT REFLECTING CHARACTERISTICS FOR THE ENTIRE MEDICARE POPULATION IN PAYMENTS TO MEDICARE ADVANTAGE ORGANIZATIONS.

Effective January 1, 2006, in applying risk adjustment factors to payments to organizations under section 1853 of the Social Security Act (42 U.S.C. 1395w–23), the Secretary of Health and Human Services shall ensure that payments to such organizations are adjusted based on such factors to ensure that the health status of the enrollee is reflected in such adjusted payments, including adjusting for the difference between the health status of the enrollee and individuals enrolled under the original medicare fee-for-service program under parts A and B of title XVIII of such Act. Payments to such organizations must, in aggregate, reflect such differences.

SEC. 5. ELIMINATION OF MA REGIONAL PLAN STABILIZATION FUND (SLUSH FUND).

(a) IN GENERAL.—Subsection (e) of section 1858 of the Social Security Act (42 U.S.C. 1395w–27a) is repealed.

(b) CONFORMING AMENDMENT.—Section 1858(f)(1) of the Social Security Act (42 U.S.C. 1395w–27a(f)(1)) is amended by striking ''subject to subsection (e),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 221(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2181).

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 1591. A bill to amend the Internal Revenue Code of 1986 to modify the rules relating to the suspension of interest and certain penalties where the taxpayer is not contacted by the Internal Revenue Service within 18 months; to the Committee on Finance.

Mr. BAUCUS. Mr. President, last year, the Senate passed significant legislation aimed at shutting down tax shelters. We ramped up disclosure requirements that make it easier for IRS to find those who promoted and invested in these deals. We greatly increased penalties. We made law firms and accounting firms responsible for their part in perpetuating this distasteful business.

Another thing we did was to take a break on interest expense away from participants in listed transactions and those who fail to disclose a reportable transaction.

Usually, if the IRS audits your tax return and doesn't tell you about any adjustments to your tax bill within 18 months after the return is filed, the interest on that tax bill stops. It stops until the IRS does tell you what you owe. It is called ''the 18 month interest suspension rule'' and became law so taxpayers wouldn't have to pay excessive interest if the IRS took a long time to figure out what they owed.

But, people who get involved with tax shelters play hide and seek with the IRS. They hope the game lasts until the time for auditing a tax return has passed. This means that the IRS often doesn't know a taxpayer has bought into a tax shelter until well after 18 months has gone by.

And, this problem is made even worse by those who sell the shelters. Promoters are supposed to keep a list of those who buy their shelters. The IRS can ask for the list—it's one way the IRS can find those who get into these bad deals.

But, often the promoter won't turn that list over to the IRS right away. Once again, it is well after that 18 month mark before the IRS learns about the investment and can do the audit.

It is not right that taxpayers benefit from this 18 month interest suspension rule when the delays are the result of their own hand. Taxpayers involved in deals that abuse our tax system should not benefit from their own fun and games.

That is why we took the interest suspension break away from these taxpayers in last year's Jobs Act. But we only took it away for interest charges after October 3, 2004.

Today, my good friend CHUCK GRASSLEY and I introduce a proposal that takes this one step further and eliminates the interest suspension break for interest charges on or before October 3, 2004. Why should these folks get any break when they have manipulated the system in the first place?

The only exception is for taxpayers who have decided to take the IRS up on a published settlement initiative to unwind their transaction. Those taxpayers would continue to qualify for suspension of their accrued interest expense through the October 3 date. The IRS has found these settlement initiatives are a useful way to get these old cases resolved and off the table. I think we should help this process along so the IRS can deal with other aspects of the tax gap.

Our proposal also will plug up another unintended loophole in the interest suspension rules. Earlier this year, the IRS ruled that taxpayers filing amended returns showing a balance due more than 18 months after the original return was filed were also entitled to interest suspension—this applies to all taxpayers, not just those with tax shelters. Since the IRS wouldn't have any way of knowing these taxpayers even owed more tax, it doesn't make sense to give them a break on interest charges.

Over the past several years this country has experienced a scourge of tax shelters. With hard work, we have come a long way in our fight against them. We must be relentless in our quest to wipe them out. We need to remove any incentives that might encourage people to get into these abusive deals. Our proposal is one more blow in our fight to maintain fairness and integrity in our system of tax administration. We request your support for this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1591

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

SECTION 1. MODIFICATIONS OF SUSPENSION OF INTEREST AND PENALTIES WHERE INTERNAL REVENUE SERVICE FAILS TO CONTACT TAXPAYER.

(a) EFFECTIVE DATE OF EXCEPTION FROM SUSPENSION RULES FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

(1) IN GENERAL.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2004 is amended to read as follows:

''(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

''(A) IN GENERAL.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

''(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

''(i) IN GENERAL.—Except as provided in clause (ii) or (iii), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

''(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, pursuant to a published settlement initiative which is offered by the Secretary of the Treasury to a group of similarly situated taxpayers claiming benefits from the transaction, the taxpayer has entered into a settlement agreement with respect to the tax liability arising in connection with the transaction.

''(iii) CLOSED TRANSACTIONS.—Clause (i) shall not apply to a transaction if, as of July 29, 2005 (May 9, 2005 in the case of a listed transaction)—

''(I) the assessment of all Federal income taxes for the taxable year in which the tax liability to which the interest relates arose is prevented by the operation of any law or rule of law, or

''(II) a closing agreement under section 7121 has been entered into with respect to the tax liability arising in connection with the transaction.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

(b) TREATMENT OF AMENDED RETURNS AND OTHER SIMILAR NOTICES OF ADDITIONAL TAX OWED.—

(1) IN GENERAL.—Section 6404(g)(1) of the Internal Revenue Code of 1986 (relating to suspension) is amended by adding at the end the following new sentence: ''If, after the return for a taxable year is filed, the taxpayer provides to the Secretary 1 or more signed written documents showing that the taxpayer owes an additional amount of tax for the taxable year, clause (i) shall be applied by substituting the date the last of the documents was provided for the date on which the return is filed.''

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to documents provided on or after July 29, 2005.

By Ms. SNOWE (for herself, Mr. CONRAD, Mrs. LINCOLN, and Ms. COLLINS):

S. 1592. A bill to amend title XIX of the Social Security Act to permit States to obtain reimbursement under the Medicaid program for care or services required under the Emergency Medical Treatment and Active Labor Act that are provided in a nonpublicly owned or operated institution for mental diseases; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Medicaid Emergency Psychiatric Care Act of 2005, which will serve to improve access to mental health treatment and remove an unfunded mandate on our private mental health treatment centers. I am particularly pleased to introduce this bill with several of my colleagues, Senators CONRAD, LINCOLN, and COLLINS, who share my belief that we must improve access to treatment for many of the 18.5 million Americans who are afflicted with a mental health disorder.

Our bill will move a step closer to achieving this goal by requiring the Medicaid program to provide reimbursement to private mental health facilities that receive patients under the Emergency Medical Treatment and Labor Act, known as EMTALA. EMTALA requires hospitals to provide emergency care to patients, regardless of their ability to pay. However, this stands in conflict with Medicaid law, which in most cases prohibits payment for psychiatric treatment for people between the ages of 21 to 65 years. Our legislation will remedy that situation by providing Medicaid coverage for emergency treatment for mental illness, thus expanding access for acute psychiatric care and ensuring that patients with mental disorders receive the assistance they vitally need in a timely fashion.

Under current law, Medicaid payment for psychiatric treatment for patients between the ages of 21 and 65 years is restricted to hospitals that have an in house psychiatric ward. If a patient seeks care from a private psychiatric hospital or is transferred to a private facility from a community hospital, Medicaid does not provide reimbursement due to the so-called Institutions for Mental Disease, IMD, exclusion. In comparison, if the same patient seeks care under EMTALA from a hospital because of a physical ailment, Medicaid provides coverage regardless of the type of facility that provides the treatment. I have therefore joined together with Senator CONRAD, Senator LINCOLN, and Senator COLLINS to introduce legislation that will require Medicaid to pay for the cost of care associated with emergency psychiatric treatment necessary to comply with EMTALA. No longer will private entities be required to shoulder the burden of this Federal mandate, and no longer will Medicaid-eligible beneficiaries go without access to necessary and appropriate emergency care.

This bipartisan legislation has been carefully crafted with input from both the provider and beneficiary communities to ensure that assistance is directed to those who are most in need and to ensure that the coverage only extends to people who require emergency treatment. The definition in the EMTALA statute of an emergency is straightforward for psychiatric patients. Patients must present as a danger to themselves or others—for example, as being suicidal or threatening physical harm to others.

Our bill also offers a targeted and low-cost solution to ease the crisis in emergency departments. Emergency department overcrowding is a growing and severe problem in the United States, and dedicated physicians and nurses who work in emergency rooms are reaching a breaking point where they may not have the resources or surge capacity to respond effectively. Patients often face a long wait in the emergency room, sometimes for days, because there is no bed or other appropriate setting available. Tens of thousands of dollars every day are being spent inefficiently on extended treatment in emergency rooms that is not the most appropriate or clinically effective care.

This crisis in emergency departments impacts everyone's access to lifesaving care. According to a May 2005 report by the Centers for Disease Control and Prevention, the number of annual emergency department visits increased 26 percent over a 10-year period, from 90.3 million in 1993 to 113.9 million visits in 2003—an average increase of more than 2 million visits per year. During the same time, the number of hospital emergency departments decreased by more than 12 percent, resulting in a greater number of visits to emergency departments that remain open.

How do these problems affect emergency care for all of us? Overcrowded emergency rooms result in reduced availability of physicians, nurses, and healthcare staff; fewer available examination areas and beds; longer waits for patients and their families; and hospitals more frequently having to divert patients by ambulance to other hospitals.

The existing situation is not only jeopardizing access to emergency rooms and treatment but ultimately, in many cases, it is overwhelming the criminal justice system. The U.S. Department of Justice estimates that, on average, 16 percent of inmates in local jails suffer from a mental illness, and in Maine, the National Alliance for the Mentally Ill, NAMI, an advocacy group for persons with mental illness, estimates that figure is as high as 50 percent. In my home state of Maine, 65,000 people have a severe mental illness but with the severe shortage of psychiatric beds in the State, many people go without treatment. We must take action to provide the mentally ill with better access to care, and we must start by ensuring that Medicaid reimburses the facilities that provide treatment.

Passing the Medicaid Emergency Psychiatric Care Act and providing Medicaid coverage for emergency psychiatric treatment in both general and psychiatric hospitals will accomplish several goals. First, and most importantly, it will result in better psychiatric emergency care for patients. Second, it will result in more efficient and effective use of both Federal and State Medicaid dollars. Third, by resolving the current conflict in Federal law between EMTALA requirements and the Medicaid IMD exclusion from reimbursement, the bill will enable

freestanding psychiatric hospitals to receive reimbursement for Medicaid psychiatric patients on the same basis as general hospitals and help preserve the viability of these hospitals.

We have received strong support from a number of leading national mental health and medical associations who confirm the critical need for this legislation, including NAMI, the National Association of County Behavioral Health Directors, the American Psychiatric Association, the American College of Emergency Physicians, the American Hospital Association, and the National Association of Psychiatric Health Systems. I am especially pleased to have also received endorsements from a number of Maine organizations, including the Maine Hospital Association, Spring Harbor Hospital, and NAMI Maine.

This legislative change is vitally important to ensure that Medicaid patients with mental illness receive the right care at the right time in the right setting, instead of prolonged stays in emergency rooms and in hospital settings without psychiatric specialty care. The cost of achieving a more efficient, effective, and clinically appropriate care system for psychiatric emergencies is small and well worth it. I urge my colleagues to join us in cosponsoring the bill.

I ask unanimous consent that these letters of support be printed in the RECORD.

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

NATIONAL ALLIANCE
FOR THE MENTALLY ILL,
Arlington, VA, July 11, 2005.

Hon. OLYMPIA SNOWE,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR SNOWE: On behalf of the 210,000 members and 1,200 affiliates of the National Alliance for the Mentally Ill (NAMI), I am writing to express support for your legislation, the Medicaid Emergency Psychiatric Care Act of 2005. NAMI strongly supports this important effort to address the growing crisis in access to acute care services for non-elderly adults living with severe mental illness. As the nation's largest organization representing individuals with severe mental illness and their families, NAMI is pleased to support this important measure.

As NAMI's consumer and family membership knows first-hand, the acute care crisis for inpatient psychiatric care is growing in this country. This disturbing trend was identified in the recently released Bush Administration New Freedom Initiative Mental Health Commission report. Over the past 15–20 years, states have closed inpatient units and drastically reduced the number of acute care beds. Also, general hospitals, due to severe budget constraints, have had to close psychiatric units or reduce the number of beds. This has resulted in a growing shortage of acute inpatient psychiatric beds in many communities.

The Medicaid Emergency Psychiatric Care Act will address an important conflict in federal policy that has contributed to restricted access to needed inpatient services—the Medicaid Institution for Mental Diseases (IMD) Exclusion and the Emergency Medical and Labor Treatment Act (EMTALA). EMTALA requires hospitals to stabilize patients in an emergency medical condition, while the IMD exclusion prevents certain hospitals (psychiatric hospitals) from receiving Medicaid reimbursement for Medicaid beneficiaries between the ages of 21–64 in these circumstances.

This important measure will allow Medicaid funding to be directed to non-publicly owned and operated psychiatric hospitals (IMDs) for Medicaid beneficiaries between the ages of 21–64 who require stabilization in these settings as required by EMTALA. Today, these hospitals are denied payment for care required under the EMTALA rules. The result is that psychiatric hospitals are forced to absorb these added costs of care to their already growing un-reimbursed care even though these patients have insurance through Medicaid.

This legislation will go a long way in addressing the growing psychiatric acute inpatient crisis, while creating fairness in the reimbursement structure for psychiatric hospitals under the limited circumstances required by the EMTALA law. Your leadership in carefully crafting and introducing this targeted legislation addressing a critical problem for persons with serious mental illnesses is much appreciated. NAMI looks forward to working with you and your Senate colleagues to ensure passage of this important legislation.

Sincerely,
MICHAEL J. FITZPATRICK, M.S.W.,
Executive Director.

JULY 26, 2005.

Hon. OLYMPIA SNOWE,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR SNOWE: The National Association of County Behavioral Health and Developmental Disability Directors (NACBHD), which is the behavioral health affiliate of the National Association of Counties, and the National Association of Counties (NACo) are writing to strongly support The Medicaid Emergency Psychiatric Care Act—legislation you are introducing to alleviate the crisis in access to acute hospital inpatient psychiatric services. A lack of acute inpatient services was recently highlighted in President Bush's New Freedom Commission on Mental Health report and is a problem in many counties. In twenty of the most populous states, counties have the designated responsibility to plan and implement mental health services.

Over the past 20 years most states have closed many of their state hospitals and returned individuals to the community for care. General hospitals have over the past 10–15 years have also begun to close psychiatric inpatient units. Freestanding psychiatric hospitals have been significantly reduced due to the reimbursements rates brought about with the advent of managed care. Overall, the availability of acute psychiatric beds, in many states, has decreased dramatically in the last 10 years. Given the shortage of inpatient acute beds, many individuals with serious psychiatric disorders end up in county jails or homeless rather than receiving basic psychiatric services in hospital.

Your legislation specifically addresses the conflict in federal law between the Emergency Medical Treatment and Labor Act (EMTALA) Medicaid Institution for Mental Disease (IMD). Your legislation will enable psychiatric hospitals to receive reimbursement on the same basis as general hospitals for Medicaid patients who meet EMTALA standards of a medical crisis. The legislation offers a low-cost solution to alleviate the crisis in emergency rooms in general hospitals caused by an overflow of individuals in need of psychiatric care because inpatient beds are not available.

NACBHD and NACo appreciate your leadership in introducing this specific legislation that will address this inherent conflict in federal requirements and will assist in promoting access to acute psychiatric inpatient services. We look forward to working with you and your colleagues in getting this legislation passed through this Congress.

Sincerely,
LARRY E. NAAKE,
Executive Director, National Association of Counties.
MELISSA STAATS,
President & CEO, National Association of County Behavioral Health and Developmental Disability Directors.

AMERICAN HOSPITAL ASSOCIATION,
Washington, DC, July 20, 2005.

Hon. OLYMPIA SNOWE,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR SNOWE: On behalf of the American Hospital Association's (AHA) members—4,800 hospitals, health systems and other health care organizations, and 33,000 individuals—I am writing to express our support for your bill, the Medicaid Emergency Psychiatric Care Act of 2005.

As you know, the Emergency Medical and Labor Treatment Act (EMTALA) require all hospitals, including psychiatric hospitals, to stabilize patients who come in with an emergency medical condition. But Medicaid's Institution for Mental Diseases (IMD) exclusion does not allow Medicaid reimbursement to non-public psychiatric hospitals for stabilizing care delivered to Medicaid patients between the ages of 21–64. This exclusion burdens these facilities with an unfunded mandate in fulfilling their EMTALA obligations for this patient population.

Your legislation would eliminate the IMD exclusion and allow non-public psychiatric hospitals to receive appropriate reimbursement for care provided under EMTALA to Medicaid beneficiaries between the ages of 21–64. This will relieve overcrowding in emergency departments and provide the appropriate care these patients deserve in a more timely manner.

Thank you for addressing this important issue. We support the Medicaid Emergency Psychiatric Care Act of 2005 and look forward to working with you and your colleagues to ensure swift passage of this legislation. If you have further questions, please contact the AHA's Curtis Rooney at (202) 626–2678, or crooney@aha.org.

Sincerely,
RICK POLLACK,
Executive Vice President.

AMERICAN PSYCHIATRIC
ASSOCIATION,
Arlington, VA, July 19, 2005.

Hon. OLYMPIA SNOWE,
U.S. Senator, Russell Senate Office Building, Washington, DC.

DEAR SENATOR SNOWE: On behalf of the 36,000 physician members of the American Psychiatric Association (APA), and most particularly on behalf of the patients they treat, please accept my gratitude for your Senate sponsorship of the Medicaid Emergency Psychiatric Care Act.

The Emergency Medical and Labor Treatment Act, which requires hospitals to stabilize patients in an emergency medical condition, directly conflicts with the Medicaid Institution for Mental Diseases (IMD) exclusion. The IMD exclusion prevents non-public psychiatric hospitals from receiving Medicaid reimbursement for Medicaid patients

between the ages of 21–64 that have required stabilization as a result of EMTALA regulations.

Your legislation will allow non-public psychiatric hospitals to receive appropriate reimbursement for Medicaid beneficiaries between the ages of 21–64 who require emergency treatment and stabilization as required by EMTALA.

Thank you for your foresight and leadership in your lead sponsorship of the Medicaid Emergency Psychiatric Care Act. Thanks are also due to the outstanding work by Sue Walden, who ably represents you. The APA looks forward to continue working with you to progress this important legislation for Medicaid psychiatric patients and providers.

Sincerely,

STEVEN S. SHARFSTEIN, M.D.,
President, American Psychiatric Association.

AMERICAN COLLEGE OF EMERGENCY PHYSICIANS,
Washington, DC, July 11, 2005.

Hon. OLYMPIA SNOWE,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR SNOWE: On behalf of the 23,000 members and 53 chapters of the American College of Emergency Physicians (ACEP), I am writing to express support for your legislation, the Medicaid Emergency Psychiatric Care Act of 2005. ACEP strongly support this important effort to address the growing crisis in access to acute care services for non-elderly adults living with severe mental illness. As the nation's largest emergency medicine organization, we believe your legislation will provide needed attention and support to an area inadequately addressed to date.

The Medicaid Emergency Psychiatric Care Act will address an important conflict in federal policy that has contributed to restricted access to needed inpatient services—the Medicaid Institution for Mental Diseases (IMD) Exclusion and the Emergency Medical and Labor Treatment Act (EMTALA). EMTALA requires hospitals to stabilize patients in an emergency medical condition, while the IMD exclusion prevents certain hospitals (psychiatric hospitals) from receiving Medicaid reimbursement for Medicaid beneficiaries between the ages of 21–64 in these circumstances. Your bill will allow Medicaid funding to be directed to non-publicly owned and operated psychiatric hospitals (IMDs) for Medicaid beneficiaries between those ages who require stabilization in these settings as required by EMTALA.

We commend you and the many colleagues we hope will support this important measure and we stand prepared to do what we can to ensure its enactment.

Sincerely yours,

ROBERT E. SUTER, DO, MHA, FACEP,
President.

NATIONAL ASSOCIATION OF PSYCHIATRIC HEALTH SYSTEMS,
Washington, DC, July 19, 2005.

Hon. OLYMPIA SNOWE,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR SNOWE: On behalf of the members of the National Association of Psychiatric Health Systems (NAPHS) and the individuals and families that our members serve, we strongly endorse the Medicaid Emergency Psychiatric Care Act of 2005. This legislation, if approved by Congress, would result in patients receiving appropriate care for psychiatric emergencies instead of prolonged stays in emergency rooms.

We want to recognize your leadership in developing this legislation, which provides a targeted and cost-effective solution to the problem of overcrowding in emergency rooms for all, but particularly for those with mental illness. The measure has won bipartisan support from members of Congress as well as the support of key national organizations for its thoughtful approach.

Every day patients with serious mental illness are being ''boarded'' in hospital emergency departments or transferred to other hospitals by ambulance because of a lack of appropriate care.

This bill will enable psychiatric hospitals to receive reimbursement on the same basis as general hospitals for Medicaid patients who are in a crisis and present a danger to themselves or others. This will help general hospitals to address part of their overflow issues and ensure that patients receive appropriate treatment. It will resolve a current conflict in federal law between the Emergency Medical Treatment and Labor Act (EMTALA) and the Medicaid Institution for Mental Disease (IMD) exclusion.

Passage of the Medicaid Emergency Psychiatric Care Act is an investment that will pay off in more appropriate care for patients and more effective use of Medicaid dollars.

Sincerely,

MARK COVALL,
Executive Director.

MAINE HOSPITAL ASSOCIATION,
Augusta, ME, July 29, 2005.

Hon. OLYMPIA SNOWE,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR SNOWE: On behalf of the Maine Hospital Association's 39 acute-care and specialty hospitals, I am writing in support of your bill, the Medicaid Emergency Psychiatric Care Act of 2005.

As you know, the Medicaid program, through the Institution for Mental Diseases (IMD) exclusion, prevents non-public psychiatric hospitals from receiving Medicaid reimbursement for Medicaid patients between the ages of 21–64 who require stabilization. When the Federal Government created Medicaid they prohibited Medicaid funding for services at IMDs because Washington viewed mental health services to be the responsibility of the State—particularly since at that time most psychiatric hospitals were State-owned hospitals. The Federal Government did provide funding through the DSH–IMD (Disproportionate Share Hospital Fund for Institutes for Mental Disease). Initially these funds were used solely by the private IMDs, however, in 1991, Maine, in response to a severe budget shortfall, began to shift costs associated with Augusta Mental Health Institute (AMHI) and Bangor Mental Health Institute (BMHI) into the Federal DSH–IMD pool rather than funding those costs with all general fund dollars.

In the mid-1990s the State passed a rule that entitled AMHI and BMHI to be paid first out of the DSH–IMD pool leaving the remainder for the two private hospitals. With a declining Federal cap on the DSH–IMD pool and increasing hospital expenses, there was less and less money with which to reimburse the two private psychiatric hospitals for services provided to this indigent population.

Maine has two private psychiatric hospitals: Spring Harbor Hospital in South Portland and The Acadia Hospital in Bangor. For fiscal year 2005, Acadia had inpatient admissions of 1,731 and Spring Harbor had 3,208. Adults between the ages of 21 and 64 represented nearly 75 percent of all Spring Harbor admissions in fiscal year 2005, up from 69% in 2004. In addition, Spring Harbor estimates that in fiscal year 2006, patients between the ages of 21 and 64 who cannot afford to pay for their care at Spring Harbor will receive close to $6 million in free hospital services. Both hospitals also provide a significant amount of outpatient services.

The two private hospitals play a pivotal role in the delivery of mental health services especially for low-income individuals. As the State has desired to encourage greater behavior services within communities, the Department of Behavioral and Developmental Services worked with both of these hospitals to increase the number of beds and services available to allow for certain patients to be placed in these hospitals rather than the State institutes. The inability of these two hospitals to effectively meet these patient needs would have a detrimental impact throughout the State especially because communities are already stressed attempting to develop needed community-based services.

Your legislation will allow non-public psychiatric hospitals to receive appropriate reimbursement for Medicaid beneficiaries between the ages of 21–64 who require emergency treatment and stabilization as required by EMTALA. This will relieve overcrowding in emergency departments and provide the appropriate care these patients deserve in a more timely manner.

Thank you for addressing this important issue. We support the Medicaid Emergency Psychiatric Care Act of 2005 and look forward to working with you and your colleagues to ensure swift passage of this legislation.

Sincerely,

STEVEN R. MICHAUD,
President.

SPRING HARBOR HOSPITAL,
Westbrook, ME, July 26, 2005.

Hon. OLYMPIA J. SNOWE,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR SNOWE: Writing as CEO on behalf of Spring Harbor Hospital in Maine, and a past President of the National Association of Psychiatric Health Systems, I would like to thank you for supporting legislation to enable freestanding private psychiatric hospitals in the US to receive payment for the emergency stabilization services they provide each year to thousands of Medicaid-eligible adult clients under the Emergency Medical Treatment And Labor Act (EMTALA).

As you know, it is becoming increasingly difficult for freestanding private psychiatric facilities to absorb the cost of treating Medicaid-eligible adults between the ages of 21 and 64 who are referred to them for emergency stabilization under EMTALA. At Spring Harbor alone, the cost of serving this population last year was close to $6 million.

Faced with both diminishing reimbursement streams and a concurrent rise in demand for inpatient stabilization services from overflowing emergency rooms across the country, private freestanding psychiatric facilities are quite literally caught between a rock and a hard place. In Maine and in many other places, freestanding private psychiatric hospitals are protecting their financial health by offering fewer and fewer adult psychiatric services in the inpatient setting. This tactic simply skirts the issue and creates a further void of services for individuals with acute mental illness, precisely at a time when it is widely accepted that the availability of mental health services in this country is substandard.

When all is said and done, these financial figures pale in comparison to the ultimate cost to our society when these adults fail to receive the treatment they deserve. It has been estimated that the lifetime cost of providing for an individual with an untreated serious mental illness is $10 million. Though this figure includes the financial impact of

lost work days and the cost of providing Social Security disability benefits, it does not even begin to speak to the emotional toll of mental illness on friends or the scars mental illness can have on loved ones for generations to come. If we could quantify these numbers adequately, I am certain that I would not need to be writing to you today.

In closing, I would like to acknowledge the receptiveness of your office and that of Senator Collins to issues concerning the plight of the one in four adults and one in ten children in the US who will experience a mental illness this year. It is high time that the issues surrounding this illness were addressed with understanding, compassion, and a concern for our country's long-term mental health. I am both pleased and proud that the Maine congressional delegation is leading the way on these critical Issues.

Best regards,

DENNIS P. KING,
Chief Executive Officer, Past President (2003), National Association of Psychiatric Health Systems.

NATIONAL ALLIANCE
FOR THE MENTALLY ILL OF MAINE,
Augusta, ME, July 27, 2005.

Hon. OLYMPIA SNOWE,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR SNOWE: On behalf of the 1.400 members and 20 affiliates of the National Alliance for the Mentally Ill of Maine (NAMI Maine), I write to express support for your legislation, the Medicaid Emergency Psychiatric Care Act of 2005. NAMI Maine strongly supports your effort to address the growing crisis in access to acute care services for non-elderly adults living with severe mental illness. NAMI Maine's mission is to improve the quality of life of all people affected by mental illness and in this regard, we see this legislation as an attempt to address an important issue.

We know firsthand in Maine the dire consequences that occur when access to psychiatric care is not available. Like the rest of the country, Maine has dramatically reduced the number of state run psychiatric beds. One of the most appalling results of this has been the significant increase in the numbers of people with mental illness who are living in Maine's jails. A snapshot review of the Cumberland County jail last spring showed that 60 percent of the inmates were taking medication for mental health problems; a spring survey of the Kennebec County jail had the same result. Sadly, most of these people are in jail for non-violent crimes connected to their illness and their inability to obtain services to treat that illness. Maine is one of the states with the highest rates in the nation of incarceration for people with mental illness. Unfortunately, the outcomes for people with mental illness who are jailed instead of treated are abysmal—and the financial costs are also very high. It is not unusual for a person in need of a psychiatric bed in Maine t0 wait several days in the emergency room for a bed to open. Despite these statistics, the recent state budget has significantly reduced funding for mental health services. This will result in a growing shortage of community mental health services—placing additional stress on hospitals, emergency rooms, and people with mental illness and their families. The inadequate number of acute inpatient psychiatric beds will continue to be a significant problem.

Tne Medicaid Emergency Psychiatric Care Act will address an important conflict in federal policy that has contributed to restricted access to needed inpatient services—the Medicaid Institution for Mental Diseases (IMD) Exclusion and the Emergency Medical and Labor Treatment Act (EMTALA). EMTALA requires hospitals to stabilize patients in an emergency medical condition, while the IMD exclusion prevents certain hospitals (psychiatric hospitals) from receiving Medicaid reimbursement for Medicaid beneficiaries between the ages of 21–64 in these circumstances.

This important measure will allow Medicaid funding to be directed to non-publicly owned and operated psychiatric hospitals (IMDs) for Medicaid beneficiaries between the ages of 21–64 who require stabilization in these settings as required by EMTALA. Today, these hospitals are denied payment for care required under the EMTALA rules. The result is that psychiatric hospitals are forced to absorb these added costs of care to their already growing un-reimbursed care even though these patients have insurance through Medicaid. Sometimes it means that patients are discharged too soon, as a cost savings measure, only to return them to their families in a similar condition to when they were admitted.

This legislation will go a long way in addressing the growing psychiatric acute inpatient crisis, while creating fairness in the reimbursement structure for psychiatric hospitals under the limited circumstances required by the EMTALA law. Your leadership in carefully crafting and introducing this targeted legislation addressing a critical problem for persons with serious mental illness is much appreciated. NAMI looks forward to working with you and your Senate colleagues to ensure passage of this important legislation.

Sincerely,

CAROL CAROTHERS,
Executive Director.

By Ms. SNOWE (for herself and Mr. BINGAMAN):

S. 1593. A bill to amend title XVIII of the Social Security Act to enhance the access of Medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits at Federally qualified health centers; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Medicare Payment Adjustment To Community Health Centers, PATCH, Act of 2005. I am particularly pleased to introduce this bill with my good friend and colleague, Senator BINGAMAN. Two years ago we introduced a more comprehensive version of this legislation, S. 654. I am happy to report that many of the provisions in S. 654 were included in the Medicare Modernization Act of 2003. The bill I am introducing today reflects two key provisions which remain the priorities of our community health centers.

This legislation will improve Medicare beneficiaries' access to primary care services and preventive treatments by increasing access to Community Health Centers. Local, non-profit, commnnity-owned health centers, also known as Federally Qualified Health Center, FCHQs, furnish essential primary and preventive care services to low income and medically underserved communities. In many cases, community health centers are the only source of primary and preventive services to which Medicare beneficiaries have access. This is especially true for people living in America's medically underserved rural areas.

For nearly 40 years, the national network of health centers has provided high-quality, affordable primary care and preventive services. Community health centers are located in areas where care is needed but scarce, and they improve access to care for millions of Americans regardless of their insurance status or ability to pay. Their costs of care rank among the lowest, and they reduce the need for more expensive emergency, in-patient, and specialty care, saving billions for dollars for taxpayers.

Community health centers are increasingly becoming important providers of primary care and preventlve services to seniors—as well as providers of on-site dental, pharmaceu ical, and mental health services. In short, community health centers provide the ease of ''one-stop health care shopping,'' meaning that seniors, instead of moving from location to location to receive comprehensive primary hearh services, can usually receive all of their essential primary care in one place.

The PATCH Act will ensure that community health centers can fully participate in the Medicare program and provide seniors with these vital services. Ensuring that Medicare pays its fair share is important to the stability of community health centers. While 17 percent of health center patients in Maine are Medicare beneficiaries, the Medicare program pays only 78 cents on the dollar for the health center costs incurred in delivering comprehensive primary care services to them. For health centers to remain a viable part of the health care delivery system, we must make changes.

Over the last 15 years, Congress has made many improvements to the Medicare program through the addition of new primary and preventive benefits, including screening mammograms, pap smears, colorectal and prostate cancer screenings, flu and pneumococcal vaccinations, bone mass measurement, and glucose monitoring and nutrition therapy for diabetics. However, Congress has not updated the Medicare law to add these crucial services to the health center reimbursement package, so health centers are denied payment for these services when provided to Medicare beneficiaries. This lack of reimbursement has caused significant losses for health centers every time they deliver these services to Medicare patients. Our bill will add these essential services to the health center package of benefits so that they can receive payment for these services.

The Medicare law has also neglected to include health care for the homeless grantees as Federal qualified health centers. The bill would also restore these centers for recognition within the Medicare statute. Our legislation is strongly supported by the National Association of Community Health Centers, and I ask unanimous consent that their letter of support be printed in the RECORD at the conclusion of my remarks.

The PATCH Act makes these two technical and straightforward changes to the Medicare program to ensure that Community Health Centers can fully participate in Medicare and provide seniors with these vital primary and preventive services. These changes are vitally important in my state of Maine and also to health centers throughout our nation. By making these two straightforward changes, we will be able to enhance the care that all Medicare beneficiaries receive, especially those living in rural and medically underserved communities. I urge my colleagues to cosponsor the bill.

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

NATIONAL ASSOCIATION OF COMMUNITY HEALTH CENTERS, INC.,
Washington, DC, July 29, 2005.

Hon. OLYMPIA SNOWE,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR SNOWE: On behalf of the National Association of Community Health Centers (NACHC), I am writing to express our support for your bill, the Medicare Payment Adjustment to Community Health Centers (PATCH) Act of 2005. We sincerely appreciate your continued commitment to improve the Medicare program for all health centers.

Community health centers are local, nonprofit, community-oriented health care providers serving low income and medically underserved communities. For nearly 40 years, the national network of health centers has provided high-quality, affordable primary care and preventive services, and often provide on-site dental, pharmaceutical, mental health and substance abuse services. America's health centers provide care to nearly one million Medicare beneficiaries; furnishing essential primary and preventive care services in underserved areas of the country. Health centers provide ''one-stop health care,'' allowing seniors to receive all of their essential primary care in one convenient location.

Over the last 15 years, Congress has made many improvements to the Medicare program through the addition of new primary and preventive benefits, including: screening mammograms, pap smears, colorectal & prostate cancer screenings, flu/pneumococcal vaccinations, glucose monitoring and self management training for diabetics, bone mass measurement, and medical nutrition therapy for diabetics. Unfortunately, Congress did not update the Medicare law to add these vital services to the health center reimbursement package, thus denying health centers payment for these services when provided to Medicare beneficiaries. This lack of reimbursement has caused significant losses for health centers every time they deliver these services to Medicare patients, even though it was the clear intent of Congress to cover these services for all beneficiaries.

Health Centers are pleased that your bill remedies this issue by updating the Medicare law to add these essential services to the health center package of benefits. We strongly believe that this will allow health centers to build on their record of providing quality care to seniors.

We also are appreciative that your legislation would correct a long-standing oversight relating to Health Care for the Homeless grantees. Your legislation would ensure that the original intent of Congress was reflected in the law.

Thank you for your leadership in addressing these critical issues and we stand ready to assist you in your efforts to enact this important legislation.

Sincerely,

DANIEL R. HAWKINS, Jr.
Vice President for Federal, State, and Public Affairs.

By Mr. CORZINE:

S. 1594. A bill to require financial services providers to maintain customer information security systems and to notify customers of unauthorized access to personal information, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORZINE. Mr. President, identity theft is a serious and growing concern facing our Nation's consumers. According to the Federal Trade Commission, nearly 10 million Americans were the victims of identity theft in 2003, which represents a tripling of the number of victims from just 3 years earlier. Research shows that there are more than 13 identity thefts every minute.

According to the Identity Theft Resource Center, identity theft victims spend on average nearly 600 hours recovering from the crime. Additional research indicates the costs of lost wages and income as a result of the crime can soar as high as $16,000 per incident. No one wants to suffer this kind of hardship.

Technological innovation has delivered tremendous benefits to our economy in the form of increased efficiency, expanded access, and lower costs. And it has spurred the creation of an entire industry of data collectors and brokers who profit from the packaging and commoditization of one's personal and financial information. But, regrettably, this technology has also provided identity thieves with an attractive target, and relative anonymity, with which to ply their sinister trade.

While many sectors of our economy are affected, financial institutions face a particularly difficult challenge. By definition, the information they use to conduct their daily business is sensitive, because it is tied so closely to their customers' finances. A breach of this data has the potential to cause large and damaging losses in a very short amount of time.

Events over the past several months have further served to highlight how serious this risk has become. The announcement not long ago by Citigroup that a box of computer tapes containing information on 3.9 million customers was lost by United Parcel Service in my own state of New Jersey while in transit to a credit reporting agency is the latest in a line of recent, high profile incidents. In fact, I myself was a victim of a similar loss of computer tapes by Bank of America earlier this year.

In both of these cases, Citigroup and Bank of America acted responsibly and notified possible victims in a prompt and timely manner. But this is not always the case. And both of these cases involved accidental loss—not even active attempts to steal personal financial information.

At the very least consumers deserve to be made aware when their personal information has been compromised. Right now, they must hope that the laws of a few individual states, such as California, apply to their case, or that victimized institutions will act responsibly on their own.

In the event that an information breach does occur, the legislation I am introducing today, the ''Financial Privacy Protection Act of 2005,'' would require prompt notification of all victims in all cases, subject, of course, to the concerns of law enforcement agencies. Based on this notification, victims could then take immediate action to include an extended fraud alert in their credit files to minimize the damage done.

But on top of notification, customers need to know that if they trust a bank with their sensitive personal information—which they must do in order to engage in a financial transaction—that that bank will be doing everything in its power to protect their information.

For that purpose, the ''Financial Privacy Protection Act of 2005'' would also direct financial regulators, in concert with the Federal Trade Commission, to establish strong and meaningful standards for the protection of information maintained by financial institutions on behalf of their customers. Because these measures are so important, the chief executive officer or the chief compliance officer of every institution must personally attest as to the effectiveness of these safeguards.

It is imperative that we take action to combat the growing threat of identity theft. This crime harms individuals and families, and drags down our economy in the form of lost productivity and capital. We can do more and we must do more.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1594

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 ''Financial Privacy Protection Act of 2005''.

SEC. 2. PREVENTION OF IDENTITY THEFT; NOTIFICATION OF UNAUTHORIZED ACCESS TO CUSTOMER INFORMATION.

Subtitle B of title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6821 et seq.) is amended—

(1) by striking section 525;

(2) by redesignating sections 522 through 524 as sections 523 through 525, respectively;

(3) in section 525, as redesignated, by striking ''section 522'' and inserting ''section 523''; and

(4) by inserting after section 521 the following:

''SEC. 522. PREVENTION OF IDENTITY THEFT; NOTIFICATION OF UNAUTHORIZED ACCESS TO CUSTOMER INFORMATION.

''(a) CUSTOMER INFORMATION SECURITY SYSTEM REQUIRED.—

''(1) IN GENERAL.—In accordance with regulations issued under paragraph (2), each financial institution shall develop and maintain a customer information security system, including policies, procedures, and controls designed to prevent any breach with respect to the customer information of the financial institution.

''(2) REGULATIONS.—

''(A) IN GENERAL.—Each of the Federal functional regulators shall issue regulations regarding the policies, procedures, and controls required by paragraph (1) applicable to the financial institutions that are subject to their respective enforcement authority under section 523.

''(B) SPECIFIC REQUIREMENTS.—The regulations required by subparagraph (A) shall—

''(i) require the chief compliance officer or chief executive officer of a financial institution to personally attest that the customer information security system of the financial institution is in compliance with Federal and other applicable standards and is subject to an ongoing system of monitoring;

''(ii) require audits by the issuing agency (or submitted to the issuing agency by an independent auditor paid for by the financial institution to audit the financial institution on behalf of the issuing agency) of the customer information security system of a financial institution not less frequently than once every 5 years;

''(iii) require the imposition by the issuing agency of appropriate monetary penalties for failure to comply with applicable customer information security standards; and

''(iv) include such other requirements or restrictions as the issuing agency considers appropriate to carry out this section.

''(C) EFFECTIVE DATE.—Regulations issued under this paragraph shall become effective 6 months after the effective date of the Financial Privacy Protection Act of 2005.

''(b) NOTIFICATION TO CUSTOMERS OF UNAUTHORIZED ACCESS TO CUSTOMER INFORMATION.—

''(1) FINANCIAL INSTITUTION REQUIREMENT.—In any case in which there has been a breach at a financial institution, or such a breach is reasonably believed to have occurred, the financial institution shall promptly notify—

''(A) each customer whose customer information was or is reasonably believed to have been accessed in connection with the breach or suspected breach;

''(B) the appropriate Federal functional regulator or regulators with respect to the financial institutions that are subject to their respective enforcement authority;

''(C) each consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and

''(D) appropriate law enforcement agencies, in any case in which the financial institution has reason to believe that the breach or suspected breach affects a large number of customers, including as described in paragraph (5)(A)(iii), subject to regulations of the Federal Trade Commission.

''(2) OTHER ENTITIES.—For purposes of paragraph (1), any person that maintains customer information for or on behalf of a financial institution shall promptly notify the financial institution of any case in which such customer information has been, or is reasonably believed to have been, breached.

''(3) TIMELINESS OF NOTIFICATION.—Notification required by this subsection shall be made—

''(A) promptly and without unreasonable delay, upon discovery of the breach or suspected breach; and

''(B) consistent with—

''(i) the legitimate needs of law enforcement, as provided in paragraph (4); and

''(ii) any measures necessary to determine the scope of the breach or restore the reasonable integrity of the customer information security system of the financial institution.

''(4) DELAYS FOR LAW ENFORCEMENT PURPOSES.—Notification required by this subsection may be delayed if a law enforcement agency determines that the notification would seriously impede a criminal investigation, and in any such case, notification shall be made promptly after the law enforcement agency determines that it would not compromise the investigation.

''(5) FORM OF NOTICE.—Notification required by this subsection may be provided—

''(A) to a customer—

''(i) in writing;

''(ii) in electronic form, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in section 101 of the Electronic Signatures in Global and National Commerce Act;

''(iii) if the number of people affected by the breach exceeds 500,000 or the cost of notification exceeds $500,000, or a higher number or numbers determined by the Federal Trade Commission, such that the cost of providing notifications relating to a single breach or suspected breach would make other forms of notification prohibitive, or in any case in which the financial institution certifies in writing to the Federal Trade Commission that it does not have sufficient customer contact information to comply with other forms of notification with respect to some customers, then for those customers, in the form of—

''(I) a conspicuous posting on the Internet website of the financial institution, if the financial institution maintains such a website; and

''(II) notification through major media in all major cities and regions in which the customers whose customer information is suspected to have been breached reside, that a breach has occurred, or is suspected, that compromises the security, confidentiality, or integrity of customer information of the financial institution; or

''(iv) in such additional forms as the Federal Trade Commission may by rule prescribe; and

''(B) to consumer reporting agencies and law enforcement agencies (where appropriate), in such form as the Federal Trade Commission shall by rule prescribe.

''(6) CONTENT OF NOTIFICATION.—Each notification to a customer under this subsection shall include—

''(A) a statement that—

''(i) credit reporting agencies have been notified of the relevant breach or suspected breach; and

''(ii) notwithstanding any other provision of law, the customer may elect to place a fraud alert in the file of the consumer to make creditors aware of the breach or suspected breach, and to inform creditors that the express authorization of the customer is required for any new issuance or extension of credit (in accordance with section 605A of the Fair Credit Reporting Act); and

''(B) such other information as the Federal Trade Commission determines is appropriate.

''(7) COMPLIANCE.—Notwithstanding paragraph (5), a financial institution shall be deemed to be in compliance with this subsection, if—

''(A) the financial institution has established a comprehensive customer information security system that is consistent with the standards prescribed by the appropriate Federal functional regulator under subsection (a);

''(B) the financial institution notifies affected customers and consumer reporting agencies in accordance with its own internal information security policies in the event of a breach or suspected breach; and

''(C) such internal security policies incorporate notification procedures that are consistent with the requirements of this subsection and the rules of the Federal Trade Commission under this subsection.

''(8) RULES OF CONSTRUCTION.—

''(A) IN GENERAL.—Compliance with this subsection by a financial institution shall not be construed to be a violation of any provision of subtitle A, or any other provision of Federal or State law prohibiting the disclosure of financial information to third parties.

''(B) LIMITATION.—Except as specifically provided in this subsection, nothing in this subsection requires or authorizes a financial institution to disclose information that it is otherwise prohibited from disclosing under subtitle A or any other applicable provision of Federal or State law.

''(c) CIVIL PENALTIES.—

''(1) DAMAGES.—Any customer adversely affected by an act or practice that violates this section may institute a civil action to recover damages arising from that violation.

''(2) INJUNCTIONS.—Actions of a financial institution in violation or potential violation of this section may be enjoined.

''(3) CUMULATIVE EFFECT.—The rights and remedies available under this section are in addition to any other rights and remedies available under any other provision of applicable State or Federal law.

''(d) CIVIL ACTIONS BY STATE ATTORNEYS GENERAL.—

''(1) AUTHORITY OF STATE ATTORNEYS GENERAL.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by an act or practice that violates this section, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction—

''(A) to enjoin that act or practice;

''(B) to enforce compliance with this section;

''(C) to obtain—

''(i) damages in the sum of actual damages, restitution, or other compensation on behalf of affected residents of the State; and

''(ii) punitive damages, if the violation is willful or intentional; or

''(D) obtain such other legal and equitable relief as the court may consider to be appropriate.

''(2) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State—

''(A) to conduct investigations;

''(B) to administer oaths and affirmations; or

''(C) to compel the attendance of witnesses or the production of documentary and other evidence.

''(3) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1931 of title 28, United States Code.

''(4) SERVICE OF PROCESS.—In an action brought under this subsection, process may be served in any district in which the defendant—

''(A) is an inhabitant; or

''(B) may be found.''.

SEC. 3. DEFINITIONS.

Section 527 of the Gramm-Leach-Bliley Act (15 U.S.C. 6827) is amended—

(1) by redesignating paragraph (4) as paragraph (6);

(2) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(3) by inserting before paragraph (2), as redesignated, the following:

''(1) BREACH.—The term 'breach'—

''(A) means the unauthorized acquisition, disclosure, or loss of computerized data or paper records which compromises the security, confidentiality, or integrity of customer information, including activities proscribed under section 521; and

''(B) does not include a good faith acquisition of customer information by an employee or agent of a financial institution for a business purpose of the institution, if the customer information is not subject to further unauthorized disclosure.'';

(4) in paragraph (2), as redesignated—

(A) by striking ''person) to whom'' and inserting the following: ''person)—

''(A) to whom''; and

(B) by striking the period at the end and inserting the following: ''; and

''(B) with respect to whom the financial institution maintains information in any form, regardless of whether the financial institution is providing a product or service to or on behalf of that person.'';

(5) in paragraph (3), as redesignated—

(A) by striking ''institution' means any'' and inserting the following: ''institution'—

''(A) means any'';

(B) by inserting ''(regardless of whether the financial institution is providing any product or service to or on behalf of that customer)'' before ''and is identified''; and

(C) by striking the period at the end and inserting the following: ''; and

''(B) for purposes of section 522, includes the last name of an individual in combination with any 1 or more of the following data elements, when either the name or the data elements are not encrypted:

''(i) Social security number.

''(ii) Driver's license number or State identification number.

''(iii) Account number, credit or debit card number, or any required security code, access code, or password that would permit access to a financial account of the individual.

''(iv) Such other information as the Federal functional regulators determine is appropriate with respect to the financial institutions that are subject to their respective enforcement authority.''; and

(6) by inserting before paragraph (6), as redesignated, the following:

''(5) FEDERAL FUNCTIONAL REGULATOR.—The term 'Federal functional regulator' has the same meaning as in section 509, and includes the Federal Trade Commission.''.

SEC. 4. INCLUSION OF FRAUD ALERTS IN CONSUMER CREDIT REPORTS.

Section 605A of the Fair Credit Reporting Act (15 U.S.C. 1681c-1) is amended—

(1) in subsection (b)(1), by inserting ''or proof of a notification of a breach or suspected breach under section 522(b)(1)(C) of the Gramm-Leach-Bliley Act'' after ''theft report''; and

(2) by adding at the end the following:

''(i) NO ADVERSE ACTION BASED SOLELY ON FRAUD ALERT.—It shall be a violation of this title for the user of a consumer report to take any adverse action with respect to a consumer based solely on the inclusion of a fraud alert, extended alert, or active duty alert in the file of that consumer, as required by this subsection.''.

SEC. 5. STUDIES AND REPORTS ON IMPROVING PROTECTION OF CUSTOMER INFORMATION.

(a) ALTERNATIVE INFORMATION STORAGE METHODS.—

(1) STUDY.—The Federal Trade Commission shall conduct a study of alternative technologies, including biometrics, that may be used by financial institutions and other businesses to enhance the safeguarding of the customer information of financial institutions and other sensitive personal information. Such study shall include an analysis of how to ensure that such information does not become widespread or subject to theft.

(2) REPORT TO CONGRESS.—The Commission shall submit a report to the Congress on the results of the study conducted under paragraph (1) not later than 6 months after the date of enactment of this Act.

(b) TRANSPORTATION OF CUSTOMER INFORMATION.—

(1) STUDY.—The Comptroller General of the United States, in consultation with the Federal functional regulators and appropriate law enforcement agencies, shall conduct a study of the cross country transport of the customer information of financial institutions and other sensitive personal information by or on behalf of financial institutions and other businesses.

(2) REPORT TO CONGRESS.—The Comptroller General shall submit a report to the Congress on the results of the study conducted under paragraph (1) not later than 6 months after the date of enactment of this Act, including any recommendations on ways that financial institutions may best reduce the risk of compromise, breach, or loss of the customer information of financial institutions and other sensitive personal information during transport.

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 6 months after the date of enactment of this Act.

By Mr. ENZI:

S. 1597. A bill to award posthumously a Congressional gold medal to Constantino Brumidi; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ENZI. Mr. President, it is a special pleasure for me, as an Italian American to introduce legislation to the Senate that will mark the 200th anniversary of the birth of Constantino Brumidi.

As I introduce this legislation, I do so to recognize not only Constantino Brumidi, but all those who have come to our shores to pursue a dream and share in the blessings of liberty and freedom that is our birthright as American citizens.

For Constantino Brumidi, there was no higher honor or greater calling than to be an American citizen. It was a title he sought and then signed with pride on some of his best work.

That experience is by no means unique to Constantino Brumidi. The same call that he heard to come to America continues to be heard every day as more and more people from all over the world come to the United States in the pursuit of a dream and the freedom that marks our way of life.

For my own family, it wasn't all that long after Constantino Brumidi left for America that my own ancestors heard the call for freedom and came here as well. Just like Constantino Brumidi they left the beauty of Italy—its mountains and its sunny shores—to come and be a part of the great adventure that is the United States.

That is my background, and when I came to Washington to serve in the Senate, I found a renewed sense of purpose and inspiration every time I walked through the corridors of the Capitol Building and saw Constantino Brumidi's artwork so prominently and proudly displayed. This is a special place and if you walk through these halls late at night you can almost hear the whispers of the past and the hushed echoes of the voices of our Founding Fathers and past Senators and Representatives as they debated and discussed the issues of the day. Statuary Hall, home to so many of our Nation's heroes particularly draws you near as the Chamber's historical record calls to mind the legends of our past—Washington, Jefferson, Lincoln, Adams and Franklin.

That is when it hits you—that the story of the United States isn't a random series of events, but the result of the vision and heartfelt commitment of those who played an active role in our history. As an Italian American it gives me a great sense of pride to know that one of those great Americans was Constantino Brumidi.

The history books tell us that Constantino Brumidi was born in Rome of Italian and Greek heritage. He had a great talent for painting that revealed itself at an early age, and it was already beginning to earn him a reputation as one of Europe's great artists when he heard a different call—a call to make beautiful the home of democracy and liberty—the United States of America.

One day, after completing a commission, Constantino Brumidi stopped in Washington, DC, to visit the Capitol on his way home. Looking at its tall, blank walls and empty corridors, he must have felt the excitement and inspiration only an artist facing an empty canvas can know. On that day he began what was more than an assignment for him—it was a labor of love—as he brought to life the great moments in American history for all to see on the walls and ceiling of this great building. His efforts were destined to earn him the title of America's Michelangelo.

There aren't many quotes that are attributed to Constantino Brumidi, but one that appears on the marker where he is buried is a beautiful expression of his love for our country:

''My one ambition and my daily prayer is that I may live long enough to make beautiful the Capitol of the one country on earth in which there is liberty.''

That is the philosophy that guided Constantino Brumidi's hand as it fired his imagination and inspired his creations in the Capitol. Imagine what he would think if he could walk these corridors today. He would see that his beautiful work has stood the test of time and gained the appreciation and admiration of countless visitors to our shores and our Capitol Building. He would see that it continues to thrill the millions who flock here every year. I believe he would be both proud and

humbled to be the center of such attention.

It is only fitting that over the years Constantino Brumidi has become a symbol of all those who came to the United States in pursuit of a dream that we all too often take for granted. It was freedom and liberty that drew Constantino Brumidi to our land and it is what continues to draw us together, American, Italian, Greek, Irish and every other nationality you can name to make this world a better place for us all to live.

Throughout the Capitol, each carefully planned stroke of Brumidi's brush will continue to remind us that we are blessed and truly fortunate to live in a land of promise and opportunity where we are all called to greatness. Constantino Brumidi dared to be great and he will be forever remembered for the gifts and talents he shared with us.

The legislation I am introducing today will ensure that the legacy he left us all as Americans is never forgotten. Constantino Brumidi wanted one thing—to be forever remembered as an Artist Citizen of the United States—the home of liberty that he loved. We must all ensure his story continues to be told so that it may continue to serve as a source of inspiration and encouragement to all those who come to our shores that any one of them can make a difference in the world by making the most of the opportunities that are available to them here in America.

By Mr. HATCH (for himself, Mr. CRAIG, Mr. BURNS, Mr. SMITH, Mrs. LINCOLN, and Mr. SCHUMER):

S. 1598. A bill to amend the Internal Revenue Code of 1986 to provide for a nonrefundable tax credit against income tax for individuals who purchase a residential safe storage device for the safe storage of firearms; to the Committee on Finance.

Mr. HATCH. Mr. President, if I may, I would like to speak very briefly on another topic. I am an unqualified supporter of the ''Protection of Lawful Commerce in Arms Act,'' on which we will be voting later today.

My colleague, Senator CRAIG, should be commended for his hard work on this important legislation, which will protect gun manufacturers and distributors from unwarranted lawsuits.

While we must always be vigilant in protecting our rights—including our Second Amendment rights—it is also critical that we encourage responsible exercise of those rights. For that reason, I want to say a few words in support of the ''Child Protection and Home Safety Act of 2005,'' which I am introducing today. This Act would promote the safe storage of firearms by providing a 25 percent tax credit toward the purchase of a gun safe, up to a maximum of $250. I am pleased that my colleagues, Senators SCHUMER, CRAIG, BURNS, LINCOLN, and SMITH, are cosponsoring this important bipartisan legislation. Our bill will encourage gun owners to purchase gun safes for the safe storage of firearms, thereby preventing the mishandling of guns and keeping our families and communities safer.

This bill has widespread support from numerous national organizations, including the National Association of Police Organizations, the American Association of Suicidology, the American Ethical Union, the National Black Police Officers Association, and SAVE, the Suicide Awareness Voice of Education. In my home State of Utah, law enforcement has given this bill unqualified support. In addition to the Utah Sheriff's Association and the Utah Police Corps, the Utah Highway Patrol Association has enthusiastically endorsed this legislation.

Mr. President, I will ask unanimous consent to include a copy of their letter of support in the RECORD.

Many of the guns used in violent acts are acquired on the black market, having been stolen from the homes of law abiding Americans. Nearly 10 percent of state prison inmates incarcerated on gun crimes say the weapons they used were stolen. Safely securing a firearm within a person's home is a fundamental way to help ensure that firearms do not fall into the wrong hands. One important step that can be taken in this regard is for families to lock firearms within a theft-resistant safe. This bill, by encouraging the purchase and use of gun safes, will significantly reduce the rate of stolen guns, thereby reducing the incidents of homicides and violent crimes.

Another problem plaguing America today is that of children gaining access to their parents' firearms and using those firearms to commit homicide or suicide. The school shootings in Columbine, Santee, Lake Worth, Florida, Fort Gibson, Oklahoma and Deming, New Mexico, are a sad legacy we hope to leave far behind us. It is the responsibility of gun owners to ensure that our children cannot gain access to firearms and unintentionally or intentionally use those firearms to harm themselves or someone else. This bill, by encouraging gun owners to lock up their firearms in gun safes, will make it more difficult for children to access their parents' guns.

Utah is home to several fine manufacturers of gun safes. The employees at companies such as Liberty, Fort Knox, and others know that while there are many ways to attempt to secure a firearm, gun safes are the best way to reliably secure firearms and keep them out of the hands of those who should not have access to them. Other methods of securing firearms may only give the purchaser a false sense of security.

Trigger locks do not prevent loading and can easily be opened by a child with a screwdriver. Cable locks can easily be cut open with a simple wirecutter. Locked case boxes are small and light and can easily be picked up and carried away by a thief.

Quality gun safes can provide the security our children and our communities deserve. And through the vehicle of a tax credit, this bill encourages gun safety while preserving Second Amendment liberties.

I want to thank everyone who has worked with us to craft this bill. By encouraging gun owners to purchase residential gun safes for the safe storage of firearms we move a little bit closer to creating a safer America.

Mr. President, I urge all of my colleagues to support the ''Child Protection and Home Safety Act of 2005,'' and I ask unanimous consent that the text of the bill and the letter to which I referred be printed in the RECORD.

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

S. 1598

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 ''Child Protection and Home Safety Act of 2005''.

SEC. 2. CREDIT FOR RESIDENTIAL GUN SAFE PURCHASES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

''SEC. 25C. PURCHASE OF RESIDENTIAL GUN SAFES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 25 percent of the amount paid or incurred by the taxpayer during such taxable year for the purchase of a qualified residential gun safe.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) with respect to any qualified residential gun safe shall not exceed $250.

''(2) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 23), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year. No credit may be carried forward under this subsection to any taxable year following the third taxable year after the taxable year in which the purchase or purchases are made. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.

''(c) QUALIFIED RESIDENTIAL GUN SAFE.—For purposes of this section, the term 'qualified residential gun safe' means a container not intended for the display of firearms which is specifically designed to store or safeguard firearms from unauthorized access and which meets a performance standard for an adequate security level established by objective testing.

''(d) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter with respect to any expense which is taken into account in determining the credit under this section.

''(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the

close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and taxpayer's spouse file a joint return for the taxable year.

''(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.

''(e) ELECTION TO HAVE CREDIT NOT APPLY.—A taxpayer may elect to have this section not apply for any taxable year.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to ensure that residential gun safes qualifying for the credit meet design and performance standards sufficient to ensure the provisions of this section are carried out.

''(g) STATUTORY CONSTRUCTION; EVIDENCE; USE OF INFORMATION.—

''(1) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

''(A) as creating a cause of action against any firearms dealer or any other person for any civil liability, or

''(B) as establishing any standard of care.

''(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding the use or nonuse by a taxpayer of the tax credit under this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity for the purposes of establishing liability based on a civil action brought on any theory for harm caused by a product or by negligence, or for purposes of drawing an inference that the taxpayer owns a firearm.

''(3) USE OF INFORMATION.—No database identifying gun owners may be created using information from tax returns on which the credit under this section is claimed.''.

(b) CONFORMING AMENDMENT.—Section 6501(m) of the Internal Revenue Code of 1986 is amended by inserting ''25C(e),'' before ''30(d)(4),''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter I of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Purchase of residential gun safes.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

HEBER CITY POLICE DEPARTMENT,
Heber City, UT.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: The Utah Chiefs of Police Association enthusiastically endorses legislation which would provide a 25% tax credit toward the purchase of a gun safe, up to a maximum of $250.

This legislation would encourage gun owners to purchase gun safes for the safe storage of firearms. An increase in the use of gun safes will help prevent the theft of firearms, reducing incidents of suicide, homicide and violent crimes.

Senator Hatch, we urge you to introduce this legislation in the Senate, support it and use your best efforts to see that it gets passed. The passage of this vital legislation will prevent the mishandling of guns and keep our families and communities safer.

Thank you in advance for all your work and your support of this matter.

Sincerely,

Chief ED RHOADES,
President,
Utah Chiefs of Police Association.

By Mr. MCCAIN (for himself, Mr. ENSIGN, AND MR. KYL):

S. 1599. A bill to repeal the perimeter rule for Ronald Reagan Washington National Airport, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I am pleased to be joined by Senators ENSIGN and KYL in introducing the Abolishing Aviation Barriers Act of 2005. This bill would remove the arbitrary restrictions that prevent Americans from having an array of options for nonstop air travel between airports in western States and LaGuardia International Airport ''LaGuardia'', and Ronald Reagan Washington National Airport, ''Washington National''.

LaGuardia restricts the departure or arrival of nonstop flights to or from airports that are farther than 1,500 miles from LaGuardia. Washington National has a similar restriction for nonstop flights to or from airports 1,250 miles from Washington National. These restrictions are commonly referred to as the ''perimeter rule.'' This bill would abolish these archaic limitations that reduce consumers' options for convenient flights and competitive fares.

The original purpose of the perimeter rule was to promote LaGuardia and Washington National as airports for business travelers flying to and from East Coast and Midwest cities and to promote traffic to other airports by diverting long haul flights to Newark and Kennedy airports in the New York area and the Dulles airport in the Washington area. However, over the years, Congress has rightly granted numerous exceptions to the perimeter rule because the air traveling public is eager for travel options. Today, there are nonstop flights between LaGuardia and Denver and between Washington National and Denver, Las Vegas, Los Angeles, Phoenix, Salt Lake City and Seattle. Rather than continuing to take a piecemeal approach to promoting consumer choice, I urge Congress to take this opportunity once and for all to do away with this outdated rule.

As many in this body know, I have been fighting against the perimeter rule for years. I continue to believe that Americans should have access to air travel at the lowest possible cost and with the most convenience for their schedule. Therefore, I have always advocated for the removal of any artificial barrier that prevents free market competition. Last I co-sponsored legislation to repeal the ''Wright Amendment'' which prohibits flights from Dallas'' Love Field airport to 43 States. This week I am proud to come together with colleagues once again to eliminate another unnecessary restraint through the Abolishing Aviation Barriers Act of 2005.

Some opponents, mainly those with parochial interests, have criticized me over the years for my efforts to remove the perimeter rule for Washington National, particularly because such removal would allow flights between Phoenix and Tucson and Washington National. Due to such criticism, I made a pledge in 1998 that I would not take such flights if they were made available. Shortly thereafter, the Federal Aviation Administration granted an exemption for two nonstop flights per day between Washington National and Phoenix. I have never taken these flights. Instead I have routinely used connecting flights or flown out of Dulles International Airport. Being a frequent flier and having flown from both Dulles and Kennedy in the past few months, I can assure my colleagues, that both airports have enormous business and no longer need to be ''fed'' long haul traffic to promote airport usage.

In fact, a 1999 study by the Transportation Research Board stated that perimeter rules ''no longer serve their original purpose and have produced too many adverse side effects, including barriers to competition . . . The rules arbitrarily prevent some airlines from extending their networks to these airports; they discourage competition among the airports in the region and among the airlines that use these airports; and they are subject to chronic attempts by special interest groups to obtain exemptions.''

That same year, the Government Accountability Office, GAO, stated that the ''practical effect'' of the perimeter rule ''has been to limit entry'' of other carriers. The GAO found that airfares at LaGuardia and Washington National are approximately 50 percent higher on average than fares at similar airports unconstrained by the perimeter rule. Such an anticompetitive rule should not remain in effect, particularly where its anticompetitive impact has long been recognized. For this reason, I will continue the struggle to try to remove the perimeter rule and other anticompetitive restrictions that increase consumer costs and decrease convenience for no apparent benefit.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1599

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 ''Abolishing Aviation Barriers Act of 2005''.

SEC. 2. RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

(a) IN GENERAL.—Chapter 449 of title 49, United States Code, is amended by striking section 49109.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by striking the item relating to section 49109 and inserting the following:

''44901. Repealed''.

SEC. 3. TERMINATION OF FEDERAL SUPPORT FOR PERIMETER RULE AT NEW YORK LAGUARDIA AIRPORT.

Notwithstanding any other provision of law, no Federal funds may be obligated or expended after the date of enactment of this Act to enforce the Port Authority of New York and New Jersey rule banning flights beyond 1,500 miles (or any other flight distance

related restriction), from arrival or departure at New York LaGuardia Airport.

By Ms. SNOWE (for herself and Mr. HATCH):

S. 1600. A bill to amend the Communications Act of 1934 to ensure full access to digital television in areas served by low-power television, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I have the support of many of my colleagues on the Senate Committee on Commerce, Science and Transportation to introduce legislation to help rural America transition to an age of digital television. Television is an important media outlet for local news, weather and information. Years ago, it was decided that the United States should transition to a higher standard of television service. Digital television is much more than simply a sharper picture; it allows for an increase in the number of channels, more efficient use of spectrum and many new features for consumers. As the Senate considers broader digital television transition legislation, it is important not to leave rural America behind.

The bill I introduce today is aimed to assist translator stations and low power analog stations. Translator stations are small stations that repeat a signal from full power stations so that the signal may be reached in remote areas. Low power analog TV stations are television stations that typically serve smaller, rural communities. While translators and low power analog TV stations are located in many parts of the country, most are concentrated in rural areas, including many parts of Maine.

There has been a long time understanding that low power stations would not be a part of the full power digital television transition. This understanding, however, does not mean that Congress can simply look away. We must ensure that low power stations have the necessary time and adequate funds to move into the digital age. The Digital Low Power Television Transition Act aims to address these needs.

First, the bill I am introducing today puts a deadline for the low power digital televison transition four years out from whatever the hard date is that Congress ultimately decides for the full power digital television transition. Full power stations have had years to transition to digital. Low power stations have yet to even receive their digital allocations, and therefore need additional time to upgrade equipment. This delay will also allow consumers in rural areas to continue to use analog television sets to receive over-the-air signals until digital television equipment becomes more prevalent in small town consumer electronics stores.

Second, the Digital Translator and Low Power Television Transition bill establishes a grant program within the National Telecommunications and Information Agency, NTIA, to help defray the cost of upgrading translators and low power television stations from analog to digital. This money for the grant program would come from a trust fund set up with proceeds of the spectrum auctions that will take place because of the full power digital television transition. The Federal Communications Commission, FCC, estimates that approximately $100 million will be needed for the 4474 translators and 2071 low power analog and to upgrade. The trust fund's size reflects the FCC's estimate.

The goal of this Act is to assist the rural, low power stations without interrupting the greater digital televison transition. Because of the secondary status of translators and low power stations, the auction of full power analog spectrum will remain unaffected. These stations do play an important role in rural communities, therefore this bill calls upon the FCC to report to Congress on the status of translators and low power analog.

This bill is not meant to be a comprehensive approach to the digital television transition. It is merely a solution to one of the many questions Congress will face this Congress. Rural America deserves the same benefits that digital televison will bring that will be available in urban areas. This Act gives translators, low power analog and Class A stations the assistance they need to smoothly transition to digital.

By Mr. GRASSLEY (for himself, Mr. BAYH, and Mrs. CLINTON):

S. 1602. A bill to amend title XIX of the Social Security Act require States to disregard benefits paid under long-term care insurance for purposes of determining medicaid eligibility, to expand long-term care insurance partnerships between States and insurers, to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, the use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs, to establish home and community based services as an optional medicaid benefit, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am pleased to join my colleagues Senator BAYH and Senator CLINTON in introducing the Improving Long-term Care Choices Act. This legislation sets forth a series of proposals aimed at improving the accessibility of long-term care insurance and promoting awareness about the protection that long-term care insurance can offer. It also seeks to broaden the availability of the types of long-term care services such as home- and community-based care, which many folks prefer to institutional care.

Before I begin my discussion of the merits of the legislation that I am introducing today, I want to take this opportunity to once again emphasize my commitment to enacting the Family Opportunity Act. I have worked to get the Family Opportunity Act enacted for many years now.

I have been motivated to work so hard because I have been deeply moved by a number of stories from families, both from my State of Iowa and elsewhere, who have had to turn down promotions, or even put their child with a disability up for adoption in order to secure for these children the medical services they so desperately need.

The Family Opportunity Act would provide a State option to allow families with disabled children to ''buy in'' to the Medicaid program; establish mental health parity in Medicaid Home and Community Based Waiver programs; establish Family to Family Health Information Centers and restore Medicaid eligibility for certain SSI beneficiaries.

As part of the on-going negotiations relative to the FOA, many stakeholders have agreed that a modification of a feature of the President's New Freedom Initiative, a demonstration program known as ''Money Follows the Person'' should be enacted along with the FOA. Money Follows the Person allows the Secretary to provide grants to states to increase the use of home and community based care and provides States a financial incentive for the first year to do so.

I want stakeholders in the disability community as well as the many organizations who support the Family Opportunity Act to understand that the legislation I am introducing today compliments rather than supplants my efforts to enact FOA and Money Follows the Person. I believe that we should provide a wide array of options to the states to encourage them to identify and eliminate barriers to community living including access to consumer direction and respite care.

Long-term care services can be prohibitively expensive. Just one year in a nursing home can cost well over $50,000. In many cases, individuals deplete their savings and resources paying for long-term and ultimately qualify for Medicaid coverage. Right now, Medicaid pays for the bulk of long-term care services in this country. In 2002 alone, we spent nearly $93 billion on long-term care services under Medicaid. With our aging population, one thing is clear: spending will only increase.

When most people think about purchasing long-term care insurance, they think, ''that's something I can put off until tomorrow.'' We need to change the perception because the older you are when you first buy coverage, the more expensive the premiums are.

Our legislation calls for the Secretary to educate folks about the protection that long-term care insurance can offer. We envision people having the opportunity to compare policies available in their States. Among other means, this could be accomplished

through an internet website for example.

Making people aware of long-term care insurance won't go very far though, unless we make some other changes to enhance the value and protection that long-term care insurance can bring. Our bill takes several steps in this regard.

First, the legislation would require that States disregard benefits paid under a long-term care insurance policy when determining eligibility for Medicaid. Second, it incorporates a series of consumer protections recommended by the National Association of Insurance Commissioner, NAIC, into the definition of 'qualified long-term care services.' Individuals who purchase a policy that have these consumer protections will be eligible for an above the line tax deduction and a tax credit for out-of-pocket expenses made by caregivers. Third, the bill would expand the long-term care partnership program, which currently operates as a demonstration in four states. The long-term care partnerships combine private long-term care insurance with Medicaid coverage once individuals exhaust their insurance benefits. Several States would like to pursue their own long-term care partnerships and this legislation will enable them to do that.

The Improving Long-term Care Choices Act also builds on the President's New Freedom Initiative by taking further steps toward removing the ''institutional bias'' in Medicaid, giving States the option of providing home- and community-based services as part of their State Medicaid Plan.

In doing so, the bill gives States the flexibility to design long-term care benefits that will reduce the reliance on costly institutional settings and meet the needs of elderly and disabled individuals who overwhelmingly wish to remain in their homes and communities.

In his New Freedom Initiative announced shortly after taking office, President George W. Bush outlined a plan to tear down barriers preventing people with disabilities from fully participating in American society.

The President also endorses the idea of shifting Medicaid's delivery system towards one that promotes cost-effective, community-based care instead of one weighted so heavily towards institutional settings.

This legislation also challenges us to think beyond funding and program silos and directs the Secretary to address administrative barriers that impede the integration of acute and long-term care services. The Secretary also must develop recommendations for statutory changes that will make it easier for States to offer better coordinated acute and long-term care services.

The Improving Long-Term Care Choices Act is consistent with our ideals about families, individual choices in health care and financial responsibility. This bill aims high. But it is sorely evident that we need to think creatively and comprehensively, even boldly, if we hope to make the type of inroads in promoting the availability of good long-term care insurance policies and in rebalancing the institutional bias in long-term care services that no longer reflects the needs and preferences of many stakeholders.

The Improving Long-Term Care Choices Act is a good bill. The American Network of Community Options and Resources, the Arc & United Cerebral Palsy Disability Policy Collaboration, and the National Disability Rights Network, the United Spinal Association, and the Association of University Centers on Disabilities support the bill. I urge my colleagues to do the same.

I ask unanimous consent that a section-by-section summary of the legislation and letters of support be printed in the RECORD.

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

IMPROVING LONG-TERM CARE CHOICES ACT—SUMMARY

TITLE I: LONG-TERM CARE INSURANCE CONSUMER PROTECTIONS

Subtitle A

Section 101: State Medicaid Plan requirements regarding Medicaid eligibility determination, long-term care insurance reciprocity, and consumer education

Requires each state in its Medicaid plan to exclude benefits, including assigned benefits, paid under a qualified-long term care policy in determining income for purposes of determining eligibility for medical assistance.

Requires that states with a long-term care insurance partnership program to meet requirements for reciprocity to with other long-term care insurance partnership states. Reciprocity rules to be developed as specified in section 103.

Requires the Secretary to educate consumers on the advisability of obtaining long-term care insurance that meets federal standards and the potential interaction between coverage under a policy and federal and state health insurance programs.

Section 102: Additional consumer protections for long-term care insurance

Establishes additional consumer protections with respect to long-term care insurance policies based on the October 2000 National Association of Insurance Commissioners (NAIC) model regulations including non-cancellability, prohibitions on limitations and exclusions, extension of benefits, continuation of conversion coverage, discontinuance and replacement, prohibitions on post-claim underwriting, inflation protection, and prohibitions on pre-existing condition and probationary periods in replacement policies or certificates.

Issuers of long-term care insurance policies must also comply with NAIC model provisions related to disclosure of rating practices, application forms and replacement coverage, reporting, filing requirements for marketing, suitability, standard format outline of coverage, and delivery of shopper's guide.

Issuers must comply with model act policies related to right to return, outline of coverage, certificates under group plans, monthly reports on accelerated death benefits, and incontestability period.

Applies to policies issued more than 1 year after enactment.

Section 103: Expansion of State Long-term Care Partnerships

Permits the expansion of long-term care partnership insurance policies to all states.

Requires all new partnership policies to be ''qualified long-term care insurance policies'' defined as a policy that: (1) disregards any assets or resources in the amount equal payments made under the policy; (2) requires the holder, upon the policy's effective date, to reside in the state or a state with a qualified long-term care partnership; (3) includes the consumer protections specified in 7702B of the tax code as amended by Section 102 (additional consumer protections); (4) requires compound inflation protection; and (5) requires that any agent selling such policies receive training and demonstrate knowledge of such policies,

Medicaid asset protection would apply in an equal amount to the insurance benefit paid under the policy, referred to as a dollar-for-dollar model. [The four states (NY, IN, CT, and CA) that currently offer long-tenn care partnership policies that are not dollar-for-dollar may continue to offer those policies.]

Directs the Secretary to set standards for reciprocity in conjunction with states, insurers, NAIC, and other groups as deemed necessary by the Secretary not later than 12 months after enactment to provide for the portability of long-term care partnership policies from one partnership state to another partnership state.

Establishes minimum uniform reporting requirements.

Section 104: National Clearinghouse for Long-term Care Information

Provides for: (1) development of a national clearinghouse on long-term care information to educate consumers on the importance of purchasing long-term care insurance, and, where appropriate, to assist consumers in comparing long-term care insurance policies offered in their states, including information on benefits, pricing (including historic increases in premiums) as well as other options for financing long-term care and (2) establishment of a website to facilitate comparison of long-term care policies.

Authorizes such sums a necessary for the clearinghouse in fiscal year 2006 and each year thereafter.

Subtitle B

Section 121: Treatment of premiums on qualified long-term care insurance contracts

Provides individuals an above-the-line tax deduction for the cost of their qualified LTC insurance policy (as defined by HIPAA, section 7702B(b)). Phases in applicable percentage of the deduction based on the number of years of continuous coverage under a qualified LTC policy.

Section 122: Credit for taxpayers with long-term care needs

Provides applicable individuals with LTC needs or their eligible caregivers a $3000 tax credit to help cover LTC expenses. An applicable individual is one who has been certified by a physician as needing help with at least 3 activities of daily living, such as eating, bathing, dressing. LTC tax credit would be phased-in over 4 years as follows: $1000 in 2005, $1500 in 2006, $2000 in 2007, $2500 in 2008, and $3000 in 2009 or thereafter. The credit phases out by $100 for each $1000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount set at $150,000 for a joint return and $75,000 for an individual return.

Section 123: Treatment of exchanges of long-term care insurance contracts

Includes a waiver of limitations, allowing individuals to make claims if there are changes to law.

TITLE II: MEDICAID HOME AND COMMUNITY-BASED SERVICES OPTIONAL BENEFIT

Section 201: Medicaid Home and Community-Based Services Optional Benefit

Provides states with a new option to offer home and community-based services to Medicaid-eligible individuals without obtaining a federal waiver. Under this option states may include one or more home and community-based services currently available under existing waiver authority. States would also be permitted to allow individuals to choose to self-direct services. Under this option, states must establish a more stringent eligibility standard for placement of individuals in institutions, than for placement in a home and community-based setting. States would be permitted to offer a limited benefit consisting of home and community-based services only, to certain populations not otherwise eligible for Medicaid, but not to exceed individuals whose income exceeds 300% of SSI income and resource standards. At states option, provides presumptive eligibility for aged, blind and disabled for home and community-based services. If enrollment under the state plan exceeds state projections, the state would be permitted to change eligibility standards to limit enrollment for new applicants, while grandfathering those individuals already receiving services.

TITLE III: INTEGRATED ACUTE AND LONG-TERM CARE SERVICES FOR DUALLY ELIGIBLE INDIVIDUALS

Section 301: Removal of barriers to integrated acute and long-term care services for dually eligible individuals

Directs the Secretary, in collaboration with directors of State Medicaid programs, health care issuers, managed care plans, and others to issue regulations removing administrative barriers that impede the offering of integrated acute, home and community-based, nursing facility, and mental health services, and to the extent consistent with the enrollee's coverage for such services under Part D, prescription drugs. The Secretary also must submit recommendations to address legislative barriers to offering integrated services. The Medicare Payment Advisory Commission (MedPAC) will comment on the Secretary's recommendations.

AMERICAN NETWORK OF COMMUNITY OPTIONS AND RESOURCES,
Alexandria, VA, July 29, 2005.

Hon. CHARLES GRASSLEY,
Hon. EVAN BAYH,
U.S. Senate, Washington, DC.

DEAR SENATORS GRASSLEY AND BAYH: On behalf of the American Network of Community Options and Resources (ANCOR)—the national association representing more than 850 private providers of supports and services to more than 380,000 people with significant disabilities—we extend our appreciation and offer our support in the introduction today of your ''Improving Long-Term Care Choices Act of 2005.''

It is especially noteworthy that you introduced this bill on the eve of Medicaid's 40th anniversary. Medicaid has worked for millions of people with disabilities, improving their lives over the past four decades. However, Medicaid can and should do better on behalf of the 8 million individuals with disabilities that depend daily upon this program for their health services and long-term supports. This is a propitious moment to send a message to the nation—people with disabilities can count on Medicaid. It makes clear to all that Congress intends to maintain its commitment for a strong federal role in enhancing the lives of people with disabilities.

People with disabilities, their families, and providers have for years called for the removal of Medicaid's institutional bias. ANCOR provided testimony in. September of 2001 in conjunction with the President's New Freedom Initiative that the Congress must change the structure of Medicaid to include state plan home and community-based services. Your bill builds upon the President's initiative, the Supreme Court's Olmstead decision, and ANCOR's commitment to community integration.

In addition to helping millions of people of all ages who depend upon Medicaid for long-term supports, your legislation will assist millions of moderate-income Americans to address their future long-term needs. By encouraging reliable long-term care insurance and tax incentives to defray costs for long-term needs, your bill begins the important process to adopt a national comprehensive long-term care policy. This step is critical as the nation stands on the precipice of the fast approaching ''sleeping giant''—the retirement of the baby boom generation and shift in demographics. In this way, the bill will help reduce the financial pressures on Medicaid and our nation's reliance on it as the only public long-term care program.

ANCOR is pleased and proud to offer its support to you on this momentous day and to pledge our help in making the ''Improving Long-Term Care Choices Act of 2005'' a reality this session. We are grateful for your leadership and ongoing commitment to people with disabilities and those who provide them with daily supports.

Sincerely,

SUELLEN R. GALBRAITH,
Director for Government Relations.

DISABILITY POLICY COLLABORATION,
Washington, DC, July 29, 2005.

Hon. CHARLES GRASSLEY,
Hon. EVAN BAYH,
U.S. Senate.

DEAR CHAIRMAN GRASSLEY AND SENATOR BAYH: The Arc of the United States and United Cerebral Palsy strongly support your introduction of the Improving Long-Term Care Choices Act. The Arc is the national organization of and for people with mental retardation and related developmental disabilities and their families. United Cerebral Palsy is a nationwide network of organizations providing advocacy and direct services to people with disabilities and their families.

The creation of a Medicaid home and community-based services optional benefit is an important improvement in the federal/state Medicaid program and one for which we have advocated for many years. We believe that the addition of this benefit as an option for states will make it easier for states to serve people with severe disabilities where they want to be served—in their own home communities, rather than in institutions or other facilities. This will increase opportunities for improved quality of life for many children and adults with severe disabilities and their families.

We applaud your efforts and are grateful for your leadership in introducing this important legislation and pledge to work with you to secure its passage and enactment.

Sincerely,

PAUL MARCHAND,
Staff Director,
Disability Policy Collaboration.

NATIONAL DISABILITY RIGHTS NETWORK,
Washington, DC, July 29, 2005.

Hon. CHARLES GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: The National Disability Rights Network (NDRN) is the nonprofit membership organization for the federally mandated Protection and Advocacy (P&A) Systems and the Client Assistance Programs (CAP) for individuals with disabilities. Through training and technical assistance, legal support, and legislative advocacy, NDRN works to create a society in which children and adults with all types of disabilities are afforded equality of opportunity and are able to fully participate by exercising choice and self-determination.

NDRN strongly supports your introduction of the Improving Long Term Care Choices Act of 2005. One of the major goals of the P&A/CAP network is for all individuals with disabilities to live in their own communities—independently, with their families, or with other individuals of their choice. Your determination in bringing forward this bill—with the critical component of establishing home and community-based services and supports as a optional Medicaid benefit, instead of only available through a waiver—is a major step in the right direction.

NDRN and the entire P&A/CAP network look forward to the day when community-based supports and services for children and adults with disabilities are the norm and institutional services are non-existent or require a waiver.

We believe that this bill also is very important because it will shine a light on the need for a true long-term care system in our nation. While long-term care insurance is not the answer for everyone, it can be useful—if affordable and if it covers people for a long enough span of time; The availability of long-term care insurance also could help to take the pressure off of the Medicaid program.

Thank you again for your continuing recognition of the needs of children and adults with disabilities and their families. The disability community looks upon you as one of its leading advocates in the U.S. Congress. NDRN is pleased to offer any help it can in moving the Long-Term Care Choices Act through this session of Congress. Please contact Dr. Kathleen McGinley, 202–408–9514, Kathy.mcginley@ndrn.org.

Sincerely,

LYNN BREEDLOVE,
President,
NDRN Board of Directors.

UNITED SPINAL ASSOCIATION,
Washington, DC, July 29, 2005.

Hon. CHARLES GRASSLEY,
Hon. EVAN BAYH,
U.S. Senate,
Washington, DC.

DEAR SENATORS GRASSLEY AND BAYH: United Spinal Association, a national disability advocacy organization dedicated to enhancing the quality of life for individuals with spinal cord injury or spinal cord disease by assuring quality health care, promoting research, and advocating for civil rights and independence, thanks you for introducing the Improving Long Term Care Choices Act of 2005. United Spinal applauds your leadership in bringing forward such an important measure, which will assist thousands of Americans with disabilities become more fully integrated and participating members of their communities.

The Improving Long Term Care Choices Act would help states rebalance their long term supports systems away from an institutional bias by giving states the flexibility to

offer community services and supports as a state plan option under Medicaid. The proposal would also encourage individuals to purchase private long-term care insurance, which could help elevate some of the financial pressures off of state Medicaid programs. In addition, this bill will help states in their efforts to comply with the Supreme Court Olmstead decision.

People with disabilities should be able to live and work in their communities, not segregated in large and costly institutions. This system reform is long overdue. Thank you again for your vision, courage and ongoing leadership to create public policy that promotes independence, productivity and integration of people with disabilities in their communities. United Spinal would like to offer any assistance you need in moving the Improving Long Term Care Choices Act through this session of Congress. Please contact me at (202) 331–1002 for assistance.

Sincerely,

KIMBERLY RUFF-WILBERT,
Policy Analyst,
United Spinal Association.

ASSOCIATION OF UNIVERSITY CENTERS ON DISABILITIES,
Silver Spring, MD, July 29, 2005.

Hon. CHARLES GRASSLEY,
Hon. EVAN BAYH,
U.S. Senate,
Washington, DC.

DEAR SENATORS GRASSLEY AND BAYH: On behalf of the Association of University Centers on Disabilities (AUCD), a national network that provides education, training and service in developmental disabilities, we want to thank you for introducing the Improving Long Term Care Choices Act of 2005. The Association of University Centers on Disabilities (AUCD) applauds your leadership in bringing forward such an important measure, which will assist thousands of Americans with disabilities to be more fully integrated and participating members of their communities.

The Improving Long Term Care Choices Act would help states rebalance their long term supports systems away from an institutional bias by giving states the flexibility to offer community services and supports as a state plan option under Medicaid. The proposal would also encourage individuals to purchase private long-term care insurance which will help take some of the financial pressure off the Medicaid program. It will also help states in their efforts to comply with the Supreme Court Olmstead decision.

People with disabilities should be able to live and work in the community with or close to family and friends, not segregated in large and costly institutions. This system reform is long overdue.

Thank you again for your vision, courage and ongoing leadership to create public policy that promotes independence, productivity and integration of people with disabilities in their communities. AUCD would like to offer any assistance you need in moving the Improving Long Term Care Choices Act through this session of Congress. Please contact Kim Musheno at 301–588–8252 for assistance,

Sincerely,

ROBERT BACON,
Co-Chair,
AUCD Governmental Affairs Committee.
LUCILLE ZEPH,
Co-Chair,
AUCD Governmental Affairs Committee.

Mrs. CLINTON: Mr. President, I am proud to rise today to introduce the Improving Long-Term Care Choices Act with Senator GRASSLEY and Senator BAYH. This legislation would take several important steps toward assisting Americans and their caregivers to meet their long-term care needs.

Issues related to long-term care are of growing concern to many in New York and around the Nation. Individuals and families are struggling to afford costly care, obtain appropriate information regarding long-term care insurance, and maintain dignity and choice regarding these important services. As I talk with seniors around the State of New York and throughout the country, what I hear most is that people want to stay in their homes with their loved ones for as long .as they can. However, too many individuals and families struggle to be able to afford quality home and community based care. In addition, families are unsure where to find the resources they need to purchase long-term care insurance.

That is why I have joined with my colleagues to introduce this legislation. The Improving Long-Term Care Choices Act will assist individuals in meeting their long-term care needs, while reducing Medicaid costs.

This bill will improve access to home and community based services through Medicaid that will help seniors remain in their homes and communities. It will also expand long-term care insurance consumer protections, provide tax deductions for the cost of long-term care insurance, and allow tax credits for individuals and their caregivers to help cover long-term care expenses not covered by insurance. Finally, this legislation would establish a national clearinghouse on long-term care information.

This legislation takes some important steps to assist individuals and families in gathering the resources necessary to prepare for their long-term care needs and gain access to services in their preferred choice of setting.

I look forward to continuing to work with Senators GRASSLEY and BAYH and all of my colleagues to ensure that all Americans have access to the resources that help them access high quality long-term care.

By Ms. SNOWE:

S. 1603. A bill to establish a National Preferred Lender Program, facilitate the delivery of financial assistance to small businesses, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today to discuss a bill, the Small Business Lending Improvement Act of 2005, which I have introduced today to provide small businesses with easier access to loans and to increase efficiency in the Small Business Administration's largest loan program, the 7(a) program, which provided $12.7 billion in small business loans in 2004.

As Chair of the Senate Committee on Small Business and Entrepreneurship, I am committed to supporting our Nation's Main Street small business community by increasing its access to capital. This legislation will reform a cumbersome SBA lender licensing process that does not provide our small businesses with the most efficient means of accessing the capital they must have to start and sustain their firms. The bill would allow the SBA's 7(a) loan program to better capitalize on the demonstrated potential small business have to create jobs and economic growth.

As our Nation continues to prosper from economic growth, low inflation, and low unemployment, we should not forget the critical role played by our small businesses. Without strong and successful small businesses, our prosperity would not be what it is today.

Under current law, the most prolific lenders in the SBA's 7(a) loan program can participate in the ''Preferred Lender Program'' (PLP Program), which allows them to use their own processing facilities and therefore both increases lenders' efficiency and reduces costs for the SBA. However, PLP lenders are required to apply for PLP status in each of the 71 SBA districts nationwide to obtain PLP status in that district, and they must re-apply each year in each district. This is extremely inefficient and wasteful, and creates enormous unnecessary administrative costs.

Section 2 of this bill would allow qualifying lenders to participate in the PLP Program on a nationwide basis after just one licensing process. This provision was in S. 1375, the Small Business Administration 50th Anniversary Reauthorization Act of 2003, which I introduced in 2003 and which the Senate approved unanimously in September 2003.

This provision would drastically reduce administrative costs and would standardize the operation of the PLP program. A National Preferred Lenders Program would eliminate the inefficiencies and cost of applying for PLP status in each district, and would increase the ease with which loans are made to small businesses, thereby improving small businesses' access to capital. Competition among lenders for small business customers would increase, increasing financing alternatives and lowering costs for small businesses.

In addition to simplifying licensing processes for both lenders and the SBA, the bill would allow the SBA's lender oversight to be done more efficiently and effectively, on a national basis. The current process of having to renew licenses in each district is extremely time-consuming and administratively burdensome for the lenders and the SBA. A National Preferred Lenders Program could remedy the inefficiencies and cost of applying for PLP status in each district and save a tremendous amount of taxpayer dollars.

Section 3 of the act increases the maximum size of a 7(a) loan to $3 million, from the current $2 million, and increase the maximum size of a 7(a)

guarantee to $2.25 million, from the current $1.5 million. This would maintain the maximum 75 percent guarantee. Small businesses' financing needs are increasing and, especially with the high cost of real estate and new equipment, it is appropriate to respond to those needs by offering larger loans.

In the SBA's 504 Loan Program, loans may now be as large as $10 million, with $4 million guaranteed, for manufacturing projects, $5 million (with $2 million guaranteed) for loans that serve an enumerated public policy goal (such as rural development), and $3.75 million (with $1.5 million guaranteed) for all other ''regular'' 504 Program loans. Thus, this increase in 7(a) Program loans to $3 million would bring 7(a) loans closer in size to 504 Program loans, while still leaving 7(a) loans smaller than 504 Program loans.

Section 4 of the bill increases the program's authorization level to $18 billion for fiscal year 2006, instead of the $17 billion authorized for fiscal year 2006 in the Omnibus Appropriations Act, enacted in December 2004. The program is on pace to achieve loan volume of between $14 and $15 billion in fiscal year 2005, and this provision would allow the program adequate ability to grow unimpeded in fiscal year 2006, especially if the maximum loan size is increased.

Section 5 of the bill requires the SBA to implement an alternative size standard, in addition to the program's current standard, for the 7(a) program. The SBA would create an alternative size standard for the 7(a) program, as it has already done for the 504 program, that considers a business's net worth and income. This provision would bring the 7(a) program into conformity with the 504 Program. This provision was also in S. 1375 in the 108th Congress, passed unanimously by the Senate in 2003.

Currently, in the 7(a) program a small business's eligibility to receive a loan is determined by reference to a multipage chart that has different size standards for every industry that can be very confusing, especially for small lenders that do not make many 7(a) loans. In the 504 Program, however, lenders can use either the industry-specific standards or an ''alternative size standard'' that the SBA created, which simply says a small business is eligible for a loan if it has gross income of less than $7 million or net worth of less than $2 million.

This would simplify the 7(a) lending process and provide small businesses with a streamlined procedure for determining if they are eligible for 7(a) loans, and it would conform the standards used by the 7(a) and 504 programs. It would make the program far more accessible to small businesses and small lenders.

All of these improvements to the SBA's largest loan program will support our national goal of building a vibrant and growing economy. Small businesses are the heart of our economy, and this bill will help to improve small businesses' economic prospects.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1603

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 ''Small Business Lending Improvement Act of 2005''.

SEC. 2. NATIONAL PREFERRED LENDERS PROGRAM.

Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended by adding at the end the following:

''(E) NATIONAL PREFERRED LENDERS PROGRAM.—

''(i) ESTABLISHMENT.—There is established the National Preferred Lenders Program in the Preferred Lenders Program operated by the Administration, in which a participant may operate as a preferred lender in any State if such lender meets appropriate eligibility criteria established by the Administration.

''(ii) TERMS AND CONDITIONS.—An applicant shall be approved under the following terms and conditions:

''(I) TERM.—Each participant approved under this subparagraph shall be eligible to make loans for not more than 2 years under the program established under this subparagraph.

''(II) RENEWAL.—At the expiration of the term described in subclause (I), the authority of a participant to make loans for the program established under this subparagraph may be renewed based on a review of performance during the previous term.

''(III) EFFECT OF FAILURE.—Failure to meet the criteria under this subparagraph shall not affect the eligibility of a participant to continue as a preferred lender in a State or district in which the participant is in good standing.

''(iii) IMPLEMENTATION.—

''(I) REGULATIONS.—As soon as is practicable, the Administrator shall promulgate regulations to implement the program established under this subparagraph.

''(II) PROGRAM IMPLEMENTATION.—Not later than 120 days after the date of enactment of this subparagraph, the Administrator shall implement the program established under this subparagraph.''.

SEC. 3. MAXIMUM LOAN AMOUNT.

Section 7(a)(3)(A) of the Small Business Act (15 U.S.C. 636(a)(3)(A)) is amended by striking ''$1,500,000 (or if the gross loan amount would exceed $2,000,000)'' and inserting ''$2,250,000 (or if the gross loan amount would exceed $3,000,000)''.

SEC. 4. SECTION 7(a) AUTHORIZATION FOR FISCAL YEAR 2006.

Section 20(e)(1)(B)(i) of the Small Business Act (15 U.S.C. 631 note) is amended by striking ''$17,000,000,000'' and inserting ''$18,000,000,000''.

SEC. 5. ALTERNATIVE SIZE STANDARD.

Section 3(a)(3) of the Small Business Act (15 U.S.C. 632(a)(3)) is amended—

(1) by striking ''When establishing'' and inserting the following: ''ESTABLISHMENT OF SIZE STANDARDS.—

''(A) IN GENERAL.—When establishing''; and

(2) by adding at the end the following:

''(B) ALTERNATIVE SIZE STANDARD.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of this subparagraph, the Administrator shall establish an alternative size standard under paragraph (2), that shall be applicable to loan applicants under section 7(a) or under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.).

''(ii) CRITERIA.—The alternative size standard established under clause (i) shall utilize the maximum net worth and maximum net income of the prospective borrower as an alternative to the use of industry standards.

''(iii) INTERIM RULE.—Until the Administrator establishes an alternative size standard under clause (i), the Administrator shall use the alternative size standard in section 121.301(b) of title 13, Code of Federal Regulations, for loan applicants under section 7(a) or under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.).''.

By Mr. KYL (for himself, Mr. PRYOR, Mr. CORNYN, Mr. GRAHAM, Mr. BROWNBACK, and Mr. CHAMBLISS):

S. 1605. A bill to amend title 18, United States Code, to protect public safety officers, judges, witnesses, victims, and their family members, and for other purposes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today to introduce the Law Enforcement Officers' Protection Act of 2005. This act will guarantee tough, mandatory punishment for criminals who murder or assault police officers, firefighters, judges, court employees, ambulance-crew members, and other public-safety officers in the course of their duties. Attacks on police officers and judges are serious crimes. They merit the toughest penalties. LEOPA imposes the following terms of imprisonment for attacks on public-safety officers: (1) second degree murder, 30 years to life; (2) voluntary manslaughter, 15 to 40 years; (3) assault resulting in serious bodily injury, 15 to 40 years; (4) assault with a dangerous weapon, 15 to 40 years; and (5) assault resulting in bodily injury, 5 to 20 years. The act also imposes commensurate penalties for retaliatory murders, kidnappings, and assaults committed against the family members of public-safety officers.

LEOPA includes additional provisions that will deter attacks upon police officers. The act expedites Federal-court review of state convictions for murder of a public-safety officer; it limits the damages that can be recovered by criminals for any injuries experienced during their arrest; it removes arbitrary barriers to retired officers' right to carry concealed weapons under Federal law; it makes it a crime to publicize a public-safety officer's identity in order to threaten or intimidate him; and it increases existing penalties for obstruction of justice and interference with court proceedings.

Aggravated assaults against police officers are a serious national problem. According to the most recent F.RI. report on the subject, 52 law-enforcement officers were feloniously killed in the United States in 2003. In the 10 year period from 1994 through 2003, a total of 616 lawenforcement officers were feloniously killed in the line of duty in the United States.

These officers' assailants unquestionably are among the worst criminals. Of those individuals responsible for unlawful killings of police officers between 1994 and 2003, 521 had a prior criminal arrest, including 153 who had a prior arrest for assaulting a police officer or resisting arrest. The individuals who commit these types of offenses are among the most dangerous members of the criminal class. Tough sentences for these criminals not only protect those who risk their lives to protect us; they also directly protect the public at large by removing a dangerous class of criminals from society.

Ordinary assaults against police officers have become a widespread problem. More than 57,000 law enforcement officers were assaulted in the course of their duties in 2003, and more than a quarter of these assaults resulted in injury to the officer. These numbers represent more than one of every 10 officers serving in the United States. Our society apparently has reached a point where criminals feel entitled to assault a police officer when they are being arrested. LEOPA is designed to change that understanding, to show criminals that assaults against police officers are unacceptable.

It bears mention that because of improvements in technology, recent years' numbers of officers killed in the line of duty even understate the extent of the violence that officers face. As the Los Angeles Times noted in 1994, ''the number of officers killed—an average of 60 to 70 a year since the late 1980s—would have broken records, too, if not for the advent of bulletproof vests, police experts say; about 400 officers have survived shootings over the last decade because they were wearing protective armor.'' (Faye Fiore & Miles Corwin, Toll of Violence Haunts Families of Police Officers, N.Y. Times, Feb. 21, 1994, at 1). As the executive director of the Fraternal Order of Police noted recently, ''there's less respect for authority in general and police officers specifically. The predisposition of criminals to use firearms is probably at the highest point in our history.'' (Jerry Nachtigal, Crime Down, but Number of Police Officers Killed Holds Steady, Associated Press Newswires, Apr. 11, 1999).

Violence against police officers also inhibits effective law enforcement. It breeds caution among officers and hinders robust investigation. LEOPA is designed to restore balance to the law. It is designed to ensure that police officers do not fear for their safety when enforcmg the law, but instead, that criminals fear the consequences of breaking the law.

Finally, aside from their broader effects on law enforcement and society, aggravated assaults and murders of police officers simply are terrible crimes. The victims often are young and in the prime of life, leaving behind young children, spouses, and grieving parents. A few recent incidents in the news serve to illustrate the horrific toll that these homicides take on the surviving victims:

Los Angeles County Deputy Sheriff Shayne York, 26 years old, was murdered during an invasion robbery while waiting for his fiancee at a hair salon on August 16, 1997. He was killed solely because of his status as a police officer. The Los Angeles Times gave the following account of the crime from the testimony at the killer's trial:

> The robbers yelled racial slurs and ordered customers and employees to the floor, snatching valuables from everyone inside. When one of the bandits found a law enforcement badge in York's wallet, he kicked York as he lay on the ground, according to testimony from [York's fiancee], also a Los Angeles County sheriff's deputy. The gunman asked York if he ever mistreated blacks and Crips gang members at Los Angeles County's Pitchess Detention Center, where York worked. York responded, ''No, sir.'' [The killer,] an alleged Crips gang member, then pointed a pistol at the back of York's head and squeezed the trigger, prosecutors said. [York's fiancee] testified she saw York's body go limp as she felt his blood flowing onto her legs. She said she heard the gunman say, ''I always wanted to kill a pig.'' (Jack Leonard & Monte Morin, Man Guilty of Killing Off-Duty Deputy, L.A. Times, Aug. 23, 2000, at B1.)

Deputy York's killer never expressed any remorse over this senseless crime. When jurors read their verdict at his trial, he shouted at them, ''May Allah kill you all, pagans, infidels.'' (Stuart Pfeifer & Richard Marosi, Jury Recommends Death for Robber Who Killed Deputy, L.A. Times, Sept. 8, 2000, at B7.)

California Highway Patrol Officer Don Burt, 25 years old, was shot seven times by a member of a street gang during a traffic stop on July 13, 1996. As Officer Burt lay wounded on the ground, the killer shot him in the head. The Los Angeles Times, covering the killer's trial, gave the following account of the testimony describing the devastating impact of Officer Burt's death on his family:

> [Don Burt's father] relived some of his happiest memories with his son—the wedding of his son and [daughter-in-law] Kristin, and the day he was told he was going to be a grandfather. But the proudest moment for both father and son was when the younger Burt joined the Highway Patrol. ''I pinned on his badge and 1 hugged him,'' the father said, tearfully. ''The proudest I'd ever seen him. The gleam he had in his eye—he was so proud.''
>
> It was a quiet summer night the night his son died, [Burt's father] told the 12-member jury. He and his wife had just finished dinner. The telephone rang. It was their daughter-in-law's father, also a CHP officer, saying there had been a shooting in the area that the younger Burt patrolled. The elder Burt, a 30–year veteran trooper, called the CHP dispatch center to learn more. A patrol car arrived to take the parents to the hospital. ''We drove [to the hospital] in dead silence,'' Burt said. ''I knew my son was dead and 1 couldn't tell my wife. She was sitting there with hope and 1 couldn't tell her.''
>
> Jeannie Burt said she didn't realize how serious her son's injuries were until a few minutes after they arrived at the hospital. ''I thought he wasn't hurt too bad, that everything was going to be all right,'' Jeannie Burt told jurors. But then, ''I saw Kristin's brother and he just shook his head. And 1 knew my son was dead.'' Tears streamed down Jeannie Burt's cheeks through most of her testimony. ''He wasn't perfect, but pretty close to it,'' the mother said through her tears. ''I'm grateful 1 had my son for the 25 years 1 had him. 1 wouldn't trade that with anything. I'm just so sad that my daughter-in-law has lost the love of her life. That his son does not have a father.''
>
> Kristin Burt, widow of the slain officer, said she was seven months pregnant with their first child when her husband of nearly three years was killed. She took the stand Monday, faltering and fighting back tears as she described how the coroner told her that her husband was dead. The coroner ''held my hand and slipped Don's wedding ring into my hand,'' Kristin Burt said. (Louis Roug & Meg James, Rage in the Courtroom, L.A. Times, Apr. 18, 2000, at B1.)

Officer Burt's son, Cameron, was born two months after he was killed.

Compton Police Officers Kevin Burrell and James MacDonald were shot and killed by a wanted criminal during a traffic stop on February 22, 1993. Newspapers gave the following account of the crime: ''The officers were wearing bulletproof vests when they stopped a red pickup truck about 11 p.m., but were knocked to the ground by bullet wounds to their limbs. With the officers lying in the rain-soaked street, [the killer] pumped bullets into their heads, execution-style.'' (Jodi Wilgoren, Killer of 2 Compton Police Officers Sentenced to Death, L.A. Times, Aug. 16, 1995, at 1.)

Officers Burrell and MacDonald were both young men, with all of their parents still living, at the time of their deaths. At the killer's trial, their families described the deep trauma that the crime created. The Los Angeles Times gave the following account:

> One after another, the mothers and fathers of Officers James Wayne MacDonald and Kevin Michael Burrell took the stand to cry out their losses. Three could not complete their testimony without breaking down so badly that court recessed. Burrell's mother told how she had heard the shots that killed her son a few blocks from her home. MacDonald's father, sobbing uncontrollably, blurted, ''Come home, Jimmy, let me trade places with you,'' when he was asked what he would tell his son if he could bring him back.
>
> James and Tonia MacDonald told how they visit their son's grave twice each day in their hometown of Santa Rosa, just to chat. Clark and Edna Burrell told how neither of them can bear to visit the cemetery where their son now lies.
>
> ''I heard the shots,'' Edna Burrell said. Then she told how she reasoned that her son had been hit. ''I was listening to my police scanner,'' she said, ''and I knew it was Kevin because I didn't hear them call his name'' on other dispatch calls. ''So when she (a police officer) knocked on my door, all I could do is scream, 'Oh God, they shot my baby. '', With that, Edna Burrell broke down. Overwhelmed, she was led from the courtroom, past where [the killer] sat staring straight ahead. Sobbing softly, she repeated what she had said on the stand: ''How could he do that? How could he do that?''
>
> Both sets of parents said the deaths of their sons left them feeling empty, lost and angry. ''The whole time I was praying, just to let Jimmy live until I could see him again,'' Tonia MacDonald sobbed, remembering the hours after she was told about the

shooting. ''And then I was so mad at God. All I wanted was to see him one more time.''

All four parents said old friends have fallen away as grief consumed their lives. Mother's Day, James MacDonald testified, has become unbearable. ''This year, when I got up, I didn't tell her (his wife) 'Happy Mother's Day' because it's a tough day,'' he said. ''I could see the tears in her eyes.'' (Emily Adams, Slain Officers'' Parents Tell of Pain, L.A. Times, June 1, 1995, at 1.)

It bears mention that all of the criminals responsible for the murders described here were convicted of capital offenses, and will be subject to the expedited federal review provisions in section 6 of LEOPA once they complete their State appeals.

Section 6 of the bill is named for Dr. John B. Jamison, a Coconino County, AZ, Reserve Sheriffs Deputy who was murdered while responding to a fellow deputy's call for assistance on September 6, 1982. The killer fired 30 rounds from an assault rifle into Dr. Jamison's car, killing the deputy before he could reach his gun or even unbuckle his seatbelt. Dr. Jamison was survived by his 13-year-old son and 10–year-old daughter. State courts completed their review of the killer's conviction and sentence in 1985. Federal courts then delayed the case for an additional 15 years. One judge on the U.S. Court of Appeals for the Ninth Circuit even tried to postpone the killer's final execution date on the alleged basis that the killer was wrongfully denied state funds to investigate a rare neurological condition that his lawyer had learned of while watching television. Dr. Jamison's killer ultimately was executed in 2000—18 years after the crime occurred, and 15 years after federal habeas-corpus proceedings began.

Section 6 is designed to prevent these kinds of delays in Federal review of cases involving state convictions for the murder of a public-safety officer. In the district court, parties will be required to move for an evidentiary hearing within 90 days of the completion of briefing, the court must act on the motion within 30 days, and the hearing must begin 60 days later and last no longer than 3 months. All district-court review must be completed within 15 months of the completion of briefing. In the court of appeals, the court must complete review within 120 days of the completion of briefing. In most cases, these limits will ensure that federal review of a defendant's appeal is completed within less than 2 years. This section also makes these deadlines practical and enforceable by limiting federal review to those claims presenting meaningful evidence that the defendant did not commit the crime—defendants would be barred from re-litigating claims unrelated to guilt or innocence. (Defendants still will be permitted to litigate all their legal claims in state court on direct review and state-habeas review, and in petitions for certiorari in the U.S. Supreme Court.)

The need for this provision is particularly stark in the judicial circuit that includes my home state of Arizona. The U.S. Court of Appeals for the Ninth Circuit's pattern of blocking capital punishment for all murderers—including those who kill police officers—is well documented. A recent committee report of the U.S. Senate, for example, notes that: ''Data for the last ten years show that outside of the Ninth Circuit, usually 70 to 80 percent of death sentences are affirmed by a [federal] Court of Appeals on collateral review. In almost every year, however, the Ninth Circuit has reversed the majority of death sentences that it reviews. Moreover, this percentage has climbed sharply in recent years . . . In the last three years, the Ninth Circuit has reversed 88 percent, 80 percent, and 86 percent of the death sentences that it has reviewed.'' (S. Rep. No. 107–315 (2002), at 72–73) The Senate report also notes that a core group of Ninth Circuit judges vote to reverse virtually every death sentence that they review. Judge Stephen Reinhardt, for example, had reviewed 31 death sentences by 2002, and voted to reverse every single one. Other Ninth Circuit judges have similar records.

As Ninth Circuit Judge Alex Kozinski has noted, ''there are those of my colleagues who have never voted to uphold a death sentence and doubtless never will.'' He continued: ''Refusing to enforce a valid law is a violation of the judges' oath—something that most judges consider a shameful breach of duty. . . . [But] to slow down the pace of executions by finding fault with every death sentence is considered by some to be highly honorable.'' (Alex Kozinski, Tinkering with Death, The New Yorker, Feb. 10, 1997, at 48–53)

This pattern of behavior extends to the Ninth Circuit's review of death sentences imposed for the murder of police officers. In the nine States under the Ninth Circuit's jurisdiction, 34 criminals have been sentenced to death for murdering police officers since the late 1970's. Only one—the man who killed Dr. Jamison—has ever been executed. The Ninth Circuit consistently has obstructed all other death sentences for criminals convicted of murdering police officers in the western States.

As one Orange County newspaper columnist notes, these numbers reflect poorly on our society's commitment to ensuring justice for slain police officers and their families:

When California voters reinstated the death penalty in 1978, they made killing an on-duty peace officer one of the ''special circumstances'' that could subject the killer to execution. The idea behind that was simple enough. If you made killing a cop a death-penalty offense, maybe it would make criminals think twice before doing it. . . . But it's doubtful that the special circumstance concerning peace officers strikes any fear into the heart of a would-be cop-killer. Because in the 24 years since the new death-penalty law was passed, not one cop-killer has been executed in California. During that time, more than 200 California peace officers have been murdered in the line of duty, including eight in Orange County, and dozens of cop-killers have been sent to death row. But not one has died for his crime. True, California hasn't been in any hurry to execute other murderers, either. Since 1978, more than 700 killers have been sent to death row, but only 10 have been executed. But the justice system seems particularly reluctant to actually enforce the death penalty against cop-killers. ''That sends a terrible message,'' says Marianne Wrede of Anaheim Hills, whose son, West Covina Police Officer Kenneth Wrede, was murdered in 1983. ''It says the justice system doesn't respect the sacrifices of police officers and their families.'' (Gordon Dillow, State Balks at Executing Cop-Killers, The Orange County Reg., Dec. 5, 2002)

These unconscionable delays have greatly increased the suffering experienced by the surviving families of murdered police officers. Again, a few examples from recent news stories illustrate the nature of the problems created by the current system of decades-long post-conviction review:

On August 31, 1983, West Covina Police Officer Kenneth Wrede, 26 years old, responded to a call about a man behaving strangely in a residential neighborhood. Wrede confronted the man, who became abusive and tried to hit Wrede with an 8–foot tree spike. Wrede could have shot the man, but instead attempted to defuse the situation. The man then reached into Wrede's car and ripped the shotgun and rack from the dashboard. Wrede drew his gun and persuaded the man to lay down the shotgun, but the man picked it up again when Wrede lowered his revolver and shot Wrede in the head, killing him instantly.

Years later, Wrede's parents described the terrible impact of this crime on their family. Marianne Wrede told of how ''a half hour before local television newscasts would broadcast the story, her doorbell rang. On the steps stood her son's commander and a police lieutenant. Between them stood Kenneth Wrede's distraught wife. 'I knew it was bad news,' Marianne Wrede said. 'I shut the door in their faces and I said, 'It can't be my boy.'' '' (Laura-Lynne Powell, Grief Unites Kin of Fallen Officers, The Orange County Reg., June 20,1991, at EO1) Many years after the crime, she reflected that ''every day I miss my son and it never goes away.'' (Anne C. Mulkern & Tiffany Montgomery, Caring Counts in Line of Duty, The Orange County Reg., Sept. 25, 1996, at BO1) Ken Wrede's father also described the impact of the loss of his son. ''My life will never be the same. I deal with it every day; when I hear a police siren and immediately think of my son, when I pull up next to a police car and think that that could have been him. I still stop as often as I can and tell the officers to have a good day and be careful.'' (David Haldane & Michael Wagner, For Some, a Reminder of Past Tragedy, L.A. Times, July 15, 1996, at A3)

Officer Wrede's killer was sentenced to death in 1984, and that conviction was affirmed by the California Supreme Court in 1989. Then in 2000—17 years after Ken Wrede's murder—a divided panel of the Ninth Circuit reversed the killer's death sentence. The

Ninth Circuit found that the killer's lawyer provided ineffective assistance of counsel at the penalty phase because he did not present additional evidence of the killer's abusive childhood and drug use.

At the time, Marianne Wrede noted, ''We thought we finally were close to getting this behind us. And now this.'' (Gordon Dillow, Long Wait for Justice Gets Worse, The Orange County Reg., May 11, 2000, at BO1) A California Deputy Attorney General denounced the decision, stating that ''it can always be suggested a jury should have heard something else in the penalty phase of a death penalty case.'' (Richard Winston, Reversal of Death Penalty in Officer's Killing Decried Courts, L.A. Times, May 10, 2000, at B3) West Covina Corporal Robert Tibbets, the original investigator at the scene of Wrede's murder, described the Ninth Circuit's decision as a ''miscarriage of justice.'' (Id.) He had promised Wrede's parents that he would accompany them to every court hearing for their son's killer. He made good on his promise, even 19 years later, when the killer was retried and again sentenced to death in 2002. But the Wredes now face another round of state and then federal appeals. At the retrial, Ken's father noted that ''my family and 1 had endured 19 years of trial, appeals, delays, causing us to relive the trauma of Kenny's death over and over again.'' The trial judge agreed. He stated, ''It is an obscenity to put anyone through this needlessly for 19 years. It is inexcusable for us in the system that we need to look at this case for 19 years to get it resolved. The system at some point in the line has become clogged and broken.'' (Larry Welborn, 19 Years and no Resolution for Parents, The Orange County Reg., Sept. 21, 2002)

Riverside Police Officers Dennis Doty and Philip Trust were killed by a man whom they attempted to arrest at his home on May 13, 1982. The man was in bed when the officers arrived and they permitted him to dress. The man then pulled out a gun that he had been sitting on and shot and killed both officers. He apparently sought revenge for injuries that he sustained when he was shot while committing a bank robbery. Officer Doty had served a tour of duty in Vietnam, where he had received a purple heart and bronze star. The State supreme court affirmed the killer's conviction and death sentence in 1991.

In 2002, 20 years after the murders, Federal district court reversed the killer's death sentence, finding that he had received ineffective assistance of counsel because he did not trust his lawyers. Local Superior Court judge Edward Webster denounced the decision, declaring that he was ''outraged by the entire federal process.'' He declared that ''this [decision] is just a product of judges'' personal opinions and philosophies opposing the death penalty.'' (Marlowe Churchill, Riverside Judge Takes Federal Court to Task, The Press-Enterprise, July 22, 1995, at BO1) The Riverside assistant police chief noted that the decision was particularly unfortunate for the officers' families: ''They lived this 20 years ago, and not to have closure on the trial process is particularly difficult'' (Mike Kataoka, Court Annuls Death Decree, The Press Enterprise, May 31, 2002, at BO1)

Los Angeles Police Detective Tom Williams was shot and killed by a man against whom he had testified several hours earlier in a robbery trial on October 31, 1985. Detective Williams was killed while picking up his son at a day-care center. A local newspaper gave the following account of the crime: ''With [his son] Ryan sitting beside him in the front seat of his truck, Williams, 42, saw the man in the ski mask, saw the automatic weapon pointing out of the driver's side window of the passing car. But he was helpless to do anything to protect himself. All he had time to do was scream for Ryan to get down, then cover the boy with his own body.'' (Dennis McCarthy, Youth Feels Need to Serve, L.A. Daily News, Aug. 24, 1993, at Nl) The Los Angeles Times gave the following account of testimony from the killer's trial:

> A seventh-grade pupil at a Canoga Park church school testified Wednesday that he saw 6–year-old Ryan Williams sitting on the ground crying moments after the boy's father, a Los Angeles police detective, had been gunned down in the street on Oct. 31,1985. Thomas C. Williams, 42, was picking up Ryan from school at 5:40 p.m. when he was struck by eight bullets from an automatic weapon. The detective died, slumped against the driver's side of his orange pickup truck. . . . [The pupil] said he looked toward Williams' truck, parked in front of the Faith Baptist Church school, and saw the windshield shatter. ''It split into pieces,'' [he] said. ''Then I ducked. I couldn't see anything. I got up because I heard some little boy cry. I walked over. He was sitting on the ground and he was crying and he had a bloody lip.'' (Lynn Steinberg, Boy Tells of Fatal Attack on Detective, L.A. Times, Feb. 11, 1998, at 12)

Detective Williams's killer remains on death row today, 20 years after committing this crime.

Garden Grove police officer Donald Reed was shot and killed while arresting a man at a bar on June 7, 1980. The killer appeared at first to cooperate with police, but then pulled a pistol from his jacket and began firing. One officer who comforted Reed as he lay on the ground describe the scene: ''I could see a sense of panic in Don's eyes. He said, 'I am not gonna make it' '' (Daniel Yi, Slain Officer's Family Testifies, L.A. Times, Feb. 9, 2000, at B1)

When Reed died, he had two toddler sons, ages 3 and 1½. Reed's killer was sentenced to death, but the sentence was reversed on appeal, and he was retried and sentenced to death again in 2000. Reed's sons were 22 and 21 by the time of the retrial. Still coping with the loss of their father, they chose not to attend the second trial. ''I was a mother, a father, I had to teach them everything,'' Reed's widow stated. (Id.) Of her husband, she simply noted, ''He was taken unnecessarily.'' (John McDonald, Officer's Widow Details Trauma, The Orange County Reg., Feb. 9, 2000, at B01) She also described the impact on her family of holding a second trial 20 years after the crime. ''We had all moved on, and then this came back and smacked us in the face. It really just tears you apart.'' (Daniel Yi, Slain Officer's Family Testifies, L.A. Times, Feb. 9, 2000, at B1)

Los Angeles Police Officer Paul Verna was gunned down during a traffic stop on June 2, 1983, by two men who earlier had committed a series of violent robberies. The first man shot Verna from inside the car, and the second then exited the vehicle and shot Verna five more times as he lay on the ground. Verna was survived by his wife and two young sons. Years later, the state supreme court reversed the death sentence of one of the killers. A new trial was held in 2000. At the first trial, Verna's widow described the devastating impact of the crime on her family. She spoke of how ''no one who has not done it can know how difficult it is to tell two young boys that the daddy they loved so much is gone.'' (Janet Rae-Dupree, 2 Sentenced to Die for Killing Policeman, L.A. Times, Sept. 21, 1985, at 6) A local newspaper gave the following accounts of the sentencing retrial:

> Vema's sons were young boys, 4 and 9, when he was murdered. This past week, they testified as young men. They told the jury that they did not have a lot of first-hand recollection of their dad. They did have the memories of stories from their mom and many others as to what their dad was like. Ryan [the younger son] spoke of sometimes feeling uneasy at being told how much he looked like and even acted like his dad, whom he does not remember. Sandy, Verna's widow, spoke of the challenge of properly raising two very young boys alone. (Jim Tatreau, Who Was Paul Verna? Murdered Officer Deeply Missed Hero, L.A. Daily News, Oct. 22, 2000, at V3)
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> ''At age 33, to be a widow—my roles in life completely changed. The very hardest part was when they were very young kids—when Ryan, who was 4 years old when his father died, would get hurt and would cry to his mother at bedtime, 'Mommy, I just want my daddy.' I couldn't give that to him, no matter how hard I tried. I could do everything else, but I couldn't give him his daddy.'' (Jason Kandel, Retrial Brings Victim's Family to Tears, L.A. Daily News, Sept. 27, 2000, at N4)
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> [Ryan] has only vague memories of his father's death, and then he could know his father only through various police memorials, plaques and family pictures. He has learned most of the details of the death from three weeks of testimony during the penalty retrial, and his killer's image won't disappear. ''My father didn't deserve to die in that manner, especially what was said to him and the gun being thrown on him when he's lying on the ground,'' he said in tears. ''My father wasn't around for a lot of things, a lot of special things in my life.'' (Id.)

Our society must do everything that it can to deter these types of crimes to ensure that punishment for those who commit them is swift and certain. For

all of these reasons, I urge my colleagues to support the Law-Enforcement Officers' Protection Act.

Mr. KYL. Mr. President, I rise today with my colleague, Senator CORNYN of Texas, to introduce the ''DNA Fingerprint Act of 2005.'' This act will allow State and Federal law enforcement to catch rapists, murderers, and other violent criminals whom it otherwise would be impossible to identify and arrest.

The principal provisions of the DNA Fingerprint Act make it easier to include and keep the DNA profiles of criminal arrestees in the National DNA Index System, where that profile can be compared to crime-scene evidence. By removing current barriers to maintaining data from criminal arrestees, the act will allow the creation of a comprehensive, robust database that will make it possible to catch serial rapists and murderers before they commit more crimes.

The impact this act will have on preventing rape and other violent crimes is not merely speculative. We know from real life examples that an all-arrestee database can prevent many future offenses. In March of this year, the city of Chicago produced a case study of eight serial killers in that city who would have been caught after their first offense—rather than after their fourth or tenth—if an all-arrestee database had been in place. This study is included in the record at the conclusion of my remarks.

The first example that the Chicago study cites involves serial rapist and murderer Andre Crawford. In March 1993, Crawford was arrested for felony theft. Under the DNA Fingerprint Act, the state of Illinois would have been able to take a DNA sample from Crawford at that time and upload and keep that sample in NDIS, the national DNA database. But at that time—and still today—Federal law makes it difficult to upload an arrestee's profiles to NDIS, and bars States from keeping that profile in NDIS if the arrestee is not later convicted of a criminal offense. As a result, Crawford's DNA profile was not collected and it was not added to NDIS. And as a result, when Crawford murdered a 37-year-old woman on September 21, 1993, although DNA evidence was recovered from the crime scene, Crawford could not be identified as the perpetrator. And as a result, Crawford went on to commit many more rapes and murders.

On December 21, 1994, a 24-year-old woman was found murdered in an abandoned building on the 800 block of West 50th place in Chicago. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the September 1993 murder, and this December 1994 murder could have been prevented.

On April 3, 1995, a 36-year-old woman was found murdered in an abandoned house on the 5000 block of South Carpenter Street in Chicago. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the two earlier murders that he had committed, and this April 1995 muurder could have been prevented.

On July 23, 1997, a 27-year-old woman was found murdered in a closet of an abandoned house on the 900 block of West 51st Street in Chicago. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the three earlier murders that he had committed, and this July 1997 murder could have been prevented.

On December 27, 1997, a 42-year-old woman was raped in Chicago. As she walked down the street, a man approached her from behind, put a knife to her head, dragged her into an abandoned building on the 5100 block of South Peoria Street, and beat and raped her. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the four earlier murders that he had committed, and this December 1997 rape could have been prevented.

In June 1998, a 31-year-old woman was found murdered in an abandoned building on the 5000 block of South May Street in Chicago. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the four earlier murders and one rape that he had committed, and this June 1998 murder could have been prevented.

On August 13, 1998, a 44-year-old woman was found murdered in an abandoned house on the 900 block of West 52nd Street. Her clothes were found in the alley. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the five earlier murders and one rape that he had committed, and this August 1998 murder could have been prevented.

Also on August 13, 1998, a 32-year-old woman was found murdered in the attic of a house on the 5200 block of South Marshfield. Her body was decomposed, but DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the six earlier murders and one rape that he had committed, and this additional murder could have been prevented.

On December 8, 1998, a 35-year-old woman was found murdered in a building on the 1200 block of West 52nd Street. She had rope marks around her neck and injuries to her face. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the seven earlier murders and one rape that he had committed, and this December 1998 murder could have been prevented.

On February 2, 1999, a 35-year-old woman was found murdered on the 1300 block of West 51st Street. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the eight earlier murders and one rape that he had committed, and this February 1999 murder could have been prevented.

On April 21, 1999, a 44-year-old woman was found murdered in the upstairs of an abandoned house on the 5000 block of South Justine Street. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the nine earlier murders and one rape that he had committed, and this April 1999 murder could have been prevented.

And on June 20, 1999, a 41-year-old woman was found murdered in the attic of an abandoned building on the 1500 block of West 51st Street. DNA evidence was recovered from blood on a nearby wall, indicating a struggle. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the ten earlier murders and one rape that he had committed, and this additional murder could have been prevented.

As the city of Chicago case study concludes:

> In January 2000, Andre Crawford was charged with 11 murders and 1 Aggravated Criminal Sexual Assault. If his DNA sample had been taken on March 6, 1993, the subsequent 10 murders and 1 rape would not have happened.

The city of Chicago study goes on to discuss the cases of 7 other serial rapists and murders from that city. Collectively, together with Andre Crawford, these 8 serial rapists and

killers represent 22 murders and 30 rapes that could have been prevented had an all-arrestee database been in place.

The DNA Fingerprint Act eliminates current federal statutory restrictions that prevent states from adding and keeping arresttee profiles in NDIS. In effect, the Act would make it possible to build a comprehensive, robust national all-arrestee DNA database.

Here is how the DNA Fingerprint Act works: First, under current Federal law, a DNA profile from an arrestee cannot be uploaded to NDIS until the arrestee is charged in an indictment or information. Thus today, even an arrestee charged in a pleading cannot have his DNA uploaded to the national index. The act eliminates this restriction, allowing arrestees to be included as soon as they are arrested. It also eliminates a statutory restriction that bars inclusion of profiles from suspects who provide so-called ''exoneration'' samples. The act recognizes that criminal suspects have no legitimate interest in evading identification for crimes that they have committed.

Second, the act requires an arrestee to take the initiative to opt out of NDIS if charges against him have been dismissed or he has been acquitted, and he does not want his DNA profile compared to future crime scene evidence. Current law places the burden of determining who may be removed from the index on the administrator of the DNA database, thus requiring the administrator to track the progress of individual criminal cases. This bureaucratic burden discourages states from creating and maintaining comprehensive, all-arrestee DNA databases. It also effectively precludes the creation of a genuine national all-arrestee database. In effect, only convicts' DNA profiles can be kept in the database over the long term. The act would allow arrestee profiles to be kept in the database as well.

Third, the DNA Fingerprint Act would allow expanded use of CODIS grants. Congress currently appropriates funds for use by states to expand their DNA databases. Current law restricts the use of these grants, however, to only building databases of convicted felons. This bill expands this authorization to allow use of these funds to build a database of all DNA samples collected under lawful authority—including samples taken from arrestees.

Fourth, the DNA Fingerprint Act allows the Federal Government to take and keep DNA samples from arrestees. The act gives the Attorney-General the authority to develop regulations allowing collection of DNA profiles from federal arrestees or detainees. The authority to issue such regulations would give the Attorney General the flexibility needed to respond to new legal developments and changes in technology.

And finally, the act tolls the statute of limitations for Federal sex offenses. Current law generally tolls the statute of limitations for felony cases in which the perpetrator is implicated in the offense through DNA testing. The one exception to this tolling is the sexual-abuse offenses in chapter 109A of title 18. When Congress adopted general tolling, it left out chapter 109A, apparently because those crimes already are subject to the use of ''John Doe'' indictments to charge unidentified perpetrators. The Justice Department has made clear, however, that John Doe indictments are ''not an adequate substitute for the applicability of [tolling].'' The Department has criticized the exception in current law as ''work[ing] against the effective prosecution of rapes and other serious sexual assaults under chapter 109A,'' noting that it makes ''the statute of limitation rules for such offenses more restrictive than those for all other Federal offenses in cases involving DNA identification.'' The DNA Fingerprint Act corrects this anomaly by allowing tolling for chapter 109A offenses.

Further evidence of the potential effectiveness of a comprehensive, robust DNA database is available from the recent experience of Great Britain. The British have taken the lead in using DNA to solve crimes, creating a database that now includes 2,000,000 profiles. Their database has now reached the critical mass where it is big enough to serve as a highly effective tool for solving crimes. In the U.K., DNA from crime scenes produces a match to the DNA database in 40 percent of all cases. This amounted to 58,176 cold hits in the United Kingdom 2001. (See generally ''The Application of DNA Technology in England and Wales,'' a study commissioned by the National Institute of Justice.) A broad DNA database works. The same tool should be made available in the United States.

Some critics of DNA databasing argue that a comprehensive database would violate criminal suspects' privacy rights. This is simply untrue. The sample of DNA that is kept in NDIS is what is called ''junk DNA''—it is impossible to determine anything medically sensitive from this DNA. For example, this DNA does not allow the tester to determine if the donor is susceptible to particular diseases. The Justice Department addressed this issue in its statement of views on S. 1700, a DNA bill that was introduced in the 108th Congress:

[T]here [are no] legitimate privacy concerns that require the retention or expansion of these [burdensome expungement provisions]. The DNA identification system is already subject to strict privacy rules, which generally limit the use of DNA samples and DNA profiles in the system to law enforcement identification purposes. See 42 U.S.C. 14132(b)–(c). Moreover, the DNA profiles that are maintained in the national index relate to 13 DNA sites that do not control any traits or characteristics of individuals. Hence, the databased information cannot be used to discern, for example, anything about an individual's genetic illnesses, disorders, or dispositions. Rather, by design, the information the system retains in the databased DNA profiles is the equivalent of a ''genetic fingerprint'' that uniquely identifies an individual, but does not disclose other facts about him.

Elsewhere in its Views Letter, the Justice Department also explained why the restrictive expungement provisions in current law are unnecessary and contrary to sound public policy. The letter noted that the FBI maintains a database of fingerprints of arrestees—without regard to whether the arrestee later was acquitted or convicted. The letter states, ''With respect to the . . . exclusion of DNA profiles of unindicted arrestees, it should be noted by way of comparison that there is no Federal policy that bars States from including fingerprints of arrestees in State and Federal law enforcement databases prior to indictment.'' The Justice Department also pointed out that ''[t]here is no reason to have a . . . Federal policy mandating expungement for DNA information. If the person whose DNA it is does not commit other crimes, then the information simply remains in a secure database and there is no adverse effect on his life. But if he commits a murder, rape, or other serious crime, and DNA matching can identify him as the perpetrator, then it is good that the information was retained.''

From the Chicago study—which examines the experience of just one American city over recent years—we know that an all-arrestee database can and inevitably will make the critical difference in solving and preventing violent sex offenses. From the British experience, we know that a comprehensive database can be a highly effective tool in solving crimes. And we know that DNA databasing does not violate the right to privacy. I urge the Congress to enact the DNA Fingerprint Act—before another preventable sex crime occurs.

I ask unanimous consent that the text of the Chicago study be printed in the RECORD.

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

CASE STUDY OF 8 SERIAL KILLERS AND RAPISTS: 60 VIOLENT CRIMES COULD HAVE BEEN PREVENTED, INCLUDING 22 MURDERS AND 30 RAPES, CITY OF CHICAGO, MARCH 2005

If Illinois collected DNA from 8 serial killers and rapists during any of their felony arrests, over 60 serious violent crimes would never have occurred. These include: 22 murders—all female victims ranging from 24 to 44 years old; 30 rapes—all victims ranging from 15 to 65 years old; attempted rapes; and aggravated kidnapping.

Offender Andre Crawford, 37 years old: 10 preventable murders and 1 preventable rape

Andre Crawford has been charged with eleven murders and one attempted murder/aggravated criminal sexual assault.

In March 1993, Andre Crawford was arrested for Felony Theft. If Illinois required him to give a DNA sample during that felony arrest, a DNA match could have been obtained with the DNA evidence recovered from his first murder, thereby identifying him as the offender and the subsequent 10 murders and one attempted murder/criminal sexual assault would have been prevented.

Timeline of Events: On March 6, 1993, Andre Crawford was arrested for Felony Theft.

On September 21, 1993, a 37-year-old woman was found murdered. Her body was discovered in a vacant factory lot on the 700 block of West 50th Street. She had blunt trauma to her head. DNA evidence was recovered.

The following are 10 preventable murders & 1 preventable attempted murder/rape which would not have occurred had Crawford's DNA sample been taken on March 6, 1993:

On December 21, 1994, a 24-year-old woman was found murdered. Her body was found in an abandoned building on the 800 block of West 50th Place. DNA evidence was recovered.

On April 3, 1995, a 36-year-old woman was found murdered. Her body was discovered in an abandoned house on the 5000 block of South Carpenter. DNA evidence was recovered.

On May 3, 1995, Andre Crawford was arrested for Attempted Criminal Sexual Abuse (Felony). Another missed opportunity to have his DNA sample entered into the system and to prevent further violence.

On July 23, 1997, a 27-year-old woman was found murdered. Her body was discovered in a closet of an abandoned house on the 900 block of West 51st Street. DNA evidence was recovered.

On December 27, 1997, a 42-year-old woman was raped. As she walked, an offender approached her from behind, placed a knife to her head, dragged her into an abandoned building on the 5100 block of South Peoria, then beat and raped her. DNA evidence was recovered.

In January 1998, Andre Crawford was arrested for Possession of a Controlled Substance (Felony). Another missed opportunity to have his DNA sample entered into the system and to prevent further violence.

In June 1998, a 31-year-old woman was found murdered. Her body was discovered in an abandoned building on the 5000 block of South May Street.

On August 13, 1998, a 44-year-old woman was found murdered. A rehabber discovered her body in the kitchen of an abandoned house on the 900 block of West 52nd Street. Her clothes were found in the alley. DNA evidence was recovered.

On August 13, 1998, a 32-year-old woman was found murdered. A real estate agent discovered her decomposed body lying on the floor in the attic on the 5200 block of South Marshfield. DNA evidence was recovered.

On December 8, 1998, a 35-year-old woman was found murdered. A rehabber discovered her body with her pants one around her ankle and the other completely off in a building on the 1200 block of West 52nd Street. She had rope marks around her neck and injuries to her face. DNA evidence was recovered.

On February 2, 1999, a 35-year-old woman was found murdered. Her body was discovered on the 1300 block of West 51st Street. DNA evidence was recovered.

On April 21, 1999, a 44-year-old woman was found murdered. Her body was discovered in the upstairs of an abandoned house on the 5000 block of South Justine. DNA evidence was recovered.

On June 20, 1999, a 41-year old woman was found murdered. Her body was found in the attic of an abandoned building on the 1500 block of West 51st Street. DNA evidence was recovered from blood on the wall which indicated a struggle.

In November 1999, Andre Crawford was arrested for possession of a controlled substance (felony). Another missed opportunity to have his DNA sample entered into the system and to prevent further violence.

In January 2000, Andre Crawford was charged with 11 murders and 1 aggravated criminal sexual assault. If his DNA sample had been taken on March 6, 1993, the subsequent 10 murders and 1 rape would not have happened.

Offender Brandon Harris, 18 years old: 4 preventable rapes and 1 preventable kidnapping

Brandon Harris was convicted of five aggravated criminal sexual assaults and one aggravated kidnapping/attempted rape.

In August 2000, Brandon Harris was arrested with a felony charge. If Illinois required him to give a DNA sample after that arrest, a DNA match could have been obtained with the DNA evidence recovered from his first rape, thereby identifying him as the offender and the subsequent four rapes and one attempt rape/armed robbery/aggravated kidnapping would have been prevented.

Timeline of events: On December 2, 1999, a 17-year old girl was raped. As she was waiting for a bus, an offender displayed a knife, forced her to an abandoned garage on the 100 block of South 83rd Street and raped her.

On August 25, 2000, Brandon Harris was arrested for aggravated criminal sexual assault.

On October 29, 2000, Brandon Harris was arrested for aggravated criminal sexual assault.

The following are 4 preventable rapes and 1 attempted rape/armed robbery/aggravated kidnapping which would not have occurred had Harris's DNA sample been taken on August 25, 2000.

On November 26, 2000, a 25-year old woman was raped. As she walked to work, an offender approached her, displayed a handgun, forced her into an abandoned house on the 7900 block of South Yale and raped her. DNA evidence was recovered.

On November 29, 2000, a 19-year old girl was robbed and kidnapped. As she attempted to exit an L-Train, an offender displayed a handgun and demanded her to stay on the train. The offender ordered the victim to exit the train at a later stop, took her to an abandoned basement on the 200 block of West 80th Street where he made her take her clothes off and took her money.

On December 7, 2000, Brandon Harris was arrested for robbery—armed with a firearm & UUW (felony). However, Brandon was not convicted until February 5, 2001 and sentenced to home confinement. Six days later, he rapes again.

On February 11, 2001, a 22-year old woman was raped. As she was waiting for a bus, an offender pulled up in a vehicle, ordered her into the car at gunpoint and raped her on the 8200 block of South Harvard. DNA evidence was recovered.

On February 28, 2001, a 15-year old girl was raped. She exited an L-station and began to walk home when an offender walked up behind her, stuck a piece of glass to her neck, forced her to a basement stairwell on the 8000 block of South Princeton and raped her. DNA evidence was recovered.

On May 19, 2001, a 17-year old girl was raped. As she waited for a bus, an offender approached her, led her at gunpoint to a backyard on the 8100 South Harvard and raped her.

Brandon Harris was convicted of 5 aggravated criminal sexual assaults and 1 attempt aggravated criminal sexual assault. If his DNA sample had been taken on August 25, 2000, the subsequent 4 rapes and 1 attempt rape would not have happened.

Offender Geoffrey T. Griffin, 31 years old: 8 preventable murders and 1 preventable rape

Geoffrey Griffin has been charged with eight murders and one aggravated criminal sexual assault.

In December 1993, Geoffrey Griffin was arrested for possession of a controlled substance (felony). If Illinois required him to give a DNA sample after that felony arrest, a DNA match could have been obtained with the DNA evidence recovered from his first rape, thereby identifying him as the offender and the subsequent eight murders, one rape and one attempted rape would have been prevented.

Timeline of Events: On August 26, 1995, Geoffrey Griffin was arrested for possession of a controlled substance.

On July 10, 1998, a 37-year-old woman was raped. She was forced into an abandoned building on the 6700 block of South Halsted. After being raped, she was beat into unconsciousness and left to die. DNA evidence was recovered from the sexual assault kit.

The following are 8 preventable murders, 1 rape and 1 attempted rape which would not have occurred had Griffin's DNA sample been taken on August 26, 1995.

On July 11, 1998, a 36-year-old woman was found murdered. She was found in the rear yard on the 7400 block of South Halsted, naked from the waist down. She suffered blunt trauma to the face and head. DNA evidence was recovered from the sexual assault kit.

On February 7, 1999, a 22-year-old woman was raped. She was attacked in an abandoned building on the 10900 block of South Edbrooke. The offender raped her, then beat her in the head with a brick and burned her eyes. DNA evidence was recovered from the sexual assault kit.

On May 2, 2000, a 33-year-old woman was found murdered. She was raped, and then strangled to death on the 15800 block of South Park. She was found naked. DNA evidence was recovered from the victim's fingernail clippings.

On May 12, 2000, a 32-year-old woman was found murdered. She was found naked in an abandoned building on the 11800 block of South Yale. She was strangled to death. DNA evidence of the assailant was recovered from the sexual assault kit.

On May 17, 2000, a 32-year-old woman was found murdered. Her body was discovered in an abandoned building on the 11900 block of South LaSalle. The murderer's jacket had the victim's blood stains on it. DNA evidence was recovered.

On June 13, 2000, a 21-year-old woman was attacked. As she was in an abandoned building on the 11900 block of South Wallace, an offender attempted to rape her. She was struck with a knife, but escaped.

On June 16, 2000, a 29-year-old woman was found murdered. Her body was discovered in an abandoned building on the 10700 block of South Michigan. DNA of the assailant was recovered from the victim's fingernails. Later matched.

On June 19, 2000, a 47-year-old woman was found murdered. Her body was found naked from her waist down and the cause of death was strangulation on the 20 block of East 113th Place (occurrence May 25, 2000). DNA of the assailant was recovered from the victim's fingernails.

On June 22, 2000, a 39-year-old woman was found murdered. Her body was found in an abandoned house on the 200 block of West 112th Place (occurrence June 13, 2000). She was naked from the waist down and the cause of death was strangulation. DNA evidence was recovered. The murderer's jacket had the victim's blood on it.

On June 27, 2000, a 44-year-old woman was found murdered. She was strangled to death. Her body was found naked from the waist down on the 11000 block of South Edbrooke (occurrence June 13, 2000). The murderer's jacket had the victim's blood on it.

Geoffrey Griffin was arrested on June 17, 2000. He has subsequently been charged with eight murders and 1 aggravated criminal sexual assault. If his DNA sample had been

taken on August 26, 1995, the 8 murders, 1 rape and 1 attempted rape would not have happened.

Offender Mario Villa, 37 years old: 8 preventable rapes or attempted rapes

Mario Villa has been charged with four rapes, linked by DNA to two other rapes, and a main suspect in an additional rape and two attempted rapes.

In February 1999, Mario Villa was arrested for felony burglary. If Illinois required him to give a DNA sample after that arrest, a DNA match could have been obtained with the DNA evidence recovered from his first rape, thereby identifying him as the offender and the subsequent six rapes and two attempted rapes would have been prevented.

Timeline of Events: On February 6, 1999, Mario Villa was arrested for burglary (felony).

On July 5, 1999, a 16-year-old girl was raped. As she slept in her apartment on the 1300 block of North Dean Street, an offender entered her apartment and raped her. He ordered her to take a shower after raping her. DNA evidence was recovered from the criminal sexual assault kit.

The following are 8 preventable rapes or attempted rapes which would not have occurred had Villa's DNA sample been taken on February 6, 1999.

On May 26, 2002, a 32-year-old woman was raped. As she slept in her apartment on the 1300 block of South Greenview, an offender entered her residence, raped her and then ordered her to take a shower. DNA evidence of the assailant was recovered from the criminal sexual assault kit.

On March 17, 2003, a 47-year-old woman was raped. As she sat in her car at a forest preserve in Lisle, Illinois, the offender ordered her into the woods and raped her. DNA evidence of the assailant was recovered from the criminal sexual assault kit. Linked by DNA.

On June 8, 2003, a 19-year-old woman was attacked in her apartment. As she slept in her apartment on the 1800 block of North Halsted, an offender entered her residence and attempted to rape her. The victim yelled, ''Fire, fire'' and the offender fled.

On August 22, 2003, a woman was raped in Kenosha, Wisconsin. DNA evidence of the assailant was recovered from the criminal sexual assault kit. Linked by DNA.

On October 4, 2003, a 29-year-old woman was attacked at home on the 1200 block of West Byron at 3 a.m. in the morning, an offender entered her apartment and attempted to rape her.

On October 15, 2003, a 24-year-old woman was raped. As she slept in her apartment on the 3500 block of West Greenview, the offender entered her residence, placed a pillow over her face and raped her. Offender ordered her to take a shower after raping her.

On December 20, 2003, a 40-year-old woman was raped. As she slept in her apartment at 1300 of West Ohio, an offender entered her residence, told her not to say anything, placed a pillow over her mouth and raped her. Offender ordered her to take shower after raping her.

On February 7, 2004, a 23-year-old woman was raped. As she slept in her apartment, an offender entered her residence on the 2000 block of North Cleveland and raped her. The offender ordered her to take a shower after raping her.

On March 19, 2004, police officers obtained a search warrant and swabbed a DNA sample from Mario Villa as he appeared in court on an unrelated criminal trespassing charge. Subsequently, Mario Villa was charged with 4 aggravated criminal sexual assaults, linked by DNA or similarities in the other crimes. If his DNA sample had been taken on February 6, 1999, the subsequent 6 rapes and 2 attempted rapes would not have happened.

Offender Bernard Middleton, 55 years old: 1 preventable murder and 2 preventable rapes

Bernard Middleton has been charged with one murder and three aggravated criminal sexual assaults.

Bernard Middleton was arrested for felonies in 1987 and 1993, if Illinois required him to give a DNA sample after either arrest, a DNA match could have been obtained with the DNA evidence recovered from his first rape, thereby identifying him as the offender and the subsequent murder and two rapes would have been prevented.

Timeline of Events: On January 17, 1987, Bernard Middleton was arrested for aggravated battery.

On May 6, 1993, Bernard Middleton was arrested for felony theft.

On September 25, 1995, a 22-year-old woman was raped. As she waited for a bus, an offender placed a knife to her head, led her to an isolated area, beat and raped her on the 600 block of West Garfield. DNA evidence was recovered.

The following is 1 preventable murder and 2 preventable rapes which would not have occurred had Middleton's DNA sample been taken on May 6, 1993.

On October 16, 1995, a 32-year-old woman was found murdered. She was lured into a stairwell at Hope Academy on the 5500 block of South Lowe, raped, and then murdered. Her body was found in the stairwell. DNA evidence was recovered from the criminal sexual assault kit.

On May 28, 1997, Bernard Middleton was arrested for felony theft. Another missed opportunity to have his DNA sample entered into the system and to prevent further violence.

On July 25, 1997, a 34-year-old woman was raped. The offender placed a knife against her head, told that she would be killed and then raped her on the 5500 block of South Calumet. DNA evidence was recovered.

On September 14, 1998, Bernard Middleton was arrested for felony theft. Convicted on October 9, 1998 and sentenced to probation for 1 year. Another missed opportunity to have his DNA sample entered into the system and to prevent further violence.

On October 31, 1998, a 48-year-old woman was raped. As she walked down the street, an offender grabbed her from behind, placed a knife against her, forced her to the alley and raped her on the 1500 Block of North Claremont Avenue. DNA evidence was recovered.

On November 12, 2001, Bernard Middleton was arrested for possession of a controlled substance. Another missed opportunity to have his DNA sample entered into the system and to prevent further violence.

On August 8, 2002, Bernard Middleton was arrested for felony retail theft. Convicted and sentence to 20 months. Another missed opportunity to have his DNA sample entered into the system and to prevent further violence.

On May 1, 2003, Bernard Middleton was charged with the aforementioned murder and three rapes. While Bernard Middleton was in prison for a retail theft conviction in 2002, his DNA sample was entered into the DNA database and his sample matched the evidence recovered from the previous unresolved cases. If his DNA sample had been taken on May 6, 1993, the murder and 2 rapes would not have happened.

Offender Ronald Macon, 35 years old: 2 preventable murders and 1 preventable criminal sexual assault

In 2003, Ronald Macon was convicted of three murders and one criminal sexual assault.

Ronald Macon was arrested for a felony charge on three separate occasions in 1998. If Illinois required him to give a DNA sample after his first felony arrest in 1998, a DNA match could have been obtained with the DNA evidence recovered from his first murder, thereby identifying him as the offender and the subsequent two murders and one criminal sexual assault would have been prevented.

Timeline of Events: On January 13, 1998, Ronald Macon was arrested for retail theft (felony).

On July 20, 1998, Ronald Macon was arrested for defacing property (felony).

On September 8, 1998, Ronald Macon was arrested for retail theft (felony).

On February 18, 1999, a 43-year-old woman was found murdered. Her body was discovered on the 100 block of East 45th Street. DNA evidence was recovered.

The following are 2 preventable murders and 1 preventable criminal sexual assault which would not have occurred had Macon's DNA sample been taken on January 13, 1998.

On April 4, 1999, a 35-year-old woman was found murdered. She was choked and beaten to death with an electrical box on the 5900 block of South Damen Ave. DNA was evidence recovered.

On June 21, 1999, a woman was found murdered. She was choked, raped; her hands and feet were bound with shoelaces, and then strangled to death with a strap from a bag. Her body was discovered on the 400 block of East 69th Street. DNA evidence was recovered.

On August 9, 1999, Ronald Macon was arrested for criminal sexual assault of a 65-year-old woman. Ronald Macon placed a knife to the victim's neck and demanded her jewelry and money. Ronald Macon then wrapped a cord around her hands, led her into the bedroom and raped her.

On September 11, 2003, Ronald Macon was sentenced for life in prison for killing the three women and sentenced to 30 years for raping a 65-year-old woman. If his DNA sample had been taken on January 13, 1998, 2 murders and 1 rape would not have happened.

[The remainder of the study describes 11 preventable rapes committed by offenders Ronald Harris and Arto Jones, and 5 preventable rapes committed by offender Nolan Watson, all of which could have been prevented if Chicago had collected DNA from all felony arrestees.]

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 1607. A bill to amend section 10501 of title 49, United States Code, to exclude solid waste disposal from the jurisdiction of the Surface Transportation Board; to the Committee on Commerce, Science, and Transportation.

Mr LAUTENBERG. Mr. President, I rise to introduce legislation to address a serious problem in New Jersey and across the nation—the unregulated sorting and processing of garbage at rail facilities in our communities.

A conflict in Federal laws and policy has resulted in certain solid waste-handling facilities located on railroad property being unregulated. Environmental laws such as the Solid Waste Disposal Act should apply to the operation of these facilities. However, a broad-reaching Federal railroad law forbids environmental regulatory agencies from overseeing the safe handling of trash or solid waste at these sites.

These unintended consequences require our attention, and are the reason

for the Solid Waste Environmental Regulation Clarification Affecting Railroads Act of 2005.

The Federal railroad law in question was enacted most recently in the Interstate Commerce Commission Termination Act of 1995 to protect the operation of interstate rail service. The law gives 'exclusive' jurisdiction over rail transportation—and activities incident to such transportation—to the Federal Surface Transportation Board.

I realize this law is necessary for the efficient operation of commerce in our modern economy. I serve on the Committee on Commerce, Science and Transportation, as well as the Subcommittee on Merchant Marine and Surface Transportation, which oversees the Surface Transportation Board and considers nominations of its members. The board's reputation and expertise in rail regulation is second to none.

However, the Board is limited to only a passive role in ensuring that rail facilities are operated with minimal detriment to the public health and safety. These sites require active environmental regulation, just like other solid waste handling facilities.

The recent proliferation of solid waste rail transfer facilities has affected the ability of State and local governments to engage in long-term waste management planning. These agencies also are responsible for responding to accidents and incidents occurring at these facilities.

Although transporting solid waste by rail can reduce the number of trucks hauling solid waste on public roads, handling this waste without careful planning and management presents a danger to human health and the environment.

These transfer operations create thick dust, which is potentially hazardous and is breathed in by local residents and business owners.

Some transfer facilities don't have proper drainage on site, leading to the potential contamination of surface and groundwater and nearby wetlands.

In addition, these facilities raise serious concerns about the safety of their workers and the exemptions they claim from strong State worker protection laws.

As a result of these chilling reports, I asked state agencies in New Jersey, railroads, and other interested groups to provide input into possible legislation to address this problem.

Many experts in New Jersey, including the Department of Environmental Protection, the Meadowlands Commission, the Pinelands Commission, and the Rutgers Environmental Law Clinic, provided excellent suggestions. I look forward to working with them throughout the process to find a solution to this problem.

I have also met with railroad interests, who are concerned about their ability to continue hauling solid waste. Some operators of these rail facilities have voluntarily complied with State environmental laws, even though they could claim that Federal railroad law preempts any enforcement action States could take. I would like to thank members of the solid waste handling industry for their concern and input as well.

One reason this legislation is needed is that the Surface Transportation Board has never clarified whether it even has jurisdiction over the processing and sorting of solid waste at a rail facility.

This bill would make it clear that Congress' intent was not to subvert the policies of the Solid Waste Disposal Act and other environmental laws covering the handling of garbage.

The bill will clarify the intent of Congress in passing these two important laws, and ensure that they work together to provide for a robust, environmentally responsible rail system.

Some have suggested that perhaps this clarification should not be limited to the processing and sorting of solid waste. But these are the activities that require the greatest environmental oversight, because they pose the greatest environmental risk.

Many towns across the country are beginning to understand the problem of having an unregulated polluting neighbor, and having nowhere to turn for help. Many influential organizations support this effort, including: United States Conference of Mayors, National Governors Association, Solid Waste Association of North America, Mass Municipal Association, National Solid Wastes Management Association, Integrated Waste Services Association, and Construction Material Recyclers Association.

These garbage transfer facilities should not be able to circumvent and ignore our environmental and. safety laws. I realize that the Surface Transportation Board must have broad jurisdiction over rail transportation, but that jurisdiction should not be interpreted in a way that puts our environment at risk.

Railroading has a bright future in New Jersey and throughout our country, as freight loads have increased to levels we have not seen in some time. I have fought for many years to ensure that our freight transportation system, the backbone of our national economy, continues to flourish. But we need this legislation to ensure that these solid waste rail transfer facilities are run in the same environmentally responsible manner as other solid waste sites.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1607

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 ''Solid Waste Environmental Regulation Clarification Affecting Railroads Act of 2005''.

SEC. 2. AMENDMENTS TO EXCLUDE SOLID WASTE DISPOSAL FROM THE JURISDICTION OF THE BOARD.

Section 10501 of title 49, United States Code, is amended—

(1) in subsection (b)(2), by inserting ''except solid waste management facilities (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)),'' after ''facilities,''; and

(2) in subsection (c)(2)—

(A) by striking ''over mass'' and inserting the following: ''over—

''(A) mass''; and

(B) by striking the period at the end and inserting the following: ''; or

''(B) the processing or sorting of solid waste.''.

Mr. CORZINE. Mr. President, I rise in support of legislation being introduced today by my colleague from New Jersey, Senator LAUTENBERG. This legislation, the Solid Waste Environmental Regulation Clarification Affecting Railroads Act of 2005, would deal with a growing problem in my state: the problem of railroads avoiding strict environmental standards by constructing waste transfer facilities next to rail lines. I am proud to cosponsor this important legislation.

I first became aware of this problem when constituents contacted me about a waste transfer facility proposed to be built by a railroad in Mullica Township, New Jersey. There could not be a worse place for such a facility. Mullica Township is located in the Pinelands National Reserve, which encompasses more than 1.1 million acres of ecologically sensitive land. The Pinelands was designated as our nation's first national reserve in order to protect its streams, bogs,and cedar and hardwood swamps, as well as the many species that live there. Yet many of these protections could be circumvented if this proposed facility is built. The railroad argues that federal statute provides a shield from all environmental standards for any trash facility built adjacent to a rail line. This same argument has been used by railroads in the case of 5 similar facilities that are already in operation in North Bergen. These facilities lie near New Jersey's Meadowlands, another environmental treasure.

The statute being used by the railroads establishes the Surface Transportation Board, STB, as the reulatory agency for the nation's railroads, title 49 of the United States Code. Under section 10501, the STB has exclusive jurisdiction over the ''construction, acquisition, or operation'' of ''facilities'' located adjacent to a rail line. The railroads argue that facility means any facility, including a trash transfer station. They argue that because of this statute, federal law preempts all other state and local protections.

I cannot believe that Congress intended these types of facilities to be exempt from State and local environmental standards. The risk to the surrounding communities from the air pollution and groundwater contamination that could occur when open rail cars carrying solid waste are allowed

to load and off-load is too great. However, I believe that we must take steps to clarify the law's intent. The ''Solid Waste Environmental Regulation Clarification Affecting Railroads Act of 2005 will do this. The Act makes it clear that all state and local environmental laws and restrictions apply to these facilities.

This is a commonsense measure that insures that the public remains fully involved in decisions relating to these facilities, regardless of where they are built. I urge its enactment.

By Mr. SMITH (for himself, Mr. MCCAIN, Mr. INOUYE, and Mr. NELSON of Florida):

S. 1608. A bill to enhance Federal Trade Commission enforcement against illegal spam, spyware. and cross-border fraud and deception, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. SMITH. Mr. President, I rise today with Senators MCCAIN, INOUYE, and NELSON of Florida to introduce the ''Undertaking Spam, Spyware, and Fraud Enforcement With Enforcers Beyond Borders Act of 2005'' or the ''U.S. SAFE WEB Act of 2005''.

The Federal Trade Commission has a constitutionally mandated responsibility to protect the American consumer from all types of fraud and deception. Today, the American consumer is increasingly falling prey to a new type of fraud unknown just a few years ago. The US SAFE WEB Act of 2005 will take the important steps necessary to help combat this disturbing and growing trend.

The rise in the use of the internet has provided the American consumer with innumerable benefits. The global market place in which we live knows no borders, and the FTC must be provided with all the tools necessary to fulfill its duty in this type of environment.

Using internet and long-distance telephone technology, unscrupulous businesses are increasingly able to victimize consumers in ways not previously imagined. Deceptive spammers can easily hide their identities, forge the electronic path of their email messages, and send messages from anywhere in the world to anyone in the world. These businesses can strike quickly on a global scale, victimize thousands of consumers, and disappear nearly without a trace—along with their ill-gotten gains.

There are dangers that come into U.S. homes through some of the harmful online networks, including some peer-to-peer networks, who purposefully locate outside the United States to avoid our Federal laws and put American families at risk.

Cross-Border fraud, as it is known, is becoming an increasingly common problem facing the American consumer and the FTC. In 1995, fewer than 1 percent of all consumer fraud complaints received by the FTC were directed at foreign entities. In less than a decade, the percentage had grown to 16 percent. In 2004 alone, the FTC received more than 47,000 complaints by U.S. consumers against foreign companies complaining about transactions involving more that $92 million. In the past three years, over 100,000 consumers logged cross-border fraud complaints with the FTC.

Remarkably, these high numbers likely understate the problem. Consumers who reported instances of cross-border fraud only did so when they knew that they were complaining about foreign entities. In many more instances, consumers do not know that their complaints are against foreign entities. Fully one-third of all complaints to the FTC do not reveal the location of the entity being complained about.

The Federal Trade Commission also testified at a recent Aging Committee hearing on elder fraud that many sweepstakes and lottery scams originate in Canada, and consumer fraud has become increasingly cross-border in nature.

The US SAFE WEB Act helps to address the challenges posed by globalization of fraudulent, deceptive, and unfair practices.

Our bill draws on established models for international cooperation pioneered by agencies such as the Securities and Exchange Commission and the Commodities Futures Trading Commission. The FTC faces significant challenges in battling sophisticated cross-border schemes. Just as improved authority to act in cross-border cases gave the SEC and CFTC important new tools to fulfill their missions, enactment of the US SAFE WEB Act would help the FTC fulfill its mission of protecting and assisting U.S. consumers. The Act will substantially improve the FTC's ability to meet the challenges posed by international investigations and litigation.

The US SAFE WEB Act will provide the FTC with important new tools in many important areas. The provisions contained within the Act are needed to help the FTC to protect consumers from cross-border fraud and deception, and particularly to fight spam, spyware, and Internet fraud and deception.

Among key provisions within the bill are those that broaden reciprocal information sharing, expand investigative cooperation between U.S. and foreign law enforcement agencies, increase information from foreign sources, and enhance the confidentiality of FTC investigations.

These provisions are needed to allow the FTC to share important information with foreign agencies so that they can halt fraud, deception, spam, and spyware targeting U.S. citizens, and for the FTC to obtain, reciprocally, foreign information needed to halt these cnmes.

Furthermore, this legislation enhances the FTC's ability to obtain consumer redress in cross-border cases. The US SAFE WEB Act would allow the FTC to target more resources toward foreign litigation to facilitate recovery of offshore assets to redress U.S. consumers.

In the 108th Congress, Senator MCCAIN and I introduced this legislation and it quickly passed the Senate by unanimous consent. Unfortunately, the bill was not signed into law before Congress adjourned. I urge my colleagues to support quick passage of this very important legislation this year.

The American consumer is far too vulnerable to this growing type of fraud and deception. Enactment of the US SAFE WEB Act would help the FTC fulfill its mission of protecting and assisting U.S. consumers.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1608

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

SECTION 1. SHORT TITLE; FINDINGS; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the ''Undertaking Spam, Spyware, And Fraud Enforcement With Enforcers beyond Borders Act of 2005'' or the ''U.S. SAFE WEB Act of 2005''.

(b) FINDINGS.—The Congress finds the following:

(1) The Federal Trade Commission protects consumers from fraud and deception. Cross-border fraud and deception are growing international problems that affect American consumers and businesses.

(2) The development of the Internet and improvements in telecommunications technologies have brought significant benefits to consumers. At the same time, they have also provided unprecedented opportunities for those engaged in fraud and deception to establish operations in one country and victimize a large number of consumers in other countries.

(3) An increasing number of consumer complaints collected in the Consumer Sentinel database maintained by the Commission, and an increasing number of cases brought by the Commission, involve foreign consumers, foreign businesses or individuals, or assets or evidence located outside the United States.

(4) The Commission has legal authority to remedy law violations involving domestic and foreign wrongdoers, pursuant to the Federal Trade Commission Act. The Commission's ability to obtain effective relief using this authority, however, may face practical impediments when wrongdoers, victims, other witnesses, documents, money and third parties involved in the transaction are widely dispersed in many different jurisdictions. Such circumstances make it difficult for the Commission to gather all the information necessary to detect injurious practices, to recover offshore assets for consumer redress, and to reach conduct occurring outside the United States that affects United States consumers.

(5) Improving the ability of the Commission and its foreign counterparts to share information about cross-border fraud and deception, to conduct joint and parallel investigations, and to assist each other is critical to achieve more timely and effective enforcement in cross-border cases.

(c) PURPOSE.—The purpose of this Act is to enhance the ability of the Federal Trade Commission to protect consumers from illegal spam, spyware, and cross-border fraud and deception and other consumer protection law violations.

SEC. 2. FOREIGN LAW ENFORCEMENT AGENCY DEFINED.

Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by adding at the end the following:

''`Foreign law enforcement agency' means—

''(1) any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigative authority in civil, criminal, or administrative matters; and

''(2) any multinational organization, to the extent that it is acting on behalf of an entity described in paragraph (1).''.

SEC. 3. AVAILABILITY OF REMEDIES.

Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by adding at the end the following:

''(4)(A) For purposes of subsection (a), the term `unfair or deceptive acts or practices' includes such acts or practices involving foreign commerce that—

''(i) cause or are likely to cause reasonably foreseeable injury within the United States; or

''(ii) involve material conduct occurring within the United States.

''(B) All remedies available to the Commission with respect to unfair and deceptive acts or practices shall be available for acts and practices described in this paragraph, including restitution to domestic or foreign victims.''.

SEC. 4. POWERS OF THE COMMISSION.

(a) PUBLICATION OF INFORMATION; REPORTS.—Section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)) is amended—

(1) by inserting ''(1)'' after ''such information'' the first place it appears; and

(2) by striking ''purposes.'' and inserting ''purposes, and (2) to any officer or employee of any foreign law enforcement agency under the same circumstances that making material available to foreign law enforcement agencies is permitted under section 21(b).''.

(b) OTHER POWERS OF THE COMMISSION.—Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is further amended by inserting after subsection (i) and before the proviso the following:

''(j) INVESTIGATIVE ASSISTANCE FOR FOREIGN LAW ENFORCEMENT AGENCIES.—

''(1) IN GENERAL.—Upon a written request from a foreign law enforcement agency to provide assistance in accordance with this subsection, if the requesting agency states that it is investigating, or engaging in enforcement proceedings against, possible violations of laws prohibiting fraudulent or deceptive commercial practices, or other practices substantially similar to practices prohibited by any provision of the laws administered by the Commission, other than Federal antitrust laws (as defined in section 12(5) of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211(5))), to provide the assistance described in paragraph (2) without requiring that the conduct identified in the request constitute a violation of the laws of the United States.

''(2) TYPE OF ASSISTANCE.—In providing assistance to a foreign law enforcement agency under this subsection, the Commission may—

''(A) conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance, using all investigative powers authorized by this Act; and

''(B) when the request is from an agency acting to investigate or pursue the enforcement of civil laws, or when the Attorney General refers a request to the Commission from an agency acting to investigate or pursue the enforcement of criminal laws, seek and accept appointment by a United States district court of Commission attorneys to provide assistance to foreign and international tribunals and to litigants before such tribunals on behalf of a foreign law enforcement agency pursuant to section 1782 of title 28, United States Code.

''(3) CRITERIA FOR DETERMINATION.—In deciding whether to provide such assistance, the Commission shall consider all relevant factors, including—

''(A) whether the requesting agency has agreed to provide or will provide reciprocal assistance to the Commission;

''(B) whether compliance with the request would prejudice the public interest of the United States; and

''(C) whether the requesting agency's investigation or enforcement proceeding concerns acts or practices that cause or are likely to cause injury to a significant number of persons.

''(4) INTERNATIONAL AGREEMENTS.—If a foreign law enforcement agency has set forth a legal basis for requiring execution of an international agreement as a condition for reciprocal assistance, or as a condition for provision of materials or information to the Commission, the Commission, with prior approval and ongoing oversight of the Secretary of State, and with final approval of the agreement by the Secretary of State, may negotiate and conclude an international agreement, in the name of either the United States or the Commission, for the purpose of obtaining such assistance, materials, or information. The Commission may undertake in such an international agreement to—

''(A) provide assistance using the powers set forth in this subsection;

''(B) disclose materials and information in accordance with subsection (f) and section 21(b); and

''(C) engage in further cooperation, and protect materials and information received from disclosure, as authorized by this Act.

''(5) ADDITIONAL AUTHORITY.—The authority provided by this subsection is in addition to, and not in lieu of, any other authority vested in the Commission or any other officer of the United States.

''(6) LIMITATION.—The authority granted by this subsection shall not authorize the Commission to take any action or exercise any power with respect to a bank, a savings and loan institution described in section 18(f)(3) (15 U.S.C. 57a(f)(3)), a Federal credit union described in section 18(f)(4) (15 U.S.C. 57a(f)(4)), or a common carrier subject to the Act to regulate commerce, except in accordance with the undesignated proviso following the last designated subsection of section 6 (15 U.S.C. 46).

''(7) ASSISTANCE TO CERTAIN COUNTRIES.—The Commission may not provide investigative assistance under this subsection to a foreign law enforcement agency from a foreign state that the Secretary of State has determined, in accordance with section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), has repeatedly provided support for acts of international terrorism, unless and until such determination is rescinded pursuant to section 6(j)(4) of that Act (50 U.S.C. App.2405(j)(4)).

''(k) REFERRAL OF EVIDENCE FOR CRIMINAL PROCEEDINGS.—

''(1) IN GENERAL.—Whenever the Commission obtains evidence that any person, partnership, or corporation, either domestic or foreign, has engaged in conduct that may constitute a violation of Federal criminal law, to transmit such evidence to the Attorney General, who may institute criminal proceedings under appropriate statutes. Nothing in this paragraph affects any other authority of the Commission to disclose information.

''(2) INTERNATIONAL INFORMATION.—The Commission shall endeavor to ensure, with respect to memoranda of understanding and international agreements it may conclude, that material it has obtained from foreign law enforcement agencies acting to investigate or pursue the enforcement of foreign criminal laws may be used for the purpose of investigation, prosecution, or prevention of violations of United States criminal laws.

''(l) EXPENDITURES FOR COOPERATIVE ARRANGEMENTS.—To expend appropriated funds for—

''(1) operating expenses and other costs of bilateral and multilateral cooperative law enforcement groups conducting activities of interest to the Commission and in which the Commission participates; and

''(2) expenses for consultations and meetings hosted by the Commission with foreign government agency officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to the Commission's mission, development and implementation of cooperation agreements, and provision of technical assistance for the development of foreign consumer protection or competition regimes, such expenses to include necessary administrative and logistic expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including—

''(A) such incidental expenses as meals taken in the course of such attendance;

''(B) any travel and transportation to or from such meetings; and

''(C) any other related lodging or subsistence.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—The Federal Trade Commission is authorized to expend appropriated funds not to exceed $100,000 per fiscal year for purposes of section 6(l) of the Federal Trade Commission Act (15 U.S.C. 46(l)) (as added by subsection (b) of this section), including operating expenses and other costs of the following bilateral and multilateral cooperative law enforcement agencies and organizations:

(1) The International Consumer Protection and Enforcement Network.

(2) The International Competition Network.

(3) The Mexico-U.S.-Canada Health Fraud Task Force.

(4) Project Emptor.

(5) The Toronto Strategic Partnership and other regional partnerships with a nexus in a Canadian province.

(d) CONFORMING AMENDMENT.—Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by striking ''clauses (a) and (b)'' in the proviso following subsection (l) (as added by subsection (b) of this section) and inserting ''subsections (a), (b), and (j)''.

SEC. 5. REPRESENTATION IN FOREIGN LITIGATION.

Section 16 of the Federal Trade Commission Act (15 U.S.C. 56) is amended by adding at the end the following:

''(c) FOREIGN LITIGATION.—

''(1) COMMISSION ATTORNEYS.—With the concurrence of the Attorney General, the Commission may designate Commission attorneys to assist the Attorney General in connection with litigation in foreign courts on particular matters in which the Commission has an interest.

''(2) REIMBURSEMENT FOR FOREIGN COUNSEL.—The Commission is authorized to expend appropriated funds, upon agreement with the Attorney General, to reimburse the Attorney General for the retention of foreign counsel for litigation in foreign courts and for expenses related to litigation in foreign courts in which the Commission has an interest.

''(3) LIMITATION ON USE OF FUNDS.—Nothing in this subsection authorizes the payment of claims or judgments from any source other than the permanent and indefinite appropriation authorized by section 1304 of title 31, United States Code.

''(4) OTHER AUTHORITY.—The authority provided by this subsection is in addition to any other authority of the Commission or the Attorney General.''.

SEC. 6. SHARING INFORMATION WITH FOREIGN LAW ENFORCEMENT AGENCIES.

(a) MATERIAL OBTAINED PURSUANT TO COMPULSORY PROCESS.—Section 21(b)(6) of the Federal Trade Commission Act (15 U.S.C. 57b-2(b)(6)) is amended by adding at the end ''The custodian may make such material available to any foreign law enforcement agency upon the prior certification of an appropriate official of any such foreign law enforcement agency, either by a prior agreement or memorandum of understanding with the Commission or by other written certification, that such material will be maintained in confidence and will be used only for official law enforcement purposes, if—

''(A) the foreign law enforcement agency has set forth a bona fide legal basis for its authority to maintain the material in confidence;

''(B) the materials are to be used for purposes of investigating, or engaging in enforcement proceedings related to, possible violations of—

''(i) foreign laws prohibiting fraudulent or deceptive commercial practices, or other practices substantially similar to practices prohibited by any law administered by the Commission;

''(ii) a law administered by the Commission, if disclosure of the material would further a Commission investigation or enforcement proceeding; or

''(iii) with the approval of the Attorney General, other foreign criminal laws, if such foreign criminal laws are offenses defined in or covered by a criminal mutual legal assistance treaty in force between the government of the United States and the foreign law enforcement agency's government;

''(C) the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) or, in the case of a Federal credit union, the National Credit Union Administration, has given its prior approval if the materials to be provided under subparagraph (B) are requested by the foreign law enforcement agency for the purpose of investigating, or engaging in enforcement proceedings based on, possible violations of law by a bank, a savings and loan institution described in section 18(f)(3) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(3)), or a Federal credit union described in section 18(f)(4) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(4)); and

''(D) the foreign law enforcement agency is not from a foreign state that the Secretary of State has determined, in accordance with section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), has repeatedly provided support for acts of international terrorism, unless and until such determination is rescinded pursuant to section 6(j)(4) of that Act (50 U.S.C. App. 2405(j)(4)).

Nothing in the preceding sentence authorizes the disclosure of material obtained in connection with the administration of the Federal antitrust laws or foreign antitrust laws (as defined in paragraphs (5) and (7), respectively, of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)) to any officer or employee of a foreign law enforcement agency.''.

(b) INFORMATION SUPPLIED BY AND ABOUT FOREIGN SOURCES.—Section 21(f) of the Federal Trade Commission Act (15 U.S.C. 57b-2(f)) is amended to read asfollows:

''(f) EXEMPTION FROM PUBLIC DISCLOSURE.—

''(1) IN GENERAL.—Any material which is received by the Commission in any investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission, and which is provided pursuant to any compulsory process under this Act or which is provided voluntarily in place of such compulsory process shall not be required to be disclosed under section 552 of title 5, United States Code, or any other provision of law, except as provided in paragraph (2)(B) of this section.

''(2) MATERIAL OBTAINED FROM A FOREIGN SOURCE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) of this paragraph, the Commission shall not be required to disclose under section 552 of title 5, United States Code, or any other provision of law—

''(i) any material obtained from a foreign law enforcement agency or other foreign government agency, if the foreign law enforcement agency or other foreign government agency has requested confidential treatment, or has precluded such disclosure under other use limitations, as a condition of providing the material;

''(ii) any material reflecting a consumer complaint obtained from any other foreign source, if that foreign source supplying the material has requested confidential treatment as a condition of providing the material; or

''(iii) any material reflecting a consumer complaint submitted to a Commission reporting mechanism sponsored in part by foreign law enforcement agencies or other foreign government agencies.

''(B) SAVINGS PROVISION.—Nothing in this subsection shall authorize the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.''.

SEC. 7. CONFIDENTIALITY; DELAYED NOTICE OF PROCESS.

(a) IN GENERAL.—The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 21 the following:

''SEC. 21A. CONFIDENTIALITY AND DELAYED NOTICE OF COMPULSORY PROCESS FOR CERTAIN THIRD PARTIES.

''(a) APPLICATION WITH OTHER LAWS.—The Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) and chapter 121 of title 18, United States Code, shall apply with respect to the Commission, except as otherwise provided in this section.

''(b) PROCEDURES FOR DELAY OF NOTIFICATION OR PROHIBITION OF DISCLOSURE.—The procedures for delay of notification or prohibition of disclosure under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) and chapter 121 of title 18, United States Code, including procedures for extensions of such delays or prohibitions, shall be available to the Commission, provided that, notwithstanding any provision therein—

''(1) a court may issue an order delaying notification or prohibiting disclosure (including extending such an order) in accordance with the procedures of section 1109 of the Right to Financial Privacy Act (12 U.S.C. 3409) (if notification would otherwise be required under that Act), or section 2705 of title 18, United States Code, (if notification would otherwise be required under chapter 121 of that title), if the presiding judge or magistrate judge finds that there is reason to believe that such notification or disclosure may cause an adverse result as defined in subsection (g) of this section; and

''(2) if notification would otherwise be required under chapter 121 of title 18, United States Code, the Commission may delay notification (including extending such a delay) upon the execution of a written certification in accordance with the procedures of section 2705 of that title if the Commission finds that there is reason to believe that notification may cause an adverse result as defined in subsection (g) of this section.

''(c) EX PARTE APPLICATION BY COMMISSION.—

''(1) IN GENERAL.—If neither notification nor delayed notification by the Commission is required under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or chapter 121 of title 18, United States Code, the Commission may apply ex parte to a presiding judge or magistrate judge for an order prohibiting the recipient of compulsory process issued by the Commission from disclosing to any other person the existence of the process, notwithstanding any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia. The presiding judge or magistrate judge may enter such an order granting the requested prohibition of disclosure for a period not to exceed 60 days if there is reason to believe that disclosure may cause an adverse result as defined in subsection (g). The presiding judge or magistrate judge may grant extensions of this order of up to 30 days each in accordance with this subsection, except that in no event shall the prohibition continue in force for more than a total of 9 months.

''(2) APPLICATION.—This subsection shall apply only in connection with compulsory process issued by the Commission where the recipient of such process is not a subject of the investigation or proceeding at the time such process is issued.

''(3) LIMITATION.—No order issued under this subsection shall prohibit any recipient from disclosing to a Federal agency that the recipient has received compulsory process from the Commission.

''(d) NO LIABILITY FOR FAILURE TO NOTIFY.—If neither notification nor delayed notification by the Commission is required under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or chapter 121 of title 18, United States Code, the recipient of compulsory process issued by the Commission under this Act shall not be liable under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, or under any contract or other legally enforceable agreement, for failure to provide notice to any person that such process has been issued or that the recipient has provided information in response to such process. The preceding sentence does not exempt any recipient from liability for—

''(1) the underlying conduct reported;

''(2) a failure to comply with the record retention requirements under section 1104(c) of the Right to Financial Privacy Act (12 U.S.C. 3404), where applicable; or

''(3) any failure to comply with any obligation the recipient may have to disclose to a

Federal agency that the recipient has received compulsory process from the Commission or intends to provide or has provided information to the Commission in response to such process.

''(e) VENUE AND PROCEDURE.—

''(1) IN GENERAL.—All judicial proceedings initiated by the Commission under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.), chapter 121 of title 18, United States Code, or this section may be brought in the United States District Court for the District of Columbia or any other appropriate United States District Court. All ex parte applications by the Commission under this section related to a single investigation may be brought in a single proceeding.

''(2) In camera proceedings.—Upon application by the Commission, all judicial proceedings pursuant to this section shall be held in camera and the records thereof sealed until expiration of the period of delay or such other date as the presiding judge or magistrate judge may permit.

''(f) SECTION NOT TO APPLY TO ANTITRUST INVESTIGATIONS OR PROCEEDINGS.—This section shall not apply to an investigation or proceeding related to the administration of Federal antitrust laws or foreign antitrust laws (as defined in paragraphs (5) and (7), respectively, of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211).

''(g) ADVERSE RESULT DEFINED.—For purposes of this section the term 'adverse result' means—

''(1) endangering the life or physical safety of an individual;

''(2) flight from prosecution;

''(3) the destruction of, or tampering with, evidence;

''(4) the intimidation of potential witnesses; or

''(5) otherwise seriously jeopardizing an investigation or proceeding related to fraudulent or deceptive commercial practices or persons involved in such practices, or unduly delaying a trial related to such practices or persons involved in such practices, including, but not limited to, by—

''(A) the transfer outside the territorial limits of the United States of assets or records related to fraudulent or deceptive commercial practices or related to persons involved in such practices;

''(B) impeding the ability of the Commission to identify persons involved in fraudulent or deceptive commercial practices, or to trace the source or disposition of funds related to such practices; or

''(C) the dissipation, fraudulent transfer, or concealment of assets subject to recovery by the Commission.''.

(b) CONFORMING AMENDMENT.—Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—

(1) in subparagraph (C) by striking ''or'' after the semicolon;

(2) in subparagraph (D) by inserting ''or'' after the semicolon; and

(3) by inserting after subparagraph (D) the following:

''(E) under section 21A of this Act;''.

SEC. 8. PROTECTION FOR VOLUNTARY PROVISION OF INFORMATION.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is further amended by adding after section 21A (as added by section 7 of this Act) the following:

''SEC. 21B. PROTECTION FOR VOLUNTARY PROVISION OF INFORMATION.

''(a) IN GENERAL.—

''(1) NO LIABILITY FOR PROVIDING CERTAIN MATERIAL.—An entity described in paragraphs (2) or (3) of subsection (d) that voluntarily provides material to the Commission that such entity reasonably believes is relevant to—

''(A) a possible unfair or deceptive act or practice, as defined in section 5(a) of this Act; or

''(B) assets subject to recovery by the Commission, including assets located in foreign jurisdictions;

shall not be liable to any person under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, for such provision of material or for any failure to provide notice of such provision of material or of intention to so provide material.

''(2) LIMITATIONS.—Nothing in this subsection shall be construed to exempt any such entity from liability—

''(A) for the underlying conduct reported; or

''(B) to any Federal agency for providing such material or for any failure to comply with any obligation the entity may have to notify a Federal agency prior to providing such material to the Commission.

''(b) CERTAIN FINANCIAL INSTITUTIONS.—An entity described in paragraph (1) of subsection (d) shall, in accordance with section 5318(g)(3) of title 31, United States Code, be exempt from liability for making a voluntary disclosure to the Commission of any possible violation of law or regulation, including—

''(1) a disclosure regarding assets, including assets located in foreign jurisdictions—

''(A) related to possibly fraudulent or deceptive commercial practices;

''(B) related to persons involved in such practices; or

''(C) otherwise subject to recovery by the Commission; or

''(2) a disclosure regarding suspicious chargeback rates related to possibly fraudulent or deceptive commercial practices.

''(c) CONSUMER COMPLAINTS.—Any entity described in subsection (d) that voluntarily provides consumer complaints sent to it, or information contained therein, to the Commission shall not be liable to any person under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, for such provision of material or for any failure to provide notice of such provision of material or of intention to so provide material. This subsection shall not provide any exemption from liability for the underlying conduct.

''(d) APPLICATION.—This section applies to the following entities, whether foreign or domestic:

''(1) A financial institution as defined in section 5312 of title 31, United States Code.

''(2) To the extent not included in paragraph (1), a bank or thrift institution, a commercial bank or trust company, an investment company, a credit card issuer, an operator of a credit card system, and an issuer, redeemer, or cashier of travelers' checks, money orders, or similar instruments.

''(3) A courier service, a commercial mail receiving agency, an industry membership organization, a payment system provider, a consumer reporting agency, a domain name registrar or registry acting as such, and a provider of alternative dispute resolution services.

''(4) An Internet service provider or provider of telephone services.''.

SEC. 9. STAFF EXCHANGES.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by adding after section 25 the following new section:

''SEC. 25A. STAFF EXCHANGES.

''(a) IN GENERAL.—The Commission may—

''(1) retain or employ officers or employees of foreign government agencies on a temporary basis as employees of the Commission pursuant to section 2 of this Act or section 3101 or section 3109 of title 5, United States Code; and

''(2) detail officers or employees of the Commission to work on a temporary basis for appropriate foreign government agencies.

''(b) RECIPROCITY AND REIMBURSEMENT.—The staff arrangements described in subsection (a) need not be reciprocal. The Commission may accept payment or reimbursement, in cash or in kind, from a foreign government agency to which this section is applicable, or payment or reimbursement made on behalf of such agency, for expenses incurred by the Commission, its members, and employees in carrying out such arrangements.

''(c) STANDARDS OF CONDUCT.—A person appointed under subsection (a)(1) shall be subject to the provisions of law relating to ethics, conflicts of interest, corruption, and any other criminal or civil statute or regulation governing the standards of conduct for Federal employees that are applicable to the type of appointment.''.

SEC. 10. INFORMATION SHARING WITH FINANCIAL REGULATORS.

Section 1112(e) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(e)) is amended by inserting ''the Federal Trade Commission,'' after ''the Securities and Exchange Commission,''.

SEC. 11. AUTHORITY TO ACCEPT REIMBURSEMENTS, GIFTS, AND VOLUNTARY AND UNCOMPENSA TED SERVICES.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended—

(1) by redesignating section 26 as section 28; and

(2) by inserting after section 25A, as added by section 9 of this Act, the following:

''SEC. 26. REIMBURSEMENT OF EXPENSES.

''The Commission may accept payment or reimbursement, in cash or in kind, from a domestic or foreign law enforcement agency, or payment or reimbursement made on behalf of such agency, for expenses incurred by the Commission, its members, or employees in carrying out any activity pursuant to a statute administered by the Commission without regard to any other provision of law. Any such payments or reimbursements shall be considered a reimbursement to the appropriated funds of the Commission.

''SEC. 27. GIFTS AND VOLUNTARY AND UNCOMPENSATED SERVICES.

''(a) IN GENERAL.—In furtherance of its functions the Commission may accept, hold, administer, and use unconditional gifts, donations, and bequests of real, personal, and other property and, notwithstanding section 1342 of 10 title 31, United States Code, accept voluntary and uncompensated services.

''(b) LIMITATIONS.—

''(1) CONFLICTS OF INTEREST.—The Commission shall establish written guidelines setting forth criteria to be used in determining whether the acceptance, holding, administration, or use of a gift, donation, or bequest pursuant to subsection (a) would reflect unfavorably upon the ability of the Commission or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.

''(2) VOLUNTARY SERVICES.—A person who provides voluntary and uncompensated service under subsection (a) shall be considered a Federal employee for purposes of—

''(A) chapter 81 of title 5, United States Code, (relating to compensation for injury); and

''(B) the provisions of law relating to ethics, conflicts of interest, corruption, and any

other criminal or civil statute or regulation governing the standards of conduct for Federal employees.

''(3) TORT LIABILITY OF VOLUNTEERS.—A person who provides voluntary and uncompensated service under subsection (a), while assigned to duty, shall be deemed a volunteer of a nonprofit organization or governmental entity for purposes of the Volunteer Protection Act of 1997 (42 U.S.C. 14501 et seq.). Subsection (d) of section 4 of such Act (42 U.S.C. 14503(d)) shall not apply for purposes of any claim against such volunteer.''.

SEC. 12. PRESERVATION OF EXISTING AUTHORITY.

The authority provided by this Act, and by the Federal Trade Commission Act (15 U.S.C. 41 et seq.) and the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.), as such Acts are amended by this Act, is in addition to, and not in lieu of, any other authority vested in the Federal Trade Commission or any other officer of the United States.

SEC. 13. REPORT.

Not later than 3 years after the date of enactment of this Act, the Federal Trade Commission shall transmit to Congress a report describing its use of and experience with the authority granted by this Act, along with any recommendations for additional legislation. The report shall include—

(1) the number of cross-border complaints received by the Commission;

(2) identification of the foreign agencies to which the Commission has provided nonpublic investigative information under this Act;

(3) the number of times the Commission has used compulsory process on behalf of foreign law enforcement agencies pursuant to section 6 of the Federal Trade Commission Act (15 U.S.C. 46), as amended by section 4 of this Act;

(4) a list of international agreements and memoranda of understanding executed by the Commission that relate to this Act;

(5) the number of times the Commission has sought delay of notice pursuant to section 21A of the Federal Trade Commission Act, as added by section 7 of this Act, and the number of times a court has granted a delay;

(6) a description of the types of information private entities have provided voluntarily pursuant to section 21B of the Federal Trade Commission Act, as added by section 8 of this Act;

(7) a description of the results of cooperation with foreign law enforcement agencies under section 21 of the Federal Trade Commission Act (15 U.S.C. 57–2) as amended by section 6 of this Act;

(8) an analysis of whether the lack of an exemption from the disclosure requirements of section 552 of title 5, United States Code, with regard to information or material voluntarily provided relevant to possible unfair or deceptive acts or practices, has hindered the Commission in investigating or engaging in enforcement proceedings against such practices; and

(9) a description of Commission litigation brought in foreign courts.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 224—TO EXPRESS THE SENSE OF THE SENATE SUPPORTING THE ESTABLISHMENT OF SEPTEMBER AS CAMPUS FIRE SAFETY MONTH, AND FOR OTHER PURPOSES

Mr. DEWINE (for himself and Mr. BIDEN) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 224

Whereas recent student housing fires in Ohio, Pennsylvania, Tennessee, and Maryland have tragically cut short the lives of some of the youth of our Nation;

Whereas since January 2000, at least 75 people, including students, parents, and children have died in student housing fires;

Whereas over three-fourths of these deaths have occurred in off-campus occupancies;

Whereas a majority of the students across the Nation live in off-campus occupancies;

Whereas a number of fatal fires have occurred in buildings where the fire safety systems have been compromised or disabled by the occupants;

Whereas it is recognized that automatic fire alarm systems provide the necessary early warning to occupants and the fire department of a fire so that appropriate action can be taken;

Whereas it is recognized that automatic fire sprinkler systems are a highly effective method of controlling or extinguishing a fire in its early stages, protecting the lives of the building's occupants;

Whereas many students are living in off-campus occupancies, Greek housing, and residence halls that are not adequately protected with automatic fire sprinkler systems and automatic fire alarm systems;

Whereas it is recognized that fire safety education is an effective method of reducing the occurrence of fires and reducing the resulting loss of life and property damage;

Whereas students are not routinely receiving effective fire safety education throughout their entire college career;

Whereas it is vital to educate the future generation of our Nation about the importance of fire safety behavior so that these behaviors can help to ensure their safety during their college years and beyond; and

Whereas by developing a generation of fire-safe adults, future loss of life from fires can be significantly reduced: Now, therefore, be it

Resolved, That the Senate—

(1) supports the establishment of September as Campus Fire Safety Month;

(2) encourages administrators and municipalities across the country to provide educational programs to all students during September and throughout the school year; and

(3) encourages administrators and municipalities to evaluate the level of fire safety being provided in both on- and off-campus student housing and take the necessary steps to ensure fire-safe living environments through fire safety education, installation of fire suppression and detection systems and the development and enforcement of applicable codes relating to fire safety.

SENATE RESOLUTION 225—DESIGNATING THE MONTH OF NOVEMBER 2005 AS THE ''MONTH OF GLOBAL HEALTH''

Mrs. MURRAY (for herself, Mr. SMITH, Mrs. CLINTON, Mr. CORZINE, Ms. CANTWELL, Mr. DAYTON, Ms. LANDRIEU, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 225

Whereas child survival is a key element of global health and is of utmost importance to the United States and all countries of the world;

Whereas child survival must be addressed on a global scale;

Whereas increasing child survival rates is critical to population growth in countries around the world;

Whereas child survival depends on access to key nutrients that can avert millions of unnecessary deaths in third world countries from preventable diseases;

Whereas 5 simple interventions, if delivered to children before the age of 5, may significantly increase their chances of survival;

Whereas these 5 interventions—vaccines, antibiotics, Vitamin A and micronutrients, oral rehydration therapy, and insecticide-treated bednets—can be provided to third world countries at minimal cost;

Whereas 10,000,000 children die each year from preventable diseases in third world countries and 6,000,000 of those deaths could be prevented by the use of these interventions: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of November 2005 as the ''Month of Global Health'';

(2) reaffirms its commitment to ensuring that children around the world receive the interventions necessary for survival as an integral component of efforts to improve global health; and

(3) encourages the people of the United States to observe the ''Month of Global Health'' with appropriate participation in key activities, programs, and fundraising in support of worldwide child survival.

Mrs. MURRAY. Mr. President, I want to take time to comment on the resolution I am introducing today which designates the month of November 2005 as the ''Month of Global Health.''

Today we live in a global community where all nations both benefit from those countries that prosper, and suffer with those that do not. The Month of Global Health is a great opportunity to increase awareness of the pressing global health crisis that threatens our own public health and that of all nations around the world.

I believe this resolution is important and draws attention to the needs of a growing population of children in the developing world that are living without proper health care and the essential nutrients they need to survive. The resolution also highlights the necessary steps that must be taken to increase child survival rates in developing countries.

Child survival is one of the key elements to addressing global health. As a nation, there is much more we can do to assist developing nations in their effort to increase child survival rates. We must work on a global scale to avert the millions of unnecessary deaths among children caused each year from preventable diseases.

This resolution reaffirms our commitment to the children of the world and sends a message that child survival is a fundamental component in our efforts to improve global health.

Mr. SMITH. Mr. President, today I am pleased to join my colleague Senator MURRAY in introducing an important resolution that will recognize November as the ''Global Health Month.''

Every year, 10 million children die from preventable diseases in Third World countries. As many as 6 million of these deaths can be prevented by

vaccines, antibiotics, hydration adequate nutrition, and other simple, low-cost interventions.

As a long-time champion of helping the most vulnerable populations both here and abroad, I believe it is important to bring this issue to the attention of the American public. We can and must do more to ensure children around the world receive the interventions necessary for survival.

I hope my colleagues will join me in support of this resolution.

SENATE RESOLUTION 226—CALLING FOR FREE AND FAIR PARLIAMENTARY ELECTIONS IN THE REPUBLIC OF AZERBAIJAN

Mr. BIDEN (for himself, Mr. MCCAIN, and Mr. HAGEL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 226

Whereas the Republic of Azerbaijan is scheduled to hold elections for its parliament, the Milli Majlis, in November 2005;

Whereas Azerbaijan has enjoyed a strong relationship with the United States since its independence from the former Soviet Union in 1991;

Whereas international observers monitoring Azerbaijan's October 2003 presidential election found that the pre-election, election day, and post-election environments fell short of international standards;

Whereas the International Election Observation Mission (IEOM) in Baku, Azerbaijan, deployed by the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe, found that there were numerous instances of violence by both members of the opposition and government forces;

Whereas the international election observers also found inequality and irregularities in campaign and election conditions, including intimidation against opposition supporters, restrictions on political rallies by opposition candidates, and voting fraud;

Whereas Azerbaijan freely accepted a series of commitments on democracy, human rights, and the rule of law when that country joined the Organization for Security and Cooperation in Europe as a participating State in 1992;

Whereas, following the 2003 presidential election, the Council of Europe adopted Resolution 1358 (2004) demanding that the Government of Azerbaijan immediately implement a series of steps that included the release of political prisoners, investigation of election fraud, and the creation of public service television to allow all political parties to better communicate with the people of Azerbaijan;

Whereas, since the 2003 presidential election, the Government of Azerbaijan has taken some positive steps by releasing some political prisoners and working toward the establishment of public service television;

Whereas a genuinely free and fair election requires that citizens be guaranteed the right and opportunity to exercise their civil and political rights, free from intimidation, undue influence, threats of political retribution, or other forms of coercion by national or local authorities or others;

Whereas a genuinely free and fair election requires government and public authorities to ensure that candidates and political parties enjoy equal treatment before the law and that government resources are not employed to the advantage of individual candidates or political parties; and

Whereas the establishment of a transparent, free and fair election process for the 2005 parliamentary elections is an important step in Azerbaijan's progress toward full integration into the democratic community of nations: Now, therefore, be it

Resolved, That the Senate—

(1) calls on the Government of the Republic of Azerbaijan to hold orderly, peaceful, and free and fair parliamentary elections in November 2005 in order to ensure the long-term growth and stability of the country;

(2) calls upon the Government of Azerbaijan to guarantee the full participation of opposition parties in the upcoming elections, including members of opposition parties arrested in the months leading up to the November 2005 parliamentary elections;

(3) calls upon the opposition parties to fully and peacefully participate in the November 2005 parliamentary elections, and calls upon the Government of Azerbaijan to create the conditions for the participation on equal grounds of all viable candidates;

(4) believes it is critical that the November 2005 parliamentary elections be viewed by the people of Azerbaijan as free and fair, and that all sides refrain from violence during the campaign, on election day, and following the election;

(5) supports recommendations made by the Council of Europe on amendments to the Unified Election Code of Azerbaijan, specifically to ensure equitable representation of opposition and pro-government forces in all election commissions;

(6) urges the international community and domestic nongovernmental organizations to provide a sufficient number of election observers to ensure credible monitoring and reporting of the November 2005 parliamentary elections;

(7) recognizes the need for the establishment of an independent media and assurances by the Government of Azerbaijan that freedom of the press will be guaranteed; and

(8) calls upon the Government of Azerbaijan to guarantee freedom of speech and freedom of assembly.

SENATE RESOLUTION 227—PLEDGING CONTINUED SUPPORT FOR INTERNATIONAL HUNGER RELIEF EFFORTS AND EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED STATES GOVERNMENT SHOULD USE RESOURCES AND DIPLOMATIC LEVERAGE TO SECURE FOOD AID FOR COUNTRIES THAT ARE IN NEED OF FURTHER ASSISTANCE TO PREVENT ACUTE AND CHRONIC HUNGER

Mr. DEWINE (for himself, Mr. KOHL, Mr. COCHRAN, Mr. LEAHY, Mr. CHAMBLISS, Mr. HARKIN, Mr. BROWNBACK, Mr. DURBIN, Mrs. DOLE, Mrs. LINCOLN, Mr. SMITH, Mr. CORZINE, Mr. COLEMAN, Mr. DORGAN, Mr. HATCH, Mr. OBAMA, Ms. COLLINS, Ms. CANTWELL, Mr. SANTORUM, Ms. STABENOW, Mr. CHAFEE, Mr. LIEBERMAN, Mr. MARTINEZ, Mr. DAYTON, Mr. ROBERTS, Mr. INOUYE, Mr. MCCAIN, Mr. NELSON of Florida, Ms. SNOWE, Mr. LUGAR, Mr. NELSON of Nebraska, Mr. SARBANES, Ms. MIKULSKI, Mr. LEVIN, and Mr. REED) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 227

Whereas although there is enough food to feed all of the people in the world, as of summer 2005, 852,000,000 people are in need of food aid;

Whereas almost 200,000,000 children under the age of 5 are malnourished and underweight and 1 child dies every 5 seconds from hunger and related ailments;

Whereas the United Nations World Food Programme estimates that more than 5,000,000 metric tons of food is needed to prevent widespread hunger, 80 percent of which will be used for emergency programs to provide aid for people threatened by famine in 2005;

Whereas, as of summer 2005, the United States contributed approximately ½ of the total food aid received by the United Nations World Food Programme in 2005;

Whereas, as of summer 2005, 1 person out of every 3 people in Africa is malnourished as a result of drought, conflict, the human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS), locust infestations, and economic dislocation, and countries in Africa will lack at least 1,500,000 metric tons of the food necessary to provide sufficient nutrition to the people in these countries if the level of donations does not increase;

Whereas the World Food Programme, as of summer 2005, had barely ½ of the contributions needed to provide food aid to the 26,000,000 victims of food shortage in Africa;

Whereas more than 14,000,000 people in the Horn of Africa are experiencing or are vulnerable to experiencing a severe food shortage;

Whereas approximately ⅔ of the population of Eritrea needs food aid and nearly ½ of the women and children in the country are malnourished;

Whereas, as of summer 2005, 8,300,000 people in Ethiopia are in need of food aid and other assistance as a result of poor harvests, degraded land, small land holdings, high population growth, loss of crops, and loss of livestock and other assets;

Whereas the United Nations World Food Programme food aid programs in Ethiopia have received less than ½ of the funding necessary to continue these operations;

Whereas the United Nations World Food Programme had received, as of summer 2005, less than 10 percent of the funding necessary to provide aid to the 3,500,000 people in Sudan who will need food in 2005, particularly during the height of the annual hunger season that lasts from August to October, due to political instability and weather conditions that ruined harvests in the country;

Whereas a lack of funds will require the United Nations World Food Programme to reduce the amount of aid given to 2,000,000 people in Burundi, including to 210,000 malnourished children and nursing mothers who face a food shortage as a result of drought and instability;

Whereas a lack of funds is expected to drastically constrain food aid programs worldwide and the critical efforts of private voluntary organizations of the United States that play a central role in implementing such programs;

Whereas a lack of funds forced the United Nations World Food Programme to begin reducing the amount of aid given to an estimated 6,000,000 people in West Africa who are experiencing a famine caused by displacement, drought, and locusts;

Whereas humanitarian agencies report rising rates of malnutrition among children under 5 years of age in Mauritania, Mali, and Niger, which can lead to developmental difficulties and growth stunting;

Whereas nearly 4,000,000 people in Niger, including 800,000 children, will face a food

shortage in 2005 at a time when the child malnutrition rate in the Niger region has reached emergency levels and the country has been afflicted by locusts and drought;

Whereas the Government of Mauritania had received only ½ of the aid necessary to prevent a food shortage as of summer 2005, leaving 60 percent of the families in Mauritania without access to a sufficient amount of food in 2005;

Whereas a lack of food in Sierra Leone forced the United Nations World Food Programme to reduce the amount of aid given to 50,000 Liberian refugees residing in the country in the summer of 2005, causing additional strife in an already tense political environment;

Whereas in the Democratic Republic of the Congo, the United Nations World Food Programme has a 47 percent funding shortfall as of summer 2005, which could force reductions in the amount of food aid delivered to 2,900,000 people in the war-torn country;

Whereas, as of summer 2005, donors had provided less than 20 percent of the total funding that the United Nations World Food Programme needs to provide an adequate amount of food for the people of southern Africa;

Whereas, due to increasingly severe drought conditions, the number of people who are in need of food aid in southern Africa increased from 3,500,000 people in the beginning of 2005 to 8,300,000 people by the summer of 2005, of which 4,000,000 are located in Zimbabwe, 1,600,000 in Malawi, 1,200,000 in Zambia, 900,000 in Mozambique, 245,000 in Lesotho, 230,000 in Swaziland, and 60,000 in Nambia;

Whereas international donors determined that hunger and poverty in Zimbabwe are largely attributed to the political corruption of the governmental structure in the country;

Whereas the United Nations World Food Programme and the World Bank proposed using aid to fund innovative weather and famine insurance policies that could protect small farmers from hardships suffered as a result of droughts and natural disasters;

Whereas food insecurity, the HIV/AIDS pandemic, and weak government institutions leave countries more vulnerable to external shocks and internal political unrest; and

Whereas the Bill Emerson Humanitarian Trust was established solely to meet emergency humanitarian food needs in developing countries: Now, therefore, be it

Resolved, That—

(1) the Senate—

(A) encourages expanded efforts to alleviate hunger throughout developing countries; and

(B) pledges to continue to support international hunger relief efforts; and

(2) it is the sense of the Senate that—

(A) the United States Government should use financial and diplomatic resources to work with other donors to ensure that food aid programs receive all necessary funding and supplies; and

(B) food aid should be provided in conjunction with measures to alleviate hunger, malnutrition, and poverty.

SENATE RESOLUTION 228—EXPRESSING THE SENSE OF THE SENATE THAT IT SHOULD BE A GOAL OF THE UNITED STATES TO REDUCE THE AMOUNT OF OIL PROJECTED TO BE IMPORTED IN 2025 BY 40 PERCENT AND THAT THE PRESIDENT SHOULD TAKE MEASURES TO REDUCE THE DEPENDENCE OF THE UNITED STATES ON FOREIGN OIL

Ms. CANTWELL submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. RES. 228

Whereas reports by the Energy Information Administration entitled ''Annual Energy Outlook 2005'' and ''May 2005 Monthly Energy Review'' estimated that, between January 1, 2005 and April 30, 2005, the United States imported an average of 13,056,000 barrels of oil per day and that, by 2025, the United States will import 19,110,000 barrels of oil per day;

Whereas technology solutions already exist to dramatically increase the productivity of the energy supply of the United States;

Whereas energy efficiency and conservation measures can improve the economic competitiveness of the United States and lessen energy costs for families in the United States;

Whereas the dependence of the United States on foreign oil imports leaves the United States vulnerable to oil supply shocks and reliant on the willingness of other countries to provide sufficient supplies of oil;

Whereas, although only 3 percent of proven oil reserves in the world are located in territory controlled by the United States, advances in fossil fuel extraction techniques and technologies could increase the United States energy supplies; and

Whereas reducing energy consumption also benefits the United States by lowering the environmental impacts associated with fossil fuel use: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) it should be a goal of the United States to reduce the amount of foreign oil that will be imported in 2025 by 40 percent from the amount the Energy Information Administration estimates will be imported in 2025;

(2) the President should take measures to reduce the dependence of the United States on foreign oil by—

(A) not later than 1 year after the date of passage of this resolution, and every 2 years thereafter—

(i) developing and implementing measures to reduce dependence on foreign oil by reducing oil in end-uses throughout the economy of the United States sufficient by 2015 to reduce by 1,000,000 barrels per day the total demand for oil in the United States projected for such year in the Reference Case in the Annual Energy Outlook 2005 report published by the Energy Information Administration; and

(ii) developing and implementing measures to reduce dependence on foreign oil by reducing oil in end-uses throughout the economy of the United States sufficient by 2025 to reduce by 7,640,000 barrels per day the total demand for oil in the United States projected for such year in the Reference Case in the Annual Energy Outlook 2005 report published by the Energy Information Administration; or

(B) if the President determines that there are insufficient legal authorities to achieve the target for 2025, developing and implementing measures to reduce dependence on foreign oil by—

(i) reducing oil in end-uses throughout the economy of the United States to the maximum extent practicable; and

(ii) submitting to Congress proposed legislation or other recommendations to achieve the target;

(3) in developing measures under paragraph (2), the President should—

(A) ensure continued reliable and affordable energy for the United States, consistent with the creation of jobs and economic growth and maintaining the international competitiveness of businesses in the United States, including the manufacturing sector; and

(B) implement measures under paragraph (2) under existing authorities of the appropriate Federal agencies, as determined by the President;

(4) not later than 1 year after the date of passage of this resolution, and annually thereafter, the President should submit to Congress a report, based on the most recent edition of the Annual Energy Outlook published by the Energy Information Administration, that assesses the progress made by the United States toward the goal of reducing dependence on foreign oil imports by 2025, including by—

(A) identifying the status of efforts to meet the goal described in paragraph (1);

(B) assessing the effectiveness of any measure implemented under paragraph (2) during the previous fiscal year in meeting the goal described in paragraph (1); and

(C) describing plans to develop additional measures to meet the goal described in paragraph (1).

SENATE RESOLUTION 229—DESIGNATING THE MONTH OF SEPTEMBER 2005 AS ''NATIONAL PREPAREDNESS MONTH''

Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 229

Whereas terrorist attacks, natural disasters, or other emergencies could strike any part of the United States at any time;

Whereas natural and man-made emergencies disrupt hundreds of thousands of lives every year, costing lives and causing serious injuries and billions of dollars in property damage;

Whereas Federal, State, and local officials and private entities are working to deter, prevent, and respond to all types of emergencies;

Whereas all citizens can help promote the overall emergency preparedness of the United States by preparing themselves and their families for all types of emergencies;

Whereas National Preparedness Month provides an opportunity to highlight the importance of public emergency preparedness and to encourage the people of the United States to take steps to be better prepared for emergencies at home, work, and school;

Whereas the people of the United States can prepare for emergencies by taking steps such as assembling emergency supply kits, creating family emergency plans, and staying informed about possible emergencies; and

Whereas additional information about public emergency preparedness may be obtained through the Ready Campaign of the Department of Homeland Security at www.ready.gov or the American Red Cross at www.redcross.org/preparedness: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 2005 as ''National Preparedness Month''; and

(2) encourages the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to observe ''National Preparedness Month'' with appropriate events and activities to promote public emergency preparedness.

Ms. COLLINS. Mr. President, I rise today to express my support for S. 229, a resolution designating September 2005 as National Preparedness Month.

As the horrific attacks in London again demonstrate, the threat of a terrorist attack is very real. Although we have made significant strides in preventing and deterring another attack from occurring in the United States, it is imperative that steps be taken to mitigate the effects of the attack. In addition, natural disasters can strike at any given moment and we must know how to respond.

During the month of September, the Department of Homeland Security and the American Red Cross will co-sponsor National Preparedness Month 2005. This nationwide effort will involve more than 130 private sector organizations that will host and sponsor activities across the Nation to increase public awareness of preparedness. Activities such as CPR and first aid classes, blood drives, and other events is a simple and effective way for communities to become involved in preparedness efforts. Families, schools, and businesses can prepare for emergencies by taking steps such as making emergency supply kits, becoming informed about emergencies, and creating a family communications plan.

I join Senator LIEBERMAN in cosponsoring this resolution to promote citizen emergency preparedness. I hope that my colleagues will join us by supporting this important initiative.

SENATE RESOLUTION 230—DESIGNATING SEPTEMBER 2005 AS ''NATIONAL PROSTATE CANCER AWARENESS MONTH''

Mr. SESSIONS (for himself, Mr. REID, Mr. SHELBY, Mr. CORZINE, Mr. BUNNING, Ms. LANDRIEU, Mr. HATCH, Ms. CANTWELL, Mr. CRAPO, Mrs. FEINSTEIN, Mr. LOTT, and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. RES. 230

Whereas countless families in the United States have a family member that suffers from prostate cancer;

Whereas 1 in 6 men in the United States is diagnosed with prostate cancer;

Whereas throughout the past decade, prostate cancer has been the most commonly diagnosed type of cancer other than skin cancer and the second most common cause of cancer-related deaths among men in the United States;

Whereas, in 2005, more than 232,090 men in the United States will be diagnosed with prostate cancer and 30,350 men in the United States will die of prostate cancer according to estimates from the American Cancer Society;

Whereas 30 percent of the new diagnoses of prostate cancer occur in men under the age of 65;

Whereas a man in the United States turns 50 years old about every 14 seconds, increasing his odds of being diagnosed with prostate cancer;

Whereas African American males suffer from prostate cancer at an incidence rate up to 65 percent higher than white males and at a mortality rate double that of white males;

Whereas obesity is a significant predictor of the severity of prostate cancer and the chance that the disease will lead to death;

Whereas if a man in the United States has 1 family member diagnosed with prostate cancer, he has double the risk of prostate cancer, if he has 2 family members with such diagnosis, he has 5 times the risk, and if he has 3 family members with such diagnosis, he has a 97 percent risk of prostate cancer;

Whereas screening by both a digital rectal examination (DRE) and a prostate specific antigen blood test (PSA) can detect prostate cancer in earlier and more treatable stages and reduce the rate of mortality due to the disease;

Whereas ongoing research promises further improvements in prostate cancer prevention, early detection, and treatments; and

Whereas educating people in the United States, including health care providers, about prostate cancer and early detection strategies is crucial to saving the lives of men and preserving and protecting our families: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 2005 as ''National Prostate Cancer Awareness Month'';

(2) declares that it is critical to—

(A) raise awareness about the importance of screening methods and the treatment of prostate cancer;

(B) increase research funding to be proportionate with the burden of prostate cancer so that the causes of the disease, improved screening and treatments, and ultimately a cure may be discovered; and

(C) continue to consider methods to improve both access to and the quality of health care services for detecting and treating prostate cancer; and

(3) calls on the people of the United States, interested groups, and affected persons to—

(A) promote awareness of prostate cancer;

(B) take an active role in the fight to end the devastating effects of prostate cancer on individuals, their families, and the economy; and

(C) observe September 2005 with appropriate ceremonies and activities.

SENATE RESOLUTION 231—ENCOURAGING THE TRANSITIONAL NATIONAL ASSEMBLY OF IRAQ TO ADOPT A CONSTITUTION THAT GRANTS WOMEN EQUAL RIGHTS UNDER THE LAW AND TO WORK TO PROTECT SUCH RIGHTS

Ms. LANDRIEU (for herself, Ms. MURKOWSKI, Ms. CANTWELL, Mrs. FEINSTEIN, Ms. MIKULSKI, Mrs. MURRAY, Ms. SNOWE, Mrs. CLINTON, Ms. COLLINS, Mr. BIDEN, Ms. STABENOW, Mrs. HUTCHISON, Mrs. BOXER, Mr. LIEBERMAN, Mr. OBAMA, Mr. SCHUMER, Mrs. DOLE, Mr. LAUTENBERG, Mr. LEAHY, Mr. ALLEN, Mrs. LINCOLN, and Mr. SANTORUM) submitted the following resolution; which was considered and agreed to:

S. RES. 231

Whereas Iraq is a sovereign nation and a party to the International Covenant on Civil and Political Rights, done at New York December 16, 1966, and entered into force March 23, 1976;

Whereas in Iraq's January 2005 parliamentary elections, more than 2,000 women ran for office and currently 31 percent of the seats in Iraq's National Assembly are occupied by women;

Whereas women lead the Iraqi ministries of Displacement and Migration, Communications, Municipalities and Public Works, Environment, and Science and Technology;

Whereas the Transitional Administrative Law provides for substantial participation of women in the Iraqi National Assembly and of personnel in all levels of the government;

Whereas the Personal Status Law provides for family and property rights for women in Iraq;

Whereas through grants funded by the United States Government's Iraqi Women's Democracy Initiative, nongovernmental organizations are providing training in political leadership, communications, coalition-building skills, voter education, constitution drafting, legal reform, and the legislative process;

Whereas a 275-member Transitional National Assembly, which is charged with the responsibility of drafting a new constitution, was elected to serve as Iraq's national legislature for a transition period.

Whereas Article 12 of Iraq's Transitional Administrative Law states that ''[a]ll Iraqis [are] equal in their rights without regard to gender . . . and they are equal before the law'';

Whereas Article 12 of the Transitional Administrative Law further states that ''[d]iscrimination against an Iraqi citizen on the basis of his gender . . . is prohibited'';

Whereas on May 10, 2005, Iraq's National Assembly appointed a committee, composed of Assembly members, to begin drafting a constitution for Iraq that will be subject to the approval of the Iraqi people in a national referendum;

Whereas the Senate recognizes the need to affirm the spirit and free the energies of women in Iraq who have spent countless hours, years, and lifetimes working for the basic human right of equal constitutional protection;

Whereas the Senate recognizes the risks Iraqi women have faced in working for the future of their country and admire their courageous commitment to democracy; and

Whereas the full and equal participation of all Iraqi citizens in all aspects of society is essential to achieving Iraq's democratic and economic potential: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Iraqi people for the progress achieved toward the establishment of a representative democratic government;

(2) recognizes the importance of ensuring women in Iraq have equal rights and opportunities under the law and in society and supports continued, substantial, and vigorous participation of women in the Iraqi National Assembly and in all levels of the government;

(3) recognizes the importance of ensuring women's rights in all legislation, with special attention to preserving women's equal rights under family, property, and inheritance laws;

(4) strongly encourages Iraq's Transitional National Assembly to adopt a constitution that grants women equal rights and opportunities under the law and to work to protect such rights;

(5) pledges to support the efforts of Iraqi women to fully participate in a democratic Iraq; and

(6) wishes the Iraqi people every success in developing, approving, and enacting a new

constitution that ensures the civil and political rights of every citizen without reservation of any kind based on gender, religion, or national or social origin.

SENATE RESOLUTION 232—CELEBRATING THE 40TH ANNIVERSARY OF THE ENACTMENT OF THE VOTING RIGHTS ACT OF 1965 AND REAFFIRMING THE COMMITMENT OF THE SENATE TO ENSURING THE CONTINUED EFFECTIVENESS OF THE ACT IN PROTECTING THE VOTING RIGHTS OF ALL CITIZENS OF THE UNITED STATES

Mr. KENNEDY (for himself, Mr. REID, Mr. LEAHY, Mr. FEINGOLD, Mr. DURBIN, Mr. KOHL, Mr. JEFFORDS, Mr. LAUTENBERG, Mr. BIDEN, Mr. LEVIN, Ms. MIKULSKI, Ms. LANDRIEU, Mr. OBAMA, Mr. SCHUMER, Mr. KERRY, and Mr. SPECTER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 232

Whereas brave people in the United States, known and unknown, of different races, ethnicities, and religions, risked their lives to stand for political equality and against racial discrimination in a quest culminating in the passage of the Voting Rights Act of 1965;

Whereas numerous individuals paid the ultimate price in pursuit of political equality, while demanding that the United States enforce the guarantees enshrined in the 14th and 15th amendments to the Constitution;

Whereas, on March 7, 1965, a day that would come to be known as ''Bloody Sunday'', the historic struggle for equal voting rights led nonviolent civil rights marchers to gather on the Edmund Pettus Bridge in Selma, Alabama where the bravery of such individuals was tested by a brutal response from State and local authorities, which in turn sent a clarion call to the people of the United States that the fulfillment of democratic ideals could no longer be denied;

Whereas 8 days after Bloody Sunday, President Lyndon B. Johnson called for a comprehensive and effective voting rights bill as a necessary response by Congress and the President to the interference and violence, in violation of the 14th and 15th amendments to the Constitution, encountered by African-American citizens when attempting to protect and exercise the right to vote;

Whereas a bipartisan Congress approved the Voting Rights Act of 1965 and, on August 6, 1965, President Lyndon B. Johnson signed this landmark legislation into law;

Whereas the Voting Rights Act of 1965 stands as a tribute to the heroism of countless individuals and enactment of the Act was one of the most important civil rights victories in the history of the United States, enabling political empowerment and voter enfranchisement for all citizens of the United States;

Whereas the Voting Rights Act of 1965 effectuates the permanent guarantee of the 15th amendment that ''the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude'';

Whereas the Voting Rights Act of 1965 was amended in 1975 to facilitate equal political opportunity for language-minority citizens and was amended in 1982 to protect the rights of voters with disabilities;

Whereas the Voting Rights Act of 1965 has helped advance the true spirit of democracy in the United States by encouraging political participation by all citizens and ensuring for voters the ability to elect representatives in Federal, State, and local governments;

Whereas the Voting Rights Act of 1965 has increased voter registration among racial, ethnic, and language minorities, as well as enhanced the ability of citizens in those minority groups to participate in the political process and to elect minority representatives to public office, resulting in 81 African-American, Latino, Asian, and Native American Members of Congress and thousands of minority State and local officials across the United States;

Whereas despite the noteworthy progress from 40 years of enforcement of the Voting Rights Act of 1965, voter inequities, disparities, and obstacles still remain for far too many minority voters and serve to demonstrate the ongoing importance of the Voting Rights Act of 1965;

Whereas the Voting Rights Act of 1965 provides extensive voter protections, such as equipping voters with the means to challenge election laws that result in a denial or abridgement of voting rights on account of race, color, or language minority status (in section 2 of such Act), eliminating literacy tests nationwide (in section 201 of such Act), requiring Federal approval before jurisdictions with a history of practices that restrict minority voting rights may implement changes in voting practices and procedures (in section 5 of such Act), providing the Department of Justice with the authority to appoint Federal election monitors and observers to ensure that elections are conducted free from discrimination and intimidation (in sections 6 through 9 of such Act), and mandating language assistance and translated voting materials in jurisdictions with substantial concentrations of language minorities (in section 203 of such Act);

Whereas several of these provisions of the Voting Rights Act of 1965 will expire in August 2007 unless Congress acts to preserve and reauthorize them;

Whereas it is vital to democracy in the United States, and to the efforts of the United States to promote democracy abroad, that the provisions of the Voting Rights Act of 1965 are fully effective to prevent discrimination and dilution of the equal rights of minority voters;

Whereas, in 2005, the year marking the 40th anniversary of the Voting Rights Act of 1965, people in the United States must applaud the substantial progress that has been made in protecting the right to vote, but also continue efforts to ensure fairness and equal access to the political process in order to protect the rights of every citizen of the United States; and

Whereas the Voting Rights Act of 1965 has been widely hailed as the single most important civil rights law passed in the history of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) observes and celebrates the 40th anniversary of the enactment of the Voting Rights Act of 1965;

(2) reaffirms its commitment to advancing the legacy of the Voting Rights Act of 1965 to ensure the continued effectiveness of the Act in protecting the voting rights of all citizens of the United States; and

(3) encourages the people of the United States to celebrate the 40th anniversary of the Voting Rights Act of 1965.

Mr. KENNEDY. Mr. President, 40 years ago, after the Selma-Montgomery march, many of us in the Senate and House worked hard to pass the landmark Voting Rights Act of 1965, to guarantee that racism and its bitter legacy would never again close the polls to any citizen. The failure to ensure voting rights regardless of race or national origin was a national shame, which was finally addressed in this long overdue bill. As we look toward August 6, the 40th anniversary of the Civil Rights Act, we must recall the sacrifices of those who worked tirelessly to ensure that all Americans have access to the ballot, regardless of race.

All of us are grateful for those sacrifices, which forced America to live up to its highest ideals, the ideal of equality and justice for all. And when we say all, we mean all. I want to thank my friend and colleague Congressman JOHN LEWIS for his leadership and his courage in joining Dr. Martin Luther King and so many others on the march across Selma's Pettus Bridge to demonstrate the need for voting rights. Those who marched and endured hatred and violence provided the guiding light for Congress. As we celebrate the Voting Rights Act, we also celebrate their contributions.

This celebration must also be a wake up call to remind us of the need to strengthen and reauthorize the provisions of the Voting Rights Act that are scheduled to expire in 2007. We must reauthorize section 5, which provides for Federal oversight of voting changes in—areas where a history of discrimination has limited the right to vote. We must also reauthorize Section 203, which provides for bi-lingual elections in areas where necessary, to ensure that American citizens can vote, even if they have limited English proficiency.

I look forward to working with my colleagues in both the House and Senate, and on both sides of the aisle, on this important issue.

SENATE CONCURRENT RESOLUTION 49—EXPRESSING THE SENSE OF THE CONGRESS WITH RESPECT TO THE IMPORTANCE OF MEDICAID IN THE HEALTH CARE SYSTEM OF OUR NATION

Mr. KENNEDY (for himself, Mr. ROCKEFELLER, Mr. BAUCUS, Mr. BINGAMAN, Mr. REID, Mr. DURBIN, Ms. STABENOW, Mrs. MURRAY, Mr. CORZINE, Mr. SCHUMER, Mr. JEFFORDS, Mr. OBAMA, Ms. LANDRIEU, Mr. HARKIN, Mr. REED, Mr. SARBANES, Mr. KOHL, Mr. DORGAN, Ms. CANTWELL, Mrs. CLINTON, Mr. WYDEN, Mr. FEINGOLD, Mr. NELSON of Florida, Mrs. FEINSTEIN, Mr. BIDEN, Mr. DAYTON, Mr. LEVIN, Mr. KERRY, Mr. JOHNSON, Mrs. LINCOLN, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. SALAZAR, Mrs. BOXER, Mr. PRYOR, Mr. DODD, Mr. BAYH, Mr. LIBERMAN, Mr. CONRAD, Mr. INOUYE, Mr. AKAKA, Mr. LEAHY, Mr. BYRD, and Mr. CARPER) submitted the following concurrent resolution; which was referred to the Committee on Finance.

S. CON. RES. 49

Whereas Medicaid was signed into law by President Lyndon B. Johnson in Independence, Missouri, on July 30, 1965, as title XIX of the Social Security Act;

Whereas under the Social Security Act, two programs were established to provide health insurance: Medicare for the elderly and Medicaid for the poor;

Whereas Medicaid is one of the Nation's major public health insurance programs, providing health and long-term care for more than 58 million Americans, including children, pregnant women, individuals with disabilities, and the elderly who are poor and frail;

Whereas Medicaid serves in a counter-cyclical role during economic downturns and during the recent economic slump between 2001 and 2002, Medicaid enrollment grew by three million people who, if not for Medicaid, would have become uninsured;

Whereas Medicaid is the most efficient payor in the market such that the average growth rate for Medicaid costs was nearly 7 percent per enrollee, substantially lower than the 12.6 percent growth in employer-sponsored insurance premiums from 2000 to 2003;

Whereas Medicaid provides health coverage to more than one in four of the Nation's children and those children represent nearly half of all Medicaid enrollees;

Whereas studies have found that children enrolled in public health insurance programs experienced substantial improvement in school attendance and behavior and increased engagement in normal childhood activities;

Whereas Medicaid is an important source of health care coverage for women in general, and low-income women in particular, in that women are twice as likely to qualify for Medicaid than men, women constitute over 70 percent of the adult beneficiaries, and one in five low-income women are covered by Medicaid;

Whereas Medicaid plays a particularly critical role for women of childbearing age in that Medicaid is the primary provider of necessary prenatal care for low-income pregnant women and covers nearly 40 percent of all births in the United States;

Whereas Medicaid is an important source of financial help for more than 7 million Medicare beneficiaries living in poverty by paying their Medicare premiums and cost sharing, and covering the costs of other essential services not provided by Medicare, such as dental care, long-term care, and vision care;

Whereas Medicaid is a lifeline for individuals living with disabilities, providing health insurance coverage to approximately eight million, or one-in-five, noninstitutionalized, non-elderly people who have specific, chronic disabilities, and is often the only source of health care for individuals with spinal cord injury, mental illness, and other disabling conditions such as cerebral palsy, cystic fibrosis, Downs syndrome, mental retardation, muscular dystrophy, autism, spina bifida, and HIV/AIDS;

Whereas Medicaid reduces disparities in health care delivery to racial and ethnic minorities, who make up approximately one-third of the total United States population but constitute more than half of those who receive health care through Medicaid and, without Medicaid, racial and ethnic minorities would make up a disproportionate number of Americans who are uninsured;

Whereas Medicaid plays a critical role in ensuring that Americans living in rural areas receive health care insofar as residents in rural counties are 50 percent more likely to have Medicaid coverage than residents in urban counties and Medicaid covers nearly 30 percent of children in rural areas compared to less than 19 percent of children in urban areas; and

Whereas Medicaid's protection against high out-of-pocket expenses for vulnerable, low-income Americans has encouraged and increased access to necessary health care and more than 40 percent of low-income adults who are under the age of 65, when forced to pay cost sharing, will choose to forego medical visits for clinically effective health care and low-income children receive 44 percent fewer clinically effective health care services: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) over the past four decades Medicaid has been a core component of the American health system;

(2) Medicaid has ensured that the vast majority of Medicaid beneficiaries did not join the ranks of the current 45 million Americans with no health insurance; and

(3) Congress must continue and strengthen the State-Federal partnership that provides this vital health insurance program.

Mr. KENNEDY. Mr. President, this Saturday marks the 40th anniversary of Medicaid. Over the past 4 decades, Medicaid has provided quality health care to millions of the most vulnerable members of our society—low-income children and parents, pregnant women, disabled persons, and senior citizens. While anniversary should be a time to celebrate the progress we have made in improving the health of those who are less fortunate—but instead, we find ourselves defending the program against harsh cuts that will destroy the health security of many of our fellow citizens.

Medicaid has served the Nation well over the past 40 years. It provides a critical safety net for those with nowhere else to turn for health care. The majority of Medicaid beneficiaries are too poor or too sick to buy coverage in the private market. Many have disabilities or multiple chronic conditions, or need long-term care. Others have severe mental health problems. More than 50 million people receive health coverage under Medicaid today, and most of them would be uninsured and uninsurable without it. States have significant flexibility to design Medicaid programs that meet the needs of their residents, with important Federal oversight to make sure that minimal standards are maintained.

Today, Medicaid covers nearly 40 percent of all births. It provides health coverage for one in four children. It's Early and Periodic Screening, Diagnosis, and Treatment benefit has been a success in making sure that children receive the care they need.

Medicaid also provides prenatal care for many low-income women, and it fills in the gaps in coverage for low-income seniors and disabled persons, covering long-term care services that are not covered by Medicare. It is also a major source of coverage for mental health and substance abuse care and is the largest payer of services for AIDS patients.

Medicaid enrollment has grown rapidly over the past few years as more and more Americans not only lost their jobs but lost the health care their employers offered. Low-income working families increasingly lost coverage as employers dropped coverage or couldn't afford it, because health costs soared while wages stagnated. It's true that Medicaid costs have risen over the past few years, but this growth is driven primarily by increased need. Medicaid does its job well—responding to economic downturns and providing a health safety net for those with nowhere else to turn.

Yet Medicaid is once again under attack by some who want to undermine the progress we have made. This year's budget mandates mean-spirited cuts in the program under the guise of balancing the budget, even though the very same budget includes large new tax breaks for the wealthy. These cuts were ordered even though a bipartisan majority of Senators voted against them.

Any changes in Medicaid should be made to improve the care offered to its beneficiaries, not to pay for even greater tax breaks for the wealthy. We need to consider ways to improve Medicaid and make it function more effectively, and we can't accept reforms that do otherwise. Cutting benefits or increasing costs for the poor will keep them from getting the care they need, and cost the Nation far more in the long-run.

Cutting health care for those who rely on Medicaid has real consequences. We know what limiting their access to care will do: it will result in more pain and suffering; it will lead to more deaths because treatable diseases will be diagnosed too late; it will lead to emergency rooms overcrowded with patients with no where else to turn; and it will lead to increased costs for those with health insurance, as they are charged more to make up for the cost of covering those with no insurance.

I look forward to celebrating many more Medicaid anniversaries. My hope is that we will continue to improve and modernize the program, not abandon it. We need to make it work for those it serves, especially the millions of low-income children who will grow up to healthy adults tomorrow, because we kept the faith with Medicaid today.

Mr. CORZINE. Mr. President, tomorrow marks the 40th Anniversary of the Medicare and Medicaid programs. On July 30, 1965, President Lyndon Baines Johnson traveled to Independence, MO to sign the Medicare and Medicaid programs into law. That day, President Johnson signed a contract with the citizens of this country. The contract states that our Nation recognizes that health care is a fundamental human right and that a just society will marshal resources to provide basic medical care for those most in need. Forty years later, the Medicare and Medicaid programs continue to abide by that contract, providing government safety nets that keep the elderly, disabled, and economically disadvantaged from falling into the ranks of the uninsured.

In passing legislation to establish the Medicare program, Members of this

body took a courageous step by guaranteeing health insurance coverage to seniors and people with disabilities—regardless of a person's income and regardless of a person's illness. Medicare is a commitment to America's seniors that if you are over 65 or disabled, no matter what your income, we will stand by you and you will get the health care you need.

Before the Medicare program was established, nearly 50 percent of seniors lived their golden years without health coverage. Seniors were forced to choose between a trip to the grocery store and a visit to the doctor's office. Today, because of Medicare, 98 percent of older Americans have access to and can afford to get the medical care they need. Of the forty-two million Americans currently covered by Medicare, including 35 million seniors and 6 million people with disabilities or end-stage renal disease, 1.3 million live in my home State of New Jersey. I've spoken with many of those beneficiaries from throughout my State and it's clear there is great uncertainty about what the future of Medicare holds for beneficiaries.

On the 40th Anniversary of the Medicare program, we should be cheering the dramatic impact Medicare has had on the health and wellbeing of this country. Yet, I would be remiss if I failed to mention the real fear I have that Medicare beneficiaries will be in for a rude awakening early next year. This coming January, a prescription drug benefit will be added to the Medicare program. Since the day I joined the Senate, I consistently supported ensuring seniors access to affordable prescription drugs by adding prescription drug coverage to Medicare. In June, 2003, I was one of 76 Senators to vote to pass legislation to establish a comprehensive, affordable prescription drug benefit under Medicare. While bill was not perfect, on the whole the legislation would have been good for Medicare beneficiaries in New Jersey and those across the Nation. Yet, Mr. President, the bill that came back from House-Senate conference and was ultimately signed by the President does more harm than good.

For most New Jersey beneficiaries, the prescription drug plan set to take effect January 1, 2006 is neither affordable, nor comprehensive. It will cost seniors $3600 for $5,000 in drug benefits, will result in over 90,000 New Jersey retirees losing their drug coverage from their former employers, and could force nearly 200,000 New Jersey seniors out of Medicare as they know it into private HMOs.

Most troubling is the impact that the prescription drug plan will have on low and middle income beneficiaries in my state. My colleague Senator LAUTENBERG and I worked hard to save New Jersey's PAAD and Senior Gold programs—which the original Republican plan would have scrapped. But unlike New Jersey's PAAD and Senior Gold programs, the Medicare plan will have drug formularies that will restrict seniors' access to certain drugs. This means that a senior in PAAD or Senior Gold who now has complete prescription drug access may face limited drug access or substantially higher costs for their drugs.

One of the few bright spots that came of the Medicare prescription drug bill is the establishment of a ''Welcome to Medicare'' physical exam for new beneficiaries. For the majority of Medicare beneficiaries, this program has been a treatment program, not a preventive health program. Instead of covering preventive services like colonoscopy, cardiovascular screenings, and wellness programs that keep beneficiaries healthy, Medicare has traditionally focused more on treating the patient once he or she gets sick. We need to continue to promote prevention, instead of just reacting to illness, under the program. Not only will a focus on prevention keep our beneficiaries healthier and more independent, but the imminent retirement of the baby boom generation will continue to drive the costs of the program higher. The simplest way to constrain Medicare spending while also keeping Americans in their home and out of the hospital is to advance the program's focus on providing coverage of preventive health services.

I have no doubt that expanding Medicare coverage to include preventive measures will continue to improve the health and wellbeing beneficiaries. On the whole, however, I have grave reservations about the impact that the new prescription drug plan will have on what has, for 40 years, been a reliable and affordable health coverage program for this country's elderly and disabled citizens. One of the guiding principles of health care is, ''do no harm.'' My real fear is that the prescription drug plan will seriously undermine the Medicare program by shifting costs and limiting access to lifesaving services. These terms were not part of the contract President Johnson signed to establish Medicare.

Forty years ago, along with the Medicare program, President Johnson signed legislation establishing Medicaid. This health insurance program was designed to keep the Nation's most vulnerable populations—the poorest and sickest, from falling onto the rolls of the uninsured. Medicaid is based on the proposition that the health of a nation should be judged by the health of its people. For the last 40 years, Medicaid has provided health care for 105 million Americans with disabilities, working families, the elderly, children, and pregnant women. The success of this federal-state partnership is a tribute to President Johnson and the members of Congress who were brave enough to recognize that, in the world's richest country, basic medical care should be a right, not a privilege.

The Medicaid program has grown and evolved from a safety net program to the primary source of care for millions of Americans. Today, Medicaid provides vital health care services more than 53 million Americans. For millions of low-income children and families, including 500,000 children in New Jersey, Medicaid covers primary and preventive health care services that they otherwise could not afford. Medicaid provides crucial primary care health services for children with disabilities. And as my colleagues know, Medicaid is the Nation's largest payer of nursing home and other long-term care services. The amazing thing about Medicaid is the fact that the program covers people who can't get health coverage anywhere else, and it does so at a fraction of the cost of other programs. A recent study found that the cost of serving an adult in Medicaid in 2001 was about 30 percent lower than if that same person were instead covered by private health insurance. And Medicaid spends about half as much on administrative costs as private insurance. In 2003, only 6.9 percent of Medicaid costs were administrative expenses compared to 13.6 percent for private insurance. It is truly remarkable that Medicaid is able to do so much for so many Americans.

As we take time to celebrate the dramatic success Medicaid has had in covering our most vulnerable populations, we must be cognizant that there is much more to do and that the program itself is vulnerable. Clearly, Medicaid does a remarkable job covering Americans who would otherwise be uninsured, but the reach of the program is becoming more and more limited. Forty-five million Americans were uninsured at some point during the past year. For many of these Americans, their primary source of care is hospital emergency rooms. Many could have been kept out of the hospital emergency room if they had access to basic health services under Medicaid, and this could have been achieved at a fraction of the cost. Yet, arguing that the program is rife with waste, fraud, and abuse, Republicans passed a budget earlier this year that cuts $10 billion out of the Medicaid program. Clearly, there's always room for improvement, and I don't think there is a member of this body who believes we shouldn't rid the program of any waste, fraud, and abuse that exists. However, I have seen no credible evidence to convince me that there is $10 billion in savings to be had from such efforts. Instead the evidence suggests that $240 million of the $10 billion in cuts will come directly from the New Jersey Medicaid program. For $240 million, New Jersey could cover 100,000 more children, 17,000 more seniors, or 12,000 more residents with disabilities. Instead of expanding the Medicaid program to these populations, the $10 billion in cuts will likely come at the expense of beneficiaries—pregnant women, children, and people with disabilities—people who rely on the program for their basic medical needs.

Dramatic changes to Medicaid based not on sound public policy but on

achieving $10 billion in savings would be a grave mistake. It would be a huge step backward for Medicaid beneficiaries in New Jersey or across the country. It simply is not possible to cut $10 billion from the Medicaid program without chipping away at the foundation on which the program is based. Make no mistake about it, in a federal-state partnership such as this, cutting $10 billion from Medicaid means taking $10 billion away from the States ability to cover their uninsured. It means that States will be left with the tough choices of decreasing reimbursements to providers, eliminating services like prescription drugs and specialized services for the mentally ill, or raising taxes to preserve these services.

The most egregious aspect of the proposed Medicaid cuts is that these cuts come in a budget that includes the $204 billion cost of making permanent the President's tax cuts for millionaires. How do we, as legislators, look hard-working Americans in the eye and tell them honestly that we can't afford $10 billion for health coverage for low-income Americans, but we can afford $204 billion in tax breaks for the most well-off? Is this the same legislative body that recognized the social value of offering a helping hand to those who could otherwise not help themselves? Instead of tax cuts for those Americans least in need of tax cuts, we should be preserving and expanding access to health care for our Nation's most vulnerable by maintaining our Federal obligation to the States to pay our fair share for these services.

As we celebrate the 40th anniversary of Medicare and Medicaid, we must recognize that some of those who have urged the dismantling of these programs are the same people who argue that these programs are the epitome of big government run amuck. On the contrary, Medicare and Medicaid are government at its finest. For 40 years, these programs have been examples of government up to the plate to provide a lifeline for citizens who would otherwise fall through the cracks of society. On July 30, 1965, Medicare and Medicaid were the vision of a stronger, healthier, more prosperous America. We must continue to share this vision today, as we have for the past 40 years.

SENATE CONCURRENT RESOLUTION 50—EXPRESSING THE SENSE OF CONGRESS CONCERNING THE VITAL ROLE OF MEDICARE IN THE HEALTH CARE SYSTEM OF OUR NATION OVER THE LAST 40 YEARS

Ms. STABENOW (for herself, Mr. REID, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. KENNEDY, Mr. BINGAMAN, Mr. DURBIN, Mrs. MURRAY, Mr. CORZINE, Mr. SCHUMER, Mr. JEFFORDS, Mr. OBAMA, Ms. LANDRIEU, Mr. HARKIN, Mr. REED, Mr. SARBANES, Mr. KOHL, Mr. DORGAN, Ms. CANTWELL, Mrs. CLINTON, Mr. WYDEN, Mr. FEINGOLD, Mr. NELSON of Florida, Mrs. FEINSTEIN, Mr. BIDEN, Mr. DAYTON, Mr. LEVIN, Mr. KERRY, Mr. JOHNSON, Mrs. LINCOLN, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. SALAZAR, Mrs. BOXER, Mr. PRYOR, Mr. DODD, Mr. BAYH, Mr. LIEBERMAN, Mr. CONRAD, Mr. INOUYE, Mr. AKAKA, Mr. LEAHY, Mr. BYRD, and Mr. CARPER) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 50

Whereas Medicare was signed into law by President Lyndon B. Johnson in Independence, Missouri, on July 30, 1965, as title XVIII of the Social Security Act;

Whereas Medicare was created to provide health insurance to the elderly in part because only about half of the elderly population had health insurance;

Whereas Medicare continues to achieve its purpose of improving health and financial security for Medicare beneficiaries by assuring access to affordable health care and contributing to the significant decrease in the poverty rate among the elderly, which has fallen from nearly 30 percent in 1966 to approximately 10 percent in 2002;

Whereas Medicare played a fundamental role, together with the Civil Rights Act of 1964, in desegregating the American health care system by assuring access to care, regardless of race or age;

Whereas Medicare has contributed to improvements in life expectancy for persons over 65 years of age;

Whereas Medicare began with 19 million beneficiaries, and since then has provided health care services for approximately 105 million beneficiaries over the last 40 years;

Whereas Medicare today provides comprehensive health insurance for nearly 42 million Americans, which includes more than 35 million senior citizens and 6 million people under 65 years of age who are permanently disabled or living with end stage renal disease, and by 2030 the number of Americans who will rely on Medicare for their health care is expected to reach 78 million, which is nearly double the number today;

Whereas Medicare ensures coverage along a continuum of health care settings such as inpatient hospital care, physician and outpatient hospital care, and other post-hospitalization benefits such as home health care, skilled nursing facility services, and hospice care;

Whereas Medicare has evolved over time to help beneficiaries maintain their health, prevent disease and injury, and to provide better benefits, including more preventive care, such that Medicare, which covered about 42 percent of expenditures for the elderly in 1968, covered approximately 55 percent of expenditures by 1997;

Whereas Medicare serves a diverse population of beneficiaries with complex health care needs—71 percent of beneficiaries have two or more chronic health conditions, 29 percent are in fair to poor health, and 23 percent have cognitive impairments;

Whereas many who depend upon Medicare have modest incomes and assets—a majority of Medicare beneficiaries have incomes below 200 percent of the Federal poverty level ($19,140 for individuals and $25,660 for married couples in 2005) and 48 percent of non-institutionalized Medicare beneficiaries have assets below $10,000;

Whereas Medicare provides health insurance for nearly 6 million individuals under the age of 65 who live with disabilities or illnesses such as multiple sclerosis, spinal cord injuries, depression, and HIV/AIDS, and who are more likely than those who are elderly to be in poor health and be unable to live independently and perform basic activities of daily living;

Whereas Medicare provides health insurance coverage for nearly one-in-five adult women in the United States and plays an especially important role in assuring access to health care for older women who have lower average annual incomes than men of the same age (average difference in income being $14,000) and fewer resources to pay for health care services;

Whereas Medicare covers important preventive and health maintenance services, including vaccinations, prostate and mammography screening, bone mass measurement, and glaucoma screening;

Whereas Medicare has achieved its major purpose of providing access for the elderly and individuals with disabilities to needed health care such that nearly 98 percent of elderly adults report that they have access to needed health care;

Whereas elderly Medicare beneficiaries are more satisfied with their coverage than privately insured nonelderly adults and Medicare beneficiaries are more likely to rate their health insurance coverage as ''very good'' or ''excellent'' and to report they were very satisfied with the care they received; and

Whereas Medicare is a remarkably efficient program, with administrative costs that average less than 2 percent of expenditures compared to about 12 percent in private plans and average per capita cost increases below those of the private sector, further highlighting its efficiency: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) for the past 40 years, Medicare has made significant medical, social, and economic contributions to our Nation;

(2) the access to care provided by Medicare has changed the course of health outcomes for the elderly and those with disabilities, preventing physical deterioration and preventing more individuals from slipping into poverty; and

(3) Congress must continue to support, strengthen, and enhance the quality of care in this vital Federal health insurance program that guarantees all Medicare beneficiaries affordable health care that meets their needs.

Ms. STABENOW. Mr. President, I am very pleased to submit this Concurrent Resolution on behalf of myself and my Democratic colleagues.

I rise to commend two programs that have served as a safety net for millions of Americans, Medicare and Medicaid. This Saturday, Medicare and its sister program Medicaid turn forty, and for millions of Americans, these vital health care programs have literally meant the difference between life and death.

I am proud to be sponsoring a resolution to commemorate Medicare's birthday on behalf of the Democratic caucus and to be co-sponsoring a similar resolution for Medicaid. Medicare is a great American success story, and one of the most successful federal programs of all time. It has lifted countless seniors out of poverty, allowing them to live with dignity and independence, and it has ensured access to necessary, affordable,

quality medical care for our most vulnerable citizens. Prior to the introduction of Medicare, half of America's seniors couldn't find or afford health insurance. Today, Medicare is the closest thing our Nation has to universal coverage, providing health care to nearly 42 million Americans, including over 1 million in Michigan.

Moreover, Medicare has been remarkably efficient, especially considering the population it covers. Its administrative costs average less than 2 percent of its expenditures; in comparison, the administrative costs for private insurance can run 12 to 13 percent, sometimes as high as 25 percent. Administrative costs this low are particularly striking when we consider the overwhelming majority of seniors and people with disabilities 87 percent—are enrolled in traditional Medicare, giving them full access to specialized care and their choice of physicians.

Medicaid, too, is celebrating its birthday this weekend. I began my political career in State government so I know the challenges facing our governors and State legislatures. One in seven Michiganians, or more than 1.4 million in my State, are enrolled in Medicaid. Michigan does a great job at trying to control its Medicaid costs. In fact, private insurance has been rising almost twice as fast as Michigan's Medicaid costs. That's remarkable when you realize that the program enrolls some of the sickest and most vulnerable Americans, people that could never afford private insurance.

I recognize that there are challenges facing both programs, but I do not believe that making arbitrary cuts—putting our patients and providers in jeopardy—is the way to improve either program. We certainly must ensure the efficiency of the programs' use of taxpayer dollars. While doing so we must not lose sight of the fact that, according to the Congressional Budget Office, the Medicare and Medicaid average spending growth on a per capita basis from 2000–2004 was lower than that of private insurance. We need to find ways to lower health care costs system-wide; addressing only Medicare and Medicaid means we often simply shift unaffordable costs to the states, our businesses, workers and patients. Let's work together on a bipartisan basis to make health care more affordable and accessible for all Americans.

Mr. KENNEDY. Mr. President, Medicare has changed the lives of millions of senior citizens over the past four decades. Before Medicare, vast numbers of elderly Americans were unable to afford the health care they needed. Since then, Medicare has made a real difference in their lives. Medicare has also made a real difference in the lives of millions of disabled persons, who became eligible for Medicare in 1972.

Today, Medicare means good health care for more than 42 million Americans across the country. It is one of the most popular government programs ever enacted. The number of senior citizens living in poverty has declined dramatically as seniors because of Medicare. Our seniors are able to get the health care they so desperately need.

Many important changes have been made over the years to improve the program. One of the most important changes was extending coverage to disabled persons. Another important change is moving Medicare's focus from caring for beneficiaries when they became sick to one that not only treats illnesses but also emphasizes preventive care and the management of chronic illnesses that affect so many senior citizens and disabled persons.

While Medicare has accomplished so much over the past four decades, there are still improvements to be made. The lack of coverage of prescription drugs is the most obvious problem, and many of us are deeply concerned that the new prescription drug benefit enacted by the last Congress will not in fact benefit many seniors who need and deserve the coverage. We had a real opportunity to provide all seniors with a good drug benefit, but politics won out.

Another significant failure has been ''privatization,'' which has forced many of the elderly into HMOs that cost more than traditional Medicare.

The lack of long-term care in Medicare is another shortcoming. Too many Medicare beneficiaries must impoverish themselves in order to obtain the long-term care they need through Medicaid.

A further serious problem affects the disabled, who often have no coverage during the two-year waiting period before Medicare is available.

We can do better. Bills pending this year will modernize health information technology, and improve the quality of care. We need to provide stronger incentives to reward quality and encourage the availability of the best possible care. We can improve treatment and achieve better coordination of care for those with multiple chronic conditions. And we can use the purchasing power of Medicare to make sure that prescription drugs are priced reasonably.

Medicare was a landmark achievement in its day, and we in Congress who revere it now have a responsibility to see that it continues to meet the needs of both current and future beneficiaries in our own day and generation. Putting beneficiaries first is what has made Medicare so popular and successful over the past four decades, and if the same fundamental priority is respected by Congress today and in the years ahead, Medicare will have forty more years of brilliant accomplishment in meeting the needs of our seniors and our fellow citizens with disabilities.

Mr. REID. Mr. President, this Saturday marks the 40th anniversary of the creation of the Medicare and Medicaid programs. On July 30, 1965, President Lyndon B. Johnson signed Medicare and Medicaid into law in Independence, MO. There are currently 87 million people enrolled in Medicare, Medicaid, or both, yet we often talk about these two programs with inhuman terms and confusing acronyms. It is easy to forget that Medicare and Medicaid have human faces too.

Pauline Goldmann in Las Vegas is one of those faces. Two months ago, Pauline suffered a collapse related to diabetes. She is back at home now, thanks to Medicare's coverage of services she needed in a rehabilitation hospital. Without coverage for those services, she would have had to go to a nursing home. Eventually, she would have become eligible for Medicaid, and the Government would have picked up the tab for that costly institutionalization. More importantly, Pauline would have lost her independence and the ability to live in her home and community.

She is just one of the 42 million people currently served by Medicare. Before Medicare, about one-half of seniors could afford private health insurance. Now it is a program that they know and trust. Without it, many seniors and people with disabilities would have no health coverage at all. That this is practically inconceivable now is a testament to Medicare's success.

Over the years, Medicaid has helped ensure that children in poverty have access to the health care services they need. It has made sure that pregnant women get the prenatal care we know is so important for healthy babies. It has helped our senior citizens to pay for the costs Medicare doesn't cover. And it has assisted people with disabilities as they struggle to afford the services they need.

In the past 40 years, we have made changes to these programs. For example, we have expanded Medicare to cover people with disabilities and end-stage renal disease in 1972. In 1997, we created the successful Children's Health Insurance Program. And a new Medicare drug program will begin in 2006.

For years, we worked to add drug coverage to Medicare, but I am afraid Republican leaders fell short in 2003 when they created this new benefit. I am very concerned as we enter this time of uncertainty in the drug benefit's implementation. I hope we will have the opportunity to revisit some of the problematic aspects of that legislation so we can make it less confusing and give seniors and people with disabilities the drug benefit they deserve.

These are also uncertain times for Medicaid. Republican leaders have demanded cuts to that vital program. To be sure, the cost of Medicaid is growing, and our states struggle with their budgets as a result. But Medicaid's problems are the same 5 problems that exist in our health care system as a whole. Medicaid's rolls grow as more people become uninsured, and Medicaid faces the same unchecked health care cost increases we all do. Moreover, Medicaid fills in Medicare's gaps, covering long-term care and prescription

drugs for people eligible for both programs. Rather than alleviating those drug costs, the new drug benefit continues this cost-shift to the States.

As our Republican counterparts look at ways to derive savings from Medicaid, we call on them to eliminate waste or other problems in the program, but also to redirect those savings to Medicaid. We also implore them to reject increases in cost-sharing for beneficiaries or allowances for changes to Medicaid's benefit package. Most of all, we ask them to keep in mind the faces of people covered by Medicaid.

Neither Medicare nor Medicaid could perform their missions without the providers who participate in the programs. I thank these individuals and institutions for the services they provide every day. Their commitment to the health of our citizens is tremendous, and in exchange, we must ensure that they are fairly treated by our public programs.

Today, I join my colleagues in submitting resolutions commemorating this important anniversary. Democrats created these two great programs in 1965. They are two of our proudest achievements. I look forward to many future birthday celebrations as these programs continue to address the basic health care needs of America's seniors, children, pregnant women, and people with disabilities.

Mr. ROCKEFELLER. Mr. President, on July 30, 1965, with one stroke of the pen, President Lyndon Baines Johnson created two Federal programs that gave America's poor and elderly access to high-quality comprehensive health care. Having grown up in the Hill Country of Texas, President Johnson knew first hand of the lack of health care for the poor, the elderly, and the disabled. He had witnessed the bitter consequences of men, women, and children denied access to meaningful and affordable health care.

While President Johnson's signing of the Medicare and Medicaid programs into law was historic, it would be inaccurate to bestow the sole credit for the creation of these vital programs on one person alone. The Social Security Amendments of 1965 represented the decades long work of both Democrats and Republicans who shared a commitment to improving the health of our nation. The amendments were a compromise between those who wanted a social insurance program solely for the elderly and those who believed we needed a similar program for the poor.

The addition of Medicaid to the Social Security Amendments of 1965 was of particular significance. Far from being the afterthought that it is typically described as, the creation of Medicaid was actually a reflection of a tradition of community and mutual obligation that, if not uniquely, is at least characteristically American. It was an extension of a guiding principle of our Nation's founding—a shared responsibility for the greater good of all, despite the broader spectrum of political beliefs. President Theodore Roosevelt, a Republican who embodied our Nation's commitment to the public good, was among the first to propose comprehensive health insurance for working families. Our language still bears witness to the type of Good Samaritan ideal that preceded the creation of Medicaid in local situations such as ''barn raising'' and ''quilting bees.'' And on a national level, we have always rallied in times of crisis, channeling personal and individual efforts into a pursuit of the greater good.

This type of social contract with our fellow Americans was the basis for the creation of Medicaid. The economic disasters of the Depression left many families unable to pay for health care and, therefore, at the mercy of preventable and treatable diseases. Because of the poor health outcomes that occurred during the Great Depression, the Federal Government began to give serious consideration to a health care safety net. Democrats and Republicans alike in Congress recognized our country's moral obligation to its most vulnerable citizens, and they pushed for action. And, in various ways, virtually every President from Harry Truman to Dwight Eisenhower to John F. Kennedy helped lay the framework for the comprehensive health insurance legislation that Johnson ultimately finished.

Just as significant as the bipartisan support for the creation of Medicaid is the fact that subsequent administrations—Democratic and Republican—have reaffirmed a commitment to Medicaid because it is the fulfillment of a social contract between American citizens and their representative government.

Unfortunately, during the last decade, we have seen a misguided, darker view of Medicaid emerge, one that loses sight of the nobler efforts underlying that social contract. Medicaid had become a scapegoat for the larger ills facing our entire health care system. But, Medicaid isn't the problem. Instead, this vital program has inherited the problems of our entire health care system, and over the years has been asked to take on more and more responsibility for the health of our Nation with fewer and fewer resources. Because Medicare has never provided significant long-term care benefits, Medicaid has been left to foot the bill for individuals eligible for both Medicare and Medicaid. And, each year, more and more employers are dropping their employer-sponsored health insurance coverage, which drives more working families to Medicaid. With cost shifts of this magnitude, State governments are finding themselves having to dedicate more and more of their budgets to Medicaid. As a former governor, I understand concerns about balancing budgets. However, the solution proposed by this administration—cutting billions of dollars out of Medicaid—does not fit the problem, which is our health care system as a whole.

We can and should reform our entire health care system to make it more responsive to the needs of our Nation's citizens, and there are relatively easy ways to do this. We can start by creating a Federal long-term care system to provide all Americans greater retirement security. At the same time, we can provide employers with more incentives to retain health care coverage for their employees. And, finally, the Federal Government can lower the cost of prescription drugs for all Americans by allowing reimportation and improving access to generic drugs. If we do these things, then Medicaid can continue to be a vital, stable, and efficient health care program.

I believe taking care of our most vulnerable people is a moral obligation.

And it is an obligation that we, as Americans, have fulfilled time and again because it reaffirms our fundamental belief in democracy and community. As Alexis de Tocqueville wrote in Democracy in America, a record of his 19th century travels through the United States, America's ''equality of conditions'' not only characterized the new country's democratic political structure, but it reflected the community and mutual obligation that he saw as part and parcel of America's revolutionary form of government.

The social contract with America that was forged 40 years ago this week is no less valid or necessary today. According to the most recent Census data, nearly 24 million people with incomes below 200 percent of the poverty line were uninsured in 2003, including approximately 18 million adults under age 65 as well as 6 million children. Those numbers are expected to rise in the years ahead. Our representative democracy has a responsibility to do for the future what we have repeatedly done in the past: protect, preserve, and strengthen Medicaid.

Mr. WYDEN. Mr. President, on July 30, 1965, legislation was signed into law that created two fundamental programs: Medicare and Medicaid. The creation of those programs was a landmark for this country. When signing the Medicare legislation 40 years ago, President Johnson remarked, ''We marvel not simply at the passage of this bill, what we marvel at is that it took so many years to pass it.''

At that time, senior citizens were identified as the group most likely to be living in poverty in the U.S. Many had no type of health insurance. Since 1965, and largely thanks to Medicare and the access it has afforded seniors, the poverty rate has dropped significantly and older Americans are enjoying longer and healthier lives.

As John Gardner, Health, Education, and Welfare Secretary during President Johnson's administration, once stated, ''Medicare was a great turning point, but it has to be continually revised.'' And Medicare has changed. Since 1972, Medicare has also included Americans with disabilities and those with end stage renal disease bringing access and coverage to millions of

Americans in need of it. In 2003, Congress passed the Medicare Modernization Act to add a prescription drug benefit. Medicare began with about 19 million seniors, but faces an estimated 77 million Americans, almost double the number of Americans enrolled in the program now in 2030. These Medicare beneficiaries will live longer, and face very different needs than the first 19 million.

With the creation of Medicaid, our Nation affirmed that we wanted those who were poor to be able to have health care. Like Medicare, Medicaid has faced changes. Other categories of people in need have been added; States like my home State of Oregon have been able to experiment in creative ways to provide care to more people; and as more seniors need long-term care and do not have the funds to pay for it, Medicaid plays an important role in providing long-term care. Medicaid has uniquely borne the brunt of the failings of the health care system. For many, this program is a lifesaver and it must be maintained.

Both Medicare and Medicaid are facing financial crises. Those who fought hard for the creation of these fundamental programs could not have foreseen the technology and scientific breakthroughs that would change health care delivery. Nor could they have foreseen the costs. We need to continually revise these programs to find better ways to provide affordable care and to assure that these programs are up to date with the best science and medicine but—that they keep their original purpose—to provide care to those who are aged, disabled, or poor.

AMENDMENTS SUBMITTED & PROPOSED

SA 1644. Mr. CRAIG proposed an amendment to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

SA 1645. Mr. CRAIG proposed an amendment to the bill S. 397, supra.

SA 1646. Mr. FRIST (for Ms. COLLINS) proposed an amendment to the bill S. 501, to provide a site for the National Women's History Museum in the District of Columbia.

SA 1647. Mr. FRIST (for Mr. DEWINE) proposed an amendment to the bill S. 172, to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes.

TEXT OF AMENDMENTS

SA 1644. Mr. CRAIG proposed an amendment to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; as follows:

On page 11, between lines 6 and 7, insert the following:

(D) MINOR CHILD EXCEPTION.—Nothing in this Act shall be construed to limit the right of a person under 17 years of age to recover damages authorized under Federal or State law in a civil action that meets 1 of the requirements under clauses (i) through (v) of subparagraph (A).

SA 1645. Mr. CRAIG proposed an amendment to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; as follows:

On page 13, after line 4, insert the following:

SEC. 5. ARMOR PIERCING AMMUNITION.

(a) UNLAWFUL ACTS.—Section 922(a) of title 18, United States Code, is amended by striking paragraphs (7) and (8) and inserting the following:

''(7) for any person to manufacture or import armor piercing ammunition, unless—

''(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

''(B) the manufacture of such ammunition is for the purpose of exportation; or

''(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;

''(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—

''(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

''(B) is for the purpose of exportation; or

''(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General;''.

(b) PENALTIES.—Section 924(c) of title 18, United States Code, is amended by adding at the end the following:

''(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction under this section—

''(A) be sentenced to a term of imprisonment of not less than 15 years; and

''(B) if death results from the use of such ammunition—

''(i) if the killing is murder (as defined in section 1111), be punished by death or sentenced to a term of imprisonment for any term of years or for life; and

''(ii) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.''.

(c) STUDY AND REPORT.—

(1) STUDY.—The Attorney General shall conduct a study to determine whether a uniform standard for the testing of projectiles against Body Armor is feasible.

(2) ISSUES TO BE STUDIED.—The study conducted under paragraph (1) shall include—

(A) variations in performance that are related to the length of the barrel of the handgun or center-fire rifle from which the projectile is fired; and

(B) the amount of powder used to propel the projectile.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report containing the results of the study conducted under this subsection to—

(A) the chairman and ranking member of the Committee on the Judiciary of the Senate; and

(B) the chairman and ranking member of the Committee on the Judiciary of the House of Representatives.

SA 1646. Mr. FRIST (for Ms. COLLINS) proposed an amendment to the bill S. 501, to provide a site for the National Women's History Museum in the District of Columbia; as follows:

At the end, add the following:

SEC. 6. FEDERAL PARTICIPATION.

The United States shall pay no expense incurred in the establishment, construction, or operation of the National Women's History Museum, which shall be operated and maintained by the Museum Sponsor after completion of construction.

SA 1647. Mr. FRIST (for Mr. DEWINE) proposed an amendment to the bill S. 172, to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes; as follows:

In lieu of the matter to be inserted, insert the following:

SECTION 1. REGULATION OF CERTAIN ARTICLES AS MEDICAL DEVICES.

Section 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j) is amended by adding at the end the following subsection:

''Regulation of Contact Lens as Devices

''(n)(1) All contact lenses shall be deemed to be devices under section 201(h).

''(2) Paragraph (1) shall not be construed as bearing on or being relevant to the question of whether any product other than a contact lens is a device as defined by section 201(h) or a drug as defined by section 201(g).''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Friday, July 29, 2005, in the Mansfield Room, S–207 of the Capitol, to consider favorably reporting the nominations of Robert M. Kimmitt, to be Deputy Secretary of the Treasury; Randal Quarles, to be Under Secretary of the Treasury; Timothy D. Adams, Under Secretary of Treasury; Sandra L. Pack, to be Assistant Secretary of the Treasury; Kevin I. Fromer, to be Deputy Under Secretary, Legislative Affairs, of the Treasury; and Shara L. Aranoff, to be Member of the United States International Trade Commission.

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

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Nancy Falk, who is a fellow in my office, be granted the privileges of the floor during the pendency of H.R. 6.

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

Mr. INHOFE. I ask unanimous consent that Heideh Shahmoradi, Greg Murrill, and John Stoody be granted the privilege of the floor for the consideration of the conference report accompanying H.R. 3.

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

FOREIGN TRAVEL FINANCIAL REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports for standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Elizabeth H. Croker:									
Uruguay	Peso		1,102.00						1,102.00
United States	Dollar				8,876.15				8,876.15
Senator E. Benjamin Nelson:									
Cuba	Peso		406.00		90.00		477.00		973.00
Amy Tejral:									
Cuba	Peso		406.00		90.00		477.00		973.00
James Nygren:									
Cuba	Peso		406.00		90.00		477.00		973.00
Total			2,320.00		9,146.15		1,431.00		12,897.15

SAXBY CHAMBLISS,
Chairman, Committee on Agriculture, Nutrition and Forestry, July 6, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Carl Levin:									
United States	Dollar				5,940.99				5,940.99
Israel	Shekel		1,034.00				19.00		1,053.00
Jordan	Dinar		149.00						149.00
Richard D. DeBobes:									
United States	Dollar				6,145.83				6,145.83
Israel	Shekel		482.00						482.00
Jordan	Dinar		149.00						149.00
William P. Monahan:									
United States	Dollar				7,134.99				7,134.99
Israel	Shekel		1,051.00				19.00		1,070.00
Jordan	Dinar		149.00						149.00
Michael J. Kuiken:									
United States	Dollar				6,011.80				6011.80
Israel	Shekel		1,058.00				19.00		1,077.00
Senator James M. Inhofe:									
United States	Dollar		38.00				200.00		238.00
Ethiopia	Birr		132.67						132.67
Uganda	Shilling		106.00						106.00
Turkey	Dollar		34.00						34.00
John Bonsell:									
United States	Dollar		38.00				200.00		238.00
Ethiopia	Birr		155.23						155.23
Uganda	Shilling		154.00						154.00
Turkey	Dollar		29.00						29.00
Mark Powers:									
United States	Dollar		38.00				230.00		268.00
Ethiopia	Birr		81.00						81.00
Uganda	Shilling		74.00						74.00
Turkey	Dollar		55.00						55.00
Jordan	Dinar		176.00						176.00
Senator Joseph I. Lieberman:									
United States	Dollar				6,759.99				6,759.99
Israel	Dollar		195.00						195.00
Jordan	Dollar		259.00						259.00
Frederick M. Downey:									
United States	Dollar				6,759.99				6,759.99
Israel	Dollar		1,011.00						1,011.00
Jordan	Dollar		408.00						408.00
Senator John McCain:									
Lebanon	Dollar		131.00						131.00
Cyprus	Dollar		141.68						141.68
Kyrgyzstan	Dollar		243.68						243.68
Croatia	Dollar		327.00						327.00
Senator Lindsey O. Graham:									
Lebanon	Dollar						27.00		27.00
Cyprus	Dollar		131.00				15.11		146.11
Kyrgyzstan	Dollar		240.00				127.68		367.68
Croatia	Dollar		177.00				131.72		308.72
Richard H. Fontaine, Jr.:									
Lebanon	Dollar		154.00						154.00
Cyprus	Dollar		302.00						302.00
Kyrgzstan	Dollar		132.00						132.00
Croatia	Dollar		434.00						434.00
Senator Bill Nelson:									
Honduras	Lempira		129.91						129.91
Caroline Tess:									
Honduras	Lempira		250.00						250.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Cornyn:									
Greece	Dollar		1,167.00						1,167.00
Romania	Dollar		1,781.90				116.00		1,897.90
Turkey	Dollar		668.00						668.00
Hungary	Dollar		366.00						366.00
Senator James M. Inhofe:									
Italy	Euro		509.00				34.00		543.00
Mark Powers:									
Uganda	Shilling		77.50						77.50
Italy	Euro		536.68						536.68
Total			14,955.25		38,753.59		1,138.51		54,847.35

JOHN WARNER,
Chairman, Committee on Armed Services, July 15, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM APR. 1 TO JUN. 20, 2005.

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Mitch McConnell:									
Russia	Ruble		175.00						175.00
Ukraine	Hryvnia		132.00						132.00
United Kingdom	Pound		119.00						119.00
Paul Grove:									
Latvia	Lats		254.00						254.00
Russia	Ruble		175.00						175.00
Jordan	Dinar		500.00						500.00
United Kingdom	Pound		176.00						176.00
Tom Hawkins:									
Latvia	Lats		254.00						254.00
Russia	Ruble		175.00						175.00
Jordan	Dinar		500.00						500.00
United Kingdom	Pound		186.00						186.00
Katherine Hennessey:									
Greece	Euro		1,167.00						1,167.00
Turkey	Lira		668.00						668.00
Romania	Lei		276.00						276.00
Hungary	Forint		366.00						366.00
Senator Daniel K. Inouye:									
United States	Dollar				10,271.29				10,271.29
Japan	Dollar		2,148.00						2,148.00
Total			7,271.00		10,271.29		0.00		17,542.29

THAD COCHRAN,
Chairman, Committee on Appropriations, July 13, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOURSING, AND URBAN AFFAIRS FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Richard Shelby:									
United States	Dollar				5,707.37				5,707.37
Belgium	Euro		1,185.00						1,185.00
The Netherlands	Euro		658.00						658.00
Italy	Euro		2,334.00						2,334.00
Spain	Euro		1,692.00						1,692.00
Hungary	Forint		366.00						366.00
Romania	Lei		276.00						276.00
Greece	Drachma		1,167.00						1,167.00
Turkey	Lira		668.00						668.00
Anne Caldwell:									
Hungary	Forint		366.00						366.00
Romania	Lei		276.00						276.00
Greece	Drachma		1,167.00						1,167.00
Turkey	Lira		668.00						668.00
Kathleen L. Casey:									
United States	Dollar				5,707.37				5,707.37
Belgium	Euro		1,185.00						1,185.00
The Netherlands	Euro		658.00						658.00
Italy	Euro		2,334.00						2,334.00
Spain	Euro		1,692.00						1,692.00
Hungary	Forint		366.00						366.00
Romania	Lei		276.00						276.00
Greece	Drachma		1,167.00						1,167.00
Turkey	Lira		668.00						668.00
Andrew S. Gray:									
United States	Dollar				5,707.37				5,707.37
Belgium	Euro		1,185.00						1,185.00
The Netherlands	Euro		658.00						658.00
Italy	Euro		2,334.00						2,334.00
Spain	Euro		1,692.00						1,692.00
Randel L. Zeller:									
United States	Dollar				5,636.00				5,636.00
Turkey	Lira		225.00						225.00
Azerbaijan	Manat		396.00						396.00
Armenia	Dram		171.00						171.00
Georgia	Lari		175.00						175.00
Ukraine	Hryvnia		186.00						186.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOURSING, AND URBAN AFFAIRS FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Delegation Expenses: [1]									
Hungary	Forint						4,629.76		4,629.76
Total			26,191.00		22,758.11		4,629.76		53,578.87

[1] Delegation expenses include direct payments and reimbursements to the Department of State under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by PL 95–384.

RICHARD W. SHELBY,
Chairman, Committee on Banking, Housing, and Urban Affairs, July 26, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BUDGET FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Mike Crapo:									
Latvia	Lat		254.00						254.000
Russia	Ruble		175.00						175.00
Ukraine	Hryvnia		132.00						132.00
Jordan	Dinar		508.00						508.00
England	Pound		186.00						186.00
Total			1,255.00						1,255.00

JUDD GREGG,
Chairman, Committee on Budget, July 27 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Jim DeMint:									
Latvia	Lats		44.00						44.00
Russia	Ruble		89.00						89.00
Ukraine	Hryvnia		17.00						17.00
Jordan	Dinar		337.00						337.00
England	Pound		186.00						186.00
Kristine Lynch:									
Canada	Dollar		1,079.28						1,079.28
United States	Dollar				1,877.26				1,877.26
Andrew Minkiewicz:									
Canada	Dollar		1,450.00						1,450.00
United States	Dollar				1,877.26				1,877.26
Total			3,202.28		3,754.52				6,956.80

TED STEVENS,
Chairman, Committee on Commerce, July 25, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Johnny Isakson:									
Germany	Dollar		301.41						301.41
Total			301.41						301.41

JAMES M. INHOFE,
Chairman, Committee on Environment and Public Works, July 22, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Joseph R. Biden:									
Lebanon	Dollar		167.00						167.00
Jordan	Dollar		608.00						608.00
Chad	Dollar		220.00						220.00
United States	Dollar				3,609.00				3,609.00
Senator Norm Coleman:									
Brazil	Real		592.00						592.00
Colombia	Peso		542.00						542.00
Venezuela	Bolivar		566.00						566.00
United States	Dollar				5,040.33				5,040.33
Senator Norm Coleman:									
Jordan	Dinar		274.00						274.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United Kingdom	Pound		669.00						669.00
Senator Christopher J. Dodd:									
Spain	Euro		1,015.00						1,015.00
United States	Dollar				5,580.00				5,580.00
Senator Chuck Hagel:									
Turkey	Lira		225.00						225.00
Azerbaijan	Manat		396.00						396.00
Armenia	Dram		171.00						171.00
Georgia	Lari		175.00						175.00
Ukraine	Hryvnia		186.00						186.00
United States	Dollar				5,635.99				5,635.99
Senator Paul S. Sarbanes:									
Turkey	Dollar		601.00						601.00
Senator John Sununu:									
Jordan	Dollar		262.00						262.00
United Kingdom	Pound		641.45						641.45
Senator John Sununu:									
Lebanon	Dollar		34.00						34.00
Cyprus	Dollar		272.68						272.68
Kyrgyzstan	Dollar		203.00						203.00
United States	Dollar				5,442.82				5,442.82
Senator George V. Voinovich:									
Slovenia	Tolar		594.00						594.00
Croatia	Kuna		110.00						110.00
United States	Dollar				6,882.84				6,882.84
Jonah Blank:									
India	Dollar		1,997.00						1,997.00
United States	Dollar				7,044.53				7,044.53
Antony Blinken:									
Lebanon	Dollar		167.00						167.00
Jordan	Dollar		608.00						608.00
Chad	Dollar		220.00						220.00
United States	Dollar				4,780.09				4,780.09
Michael Considine:									
Turkey	Lira		225.00						225.00
Azerbaijan	Manat		396.00						396.00
Armenia	Dram		171.00						171.00
Georgia	Lari		175.00						175.00
Ukraine	Hryvnia		186.00						186.00
United States	Dollar				5,615.99				5,615.99
Isaac Edwards:									
Russia	Dollar		382.00						382.00
United States					1,845.37				1,845.37
Heather Flynn:									
Tanzania	Shilling		1,102.00						1,102.00
Mozambique	Metical		1,460.00						1,460.00
United States	Dollar				8,427.00				8,427.00
Healther Flynn:									
France	Euro		2,560.00						2,560.00
United States	Dollar				4,899.09				4,899.09
Heather Flynn:									
Chad	Dollar		220.00						220.00
Jordan	Dollar		608.00						608.00
United States	Dollar				6,785.00				6,785.00
Edward Levine:									
Netherlands	Euro		634.00						634.00
United States	Dollar				6,180.00				6,180.00
Kenneth A. Myers III:									
Russia	Dollar		500.00						500.00
United States	Dollar				5,566.73				5,566.73
Kenneth A. Myers III:									
Russia	Dollar		1,100.00						1,100.00
United States	Dollar				4,862.65				4,862.65
Janice O'Connell:									
Spain	Euro		1,015.00						1,015.00
United States	Dollar				3,762.90				3,762.90
Diana Ohlbaum:									
Honduras	Lempiras		669.00						669.00
Nicaragua	Cordobas		345.00						345.00
United States	Dollar				1,298.00				1,298.00
Jennifer Simon:									
Chile	Peso		496.00						496.00
United States	Dollar				3,231.15				3,231.15
Andrew Siracuse:									
Jordan	Dinar		274.00						274.00
United Kingdom	Pound		669.00						669.00
Jean Siskovic:									
Slovenia	Tolar		804.00						804.00
Croatia	Kuna		152.65						152.65
United States	Dollar				5,479.52				5,479.52
Puneet Talwar:									
Israel	Dollar		680.00						680.00
United States	Dollar				4,449.15				4,449.15
Puneet Talwar:									
Lebanon	Dollar		167.00						167.00
Jordan	Dollar		608.00						608.00
United Kingdom	Pound		1,011.00						1,011.00
Belgium	Euro		146.00						146.00
France	Euro		1,024.00						1,024.00
United States	Dollar				6,654.31				6,654.31
Lorianne Woodrow:									
Brazil	Real		592.00						592.00
Colombia	Peso		542.00						542.00
Venezuela	Bolivar		566.00						566.00
United States	Dollar				5,040.33				5,040.33
Margaret Aitken:									
Jordan	Dollar		608.00						608.00
Chad	Dollar		220.00						220.00
Lebanon	Dollar		167.00						167.00
United States	Dollar				3,609.00				3,609.00
Frank Jannuzi:									
Germany	Euro		1,728.00						1,728.00
United States	Dollar				6,528.09				6,528.09
Puneet Talwar:									
Switzerland	Francs		638.00						638.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				6,555.00				6,555.00
Total			46,004.43		118,628.17		134,804.97		169,161.75

RICHARD G. LUGAR,
Chairman, Committee on Foreign Relations, July 22, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Gordon Smith:									
Jordan	Dinar		274.00						274.00
United Kingdom	Pound		560.00						560.00
Senator Orrin Hatch:									
Jordan	Dinar		274.00						274.00
United Kingdom	Pound		669.00						669.00
Senator Jay Rockefeller:									
Taiwan	Dollar		308.90						308.90
Japan	Yen		920.78						920.78
Japan	Yen				268.00				268.00
United States	Dollar				16,102.79				16,102.79
D. Patrick Robertson:									
Taiwan	Dollar		308.90						308.90
Japan	Yen		1,244.88						1,244.88
Japan	Yen				268.00				268.00
United States	Dollar				8,182.79				8,182.79
Rob Epplin:									
Jordan	Dinar		274.00						274.00
United Kingdom	Pound		560.00						560.00
Total			5,394.46		24,821.58				30,216.04

CHARLES E. GRASSLEY,
Chairman, Committee on Finance, July 20, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Leland Erickson:									
United States	Dollar				2,083.03				2,083.03
Iraq	Dollar		500.00						500.00
Dan Berkovitz:									
United States	Dollar				2,083.03				2,083.03
Iraq	Dollar		375.00						375.00
Leland Erickson:									
United States	Dollar				1,591.05				1,591.05
Israel	Shekel		1,416.05						1,416.05
Mark Nelson:									
United States	Dollar				1,591.05				1,591.05
Israel	Shekel		1,396.00						1,396.00
Total			3,687.05		7,348.16				11,035.21

SUSAN M. COLLINS,
Chairman, Committee on Homeland Security and Governmental Affairs Committee, July 12, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Michael B. Enzi:									
Ethiopia	Birr		116.00						116.00
Uganda	Shilling		228.08						228.08
Uganda	Shilling				40.00				40.00
Turkey	Dollar		133.00						133.00
Wendy Gnehm:									
Ethiopia	Birr		116.00						116.00
Uganda	Shilling		197.97						197.97
Uganda	Shilling				40.00				40.00
Turkey	Dollar		133.00						133.00
Totals			924.05		80.00				1,004.05

MICHAEL B. ENZI,
Chairman, Committee on Health, Education, Labor, and Pensions, July 21, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON VETERANS' AFFAIRS FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Larry E. Craig:									
Kuwait	Dinar		788.00						788.00
Jordan	Dinar		254.00						254.00
Germany	Euro		528.00						528.00
Gordon Matlock:									
Kuwait	Dinar		788.00						788.00
Jordan	Dinar		254.00						254.00
Germany	Euro		528.00						528.00
Lupe Wissel:									
Kuwait	Dinar		788.00						788.00
Jordan	Dinar		254.00						254.00
Germany	Euro		528.00						528.00
Total			4,710.00						4,710.00

LARRY E. CRAIG,
Chairman, Committee on Veterans' Affairs, June 30, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON SELECT COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jacqueline Russell:	Dollar				6,055.11				6,055.11
			1,192.00						1,192.00
Thomas Corcoran:	Dollar				6,055.11				6,055.11
			1,217.00						1,217.00
Todd Rosenblum:	Dollar				6,055.11				6,055.11
			1,235.00						1,235.00
Nancy St. Louis:	Dollar				8,959.28				8,959.28
			962.92						962.92
Adam Harris:	Dollar				8,959.28				8,959.28
			962.92						962.92
Elizabeth O'Reilly:	Dollar				8,959.28				8,959.28
			708.00						708.00
Rebecca Farley:	Dollar				8,959.28				8,959.28
			963.00						963.00
John Livingston:	Dollar				8,959.28				8,959.28
			672.00						672.00
Rebecca Farley:	Dollar				7,665.42				7,665.42
			1,222.00						1,222.00
Thomas Auld:	Dollar				7,555.88				7,555.88
			1,222.00						1,222.00
Total			10,356.84		78,183.03				88,539.87

PAT ROBERTS,
Chairman, Committee on Intelligence, July 25, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
H. Knox Thames:									
United States	Dollar				10,685.00				10,685.00
Kyrgzstan	Som		874.00						874.00
Azerbaijan	Manat		120.00						120.00
Turkmenistan	Manat		186.00						186.00
Hon. Christopher H. Smith:									
United States	Dollar				5,470.00				5,470.00
Austria	Euro		140.00						140.00
Ukraine	Hryvnia		614.00		951.00				1,565.00
Hon. Benjamin L. Cardin:									
United States	Dollar				5,757.00				5,757.00
Austria	Euro		140.00						140.00
Ukraine	Hryvnia		614.00		951.00				1,565.00
Sean H. Woo:									
United States	Dollar				3,947.00				3,947.00
Austria	Euro		140.00						140.00
Belgium	Euro		790.00						790.00
Dorothy Douglas Taft:									
United States	Dollar				5,470.00				5,470.00
Austria	Euro		76.00						76.00
Ukraine	Hryvnia		470.00		951.00				1,421.00
Elizabeth Pryor:									
United States	Dollar				4,806.00				4,806.00
Austria	Euro		188.00						188.00
Ukraine	Hryvnia		425.00		951.00				1,376.00
Maureen Walsh:									
United States	Dollar				5,272.00				5,272.00
Austria	Euro		779.00						779.00
Ukraine	Hryvnia		614.00		951.00				1,565.00
Chadwick R. Gore:									
United States	Dollar				5,437.00				5,437.00
Austria	Euro		368.00						368.00
Marlene Kaufmann:									
United States	Dollar				5,437.00				5,437.00
Austria	Euro		140.00						140.00
Orest Deychakiwsky:									
United States	Dollar				5,764.00				5,764.00
Ukraine	Hryvnia		494.00						494.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Michael Ochs:									
United States	Dollar				6,828.00				6,828.00
Moldova	Lev		1,010.00						1,010.00
John Finerty:									
United States	Dollar				6,827.00				6,827.00
Moldova	Lev		946.00						946.00
Dorothy Douglas Taft:									
United States	Dollar				6,645.00				6,645.00
Switzerland	Franc		1,137.00				91.00		1,228.00
Total			10,265.00		83,100.00		91.00		93,456.00

SAM BROWNBACK,
Chairman, Committee on Commisson on Security and Cooperation in Europe,
May 11, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON CAUCUS ON INTERNATIONAL NARCOTICS CONTROL FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Janet Drew:									
Colombia	Peso		304.00						304.00
El Salvador	Dollar		255.38						255.38
Venezuela	Bolivar		165.00						165.00
Total			724.38						724.38

CHARLES E. GRASSLEY,
Chairman, Committee on Caucus on International Narcotics Control,
July 13, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON CODEL REID FOR TRAVEL FROM MAR. 18 TO MAR. 26, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Harry Reid:									
Israel	New Shekel		724.00						724.00
Kuwait	Dinar		394.00						394.00
Georgia	Lari		598.00						598.00
France	Euro		924.00						924.00
Senator Richard Durbin:									
Israel	New Shekel		664.00						664.00
Kuwait	Dinar		394.00						394.00
Georgia	Lari		598.00						598.00
France	Euro		924.00						924.00
Senator Barbara Boxer:									
Israel	New Shekel		724.00						724.00
Kuwait	Dinar		394.00						394.00
Georgia	Lari		598.00						598.00
France	Euro		924.00						924.00
Senator Patty Murray:									
Israel	New Shekel		724.00						724.00
Kuwait	Dinar		394.00						394.00
Georgia	Lari		598.00						598.00
France	Euro		924.00						924.00
Senator Robert Bennett:									
Israel	New Shekel		724.00						724.00
Kuwait	Dinar		394.00						394.00
Georgia	Lari		598.00						598.00
France	Euro		924.00						924.00
Senator Lamar Alexander:									
Israel	New Shekel		644.00						644.00
Kuwait	Dinar		394.00						394.00
Georgia	Lari		598.00						598.00
France	Euro		924.00						924.00
Senator Ken Salazar:									
Israel	New Shekel		724.00						724.00
Kuwait	Dinar		394.00						394.00
Georgia	Lari		598.00						598.00
France	Euro		924.00						924.00
Martin Paone:									
Israel	New Shekel		724.00						724.00
Kuwait	Dinar		394.00						394.00
Georgia	Lari		598.00						598.00
France	Euro		924.00						924.00
Dr. John Eisold:									
Israel	New Shekel		724.00						724.00
Kuwait	Dinar		394.00						394.00
Georgia	Lari		598.00						598.00
France	Euro		924.00						924.00
Anna Gallagher:									
Israel	New Shekel		624.00						624.00
Kuwait	Dinar		394.00						394.00
Georgia	Lari		598.00						598.00
France	Euro		924.00						924.00
Tessa Hafen:									
Israel	New Shekel		500.00						500.00
Kuwait	Dinar		394.00						394.00
Georgia	Lari		528.00						528.00
France	Euro		924.00						924.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON CODEL REID FOR TRAVEL FROM MAR. 18 TO MAR. 26, 2005—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Gary Myrick:									
Israel	New Shekel		724.00						724.00
Kuwait	Dinar		394.00						394.00
Georgia	Lari		598.00						598.00
France	Euro		924.00						924.00
Rich Verma:									
Israel	New Shekel		724.00						724.00
Kuwait	Dinar		394.00						394.00
Georgia	Lari		598.00						598.00
France	Euro		924.00						924.00
Sally Walsh:									
Israel	New Shekel		604.00						604.00
Kuwait	Dinar		394.00						394.00
Georgia	Lari		598.00						598.00
France	Euro		924.00						924.00
Delegation Expenses: [1]									
Israel	New Shekel						30,146.68		30,146.68
Kuwait	Dinar						4,035.11		4,035.11
Iraq	Dollar						1,320.37		1,320.37
Georgia	Lari						9,351.17		9,351.17
Ukraine	Dollar						4,222.08		4,222.08
France	Euro						25,049.03		25,049.03
Total:				36,306.00			74,124.44		110,430.44

[1] Delegation expenses include payments and reimbursements to the Department of State, and the Department of Defense under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1977.

HARRY REID,
Chairman, Committee on Senator Harry Reid, Democratic Leader,
May 25, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON CODEL FRIST FOR TRAVEL FROM APR. 30 TO MAY 6, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bill Frist:									
Israel	Dollar		624.00						624.00
	Shekel		100.00						100.00
Jordan	Dollar		254.00						254.00
Egypt	Pound		478.00						478.00
Mark Esper:									
Israel	Dollar		624.00						624.00
	Shekel		50.00						50.00
Jordan	Dollar		254.00						254.00
Egypt	Pound		578.00						578.00
Nick Smith:									
Israel	Dollar		624.00						624.00
	Shekel		50.00						50.00
Jordan	Dollar		254.00						254.00
Egypt	Pound		478.00						478.00
Sally Walsh:									
Israel	Dollar		624.00						624.00
	Shekel		50.00						50.00
Jordan	Dollar		254.00						254.00
Egypt	Pound		578.00						578.00
Delegation Expenses: [1]									
Israel	Shekel						21,504.55		21,504.55
Jordan	Dollar						5,092.34		5,092.34
Lebanon	Dollar						3,612.10		3,612.10
Egypt	Pound						5,508.09		5,508.09
Total			5,874.00				35,717.08		41,591.08

[1] Delegation expenses include payments and reimbursements to the Department of State, and the Department of Defense under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1977.

BILL FRIST,
Chairman, Committee on Senator Bill Frist, M.D., Majority Leader,
June 18, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON MAJORITY AND DEMOCRATIC LEADERS FOR TRAVEL FROM APR. 6 TO APR. 8, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bill Frist:									
Italy	Euro		538.00						538.00
Senator Richard Durbin:									
Italy	Euro		315.00						315.00
Senator Edward Kennedy:									
Italy	Euro		538.00						538.00
Senator Pete Domenici:									
Italy	Euro		418.00						418.00
Senator Joseph Biden:									
Italy	Euro		538.00						538.00
Senator Patrick Leahy:									
Italy	Euro		538.00						538.00
Senator Christopher Dodd:									
Italy	Euro		517.00						517.00
Senator John Kerry:									
Italy	Euro		517.00						517.00
Senator Barbara Mikulski:									
Italy	Euro		517.00						517.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON MAJORITY AND DEMOCRATIC LEADERS FOR TRAVEL FROM APR. 6 TO APR. 8, 2005—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Mike DeWine:									
Italy	Euro		538.00						538.00
Senator Rick Santorum:									
Italy	Euro		538.00						538.00
Senator Susan Collins:									
Italy	Euro		439.00						439.00
Senator Jim Bunning:									
Italy	Euro		538.00						538.00
Senator Mel Martinez:									
Italy	Euro		538.00						538.00
Lula Davis:									
Italy	Euro		442.00						442.00
Mark Esper:									
Italy	Euro		517.00						517.00
Jim Manley:									
Italy	Euro		384.00						384.00
Eric Ueland:									
Italy	Euro		517.00						517.00
Sally Walsh:									
Italy	Euro		517.00						517.00
Delegation Expenses: [1]									
Italy							23,666.40		23,666.40
Total			9,404.00				23,666.40		33,070.40

[1] Delegation expenses include payments and reimbursements to the Department of State and the Department of Defense under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1977.

BILL FRIST,
Chairman, Committee on Senator Bill Frist, M.D. and Senator Harry Reid, May 16, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON SENATE MAJORITY LEADER FOR TRAVEL FROM OCT. 1 TO DEC. 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Larry Craig:									
Argentina	Pesos		2,530.21						2,530.21
Senator Craig Thomas:									
Argentina	Pesos		2,530.21						2,530.21
George O'Connor:									
Argentina	Pesos		2,530.21						2,530.21
Daniel Whiting:									
Argentina	Pesos		2,530.21						2,530.21
Delegation Expenses: [1]							3,080.00		3,080.00
Total			10,120.84				3,080.00		13,200.84

[1] Delegation expenses include payments and reimbursements to the Department of State and the Department of Defense under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res 179 agreed to May 25, 1977.

BILL FRIST,
Chairman, Committee on COP 10, Buenos Aires, May 19, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON SENATE MAJORITY LEADER FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bill Frist, MD:									
Switzerland	Franc		674.00						674.00
Mark Esper:									
Switzerland	Franc		1,039.00						1,039.00
Delegation Expenses: [1]									
Davos							7,859.10		7,859.10
Total			1,713.00				7,859.10		9,572.10

[1] Delegation expenses include payments and reimbursements to the Department of State and the Department of Defense under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1977.

BILL FRIST,
Chairman, Committee on World Economic Forum, Davos, May 14, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON PRESIDENT PRO TEMPORE FOR TRAVEL FROM JUN. 9 TO JUN. 13, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Ted Stevens:									
France	Euro		396.00						396.00
Senator Thad Cochran:									
France	Euro		396.00						396.00
Senator Richard C. Shelby:									
France	Euro		396.00						396.00
Senator Tom Harkin:									
France	Euro		396.00						396.00
Senator Frank Lautenberg:									
France	Euro		396.00						396.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON PRESIDENT PRO TEMPORE FOR TRAVEL FROM JUN. 9 TO JUN. 13, 2005—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Jeff Sessions:									
France	Euro		396.00						396.00
Dr. John Eisold:									
France	Euro		396.00						396.00
Dave Schiappa:									
France	Euro		396.00						396.00
Keith Kennedy:									
France	Euro		396.00						396.00
Terry Sauvain:									
France	Euro		396.00						396.00
Sid Ashworth:									
France	Euro		396.00						396.00
Charlie Houy:									
France	Euro		396.00						396.00
Lesley Kalan:									
France	Euro		396.00						396.00
Mazie R. Mattson:									
France	Euro		396.00						396.00
Betsy Schmid:									
France	Euro		396.00						396.00
Stewart Holmes:									
France	Euro		396.00						396.00
Kay Webber:									
France	Euro		396.00						396.00
Shannon Hines:									
France	Euro		396.00						396.00
Richard Bender:									
France	Euro		396.00						396.00
Total			7,524.00						7,524.00

TED STEVENS,
Chairman, Committee on President Pro Tempore, July 22, 2005.

AUTHORITY TO SIGN ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. FRIST. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader and majority whip and both Senators from Virginia be authorized to sign duly enrolled bills or joint resolutions.

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

NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT OF 2005—MOTION TO PROCEED

Mr. FRIST. Mr. President, I now move to proceed to Calendar No. 101, S. 147, the Native Hawaiians bill, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

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 motion to proceed to Calendar No. 101, S. 147: A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

Bill Frist, Jon Kyl, Gordon Smith, Orrin Hatch, Lincoln Chafee, Chuck Grassley, Lindsey Graham, Norm Coleman, Daniel Inouye, Daniel K. Akaka, Patrick Leahy, Harry Reid, Dick Durbin, Patty Murray, Jack Reed, Dianne Feinstein, Herb Kohl.

Mr. FRIST. Mr. President, I am happy to yield to the Senator from Hawaii for a comment on the Native Hawaiians bill.

Mr. AKAKA. Mr. President, I thank the Majority Leader. I rise today to express my thanks to the Majority Leader for laying down the cloture petition on the motion to proceed to S. 147. As many of my colleagues are aware, I have worked closely with Hawaii's senior senator to bring the Native Hawaiian Government Reorganization Act to the Senate floor for debate and vote. We have struggled for five years to bring this bill to the floor.

I applaud the Majority Leader and the Democratic Leader for their efforts to uphold a commitment that was made last year for a debate and vote on the Native Hawaiian Government Reorganization Act prior to the August recess. While I am very disappointed that we were not able to consider the bill, I look forward to action on S. 147 when we return in September.

This is a bipartisan bill which is widely supported in Hawaii. The bill is supported by Hawaii's Governor, Linda Lingle, the first Republican governor in Hawaii in 40 years, who testified in strong support of the bill before the Senate Committee on Indian Affairs. The bill is also supported by the Hawaii State Legislature which passed resolutions in support of the bill in 2000, 2001, and 2005. The bill is cosponsored by Senators CANTWELL, COLEMAN, DODD, DORGAN, GRAHAM, INOUYE, MURKOWSKI, SMITH, and STEVENS. I want to especially thank the bill cosponsors who have actively worked with us to try to get this bill before the Senate.

S. 147 sets up a process for the reorganization of the Native Hawaiian governing entity for the purposes of a federally recognized government-to-government relationship. Congress has always treated Native Hawaiians in a manner similar to that of American Indians and Alaska Natives because of its recognition of Native Hawaiians as indigenous peoples.

Some have argued that Native Hawaiians are not native ''enough'' for a government-to-government relationship. There is no doubt that Native Hawaiians are indigenous to Hawaii. There is no doubt that Native Hawaiians exercised sovereignty over the Hawaiian archipelago. There is no doubt that Native Hawaiians had a governing structure and entered into treaties with the United States, similar to that of their American Indian and Alaska Native brethren.

Where we differ is that whereas most tribes have been allowed to retain their governing structure, Native Hawaiians, following the overthrow of the Hawaiian Kingdom, were forbidden from maintaining their government. Native Hawaiians did, however, maintain distinct communities, and retained their language, customs, tradition, and culture despite efforts to extinguish these ''native'' practices.

The bill does not create a new relationship—Congress has long recognized its legal and political relationship with Native Hawaiians as evidenced by the many statutes enacted to address the conditions of Native Hawaiians. This bill does not create a new group of natives—we have always been here, in fact we were here before the United States. Rather, this bill establishes parity in federal policies towards native peoples in the United States by formally extending the federal policy of self-governance and self-determination to Native Hawaiians.

I look forward to a full and thorough debate on this bill in September. I urge all of my colleagues to support the petition to invoke cloture—after five years, the people of Hawaii deserve to have this issue considered by the Senate. If you oppose the bill, then vote against it, but give us the opportunity to debate the merits of this bill. Unfortunately, there are some in this body who do not even want to allow us to debate this issue. I ask them to carefully consider their position over the August recess. While I respect their ability to use Senate procedure to prevent us from considering this measure, I do not agree with their tactics. I believe the people of Hawaii deserve more than that—we deserve a full debate and up or down vote on this bill.

Once again, I thank the Majority and Democratic leaders for working with us to bring this issue before the Senate for its consideration.

Mr. FRIST. Mr. President, through the Chair, I thank the distinguished Senator from Hawaii.

I ask unanimous consent that notwithstanding rule XXII, this cloture vote occur at 5:30 on Tuesday, September 6, with the mandatory live quorum waived.

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

Mr. FRIST. Mr. President, I withdraw my motion.

DEATH TAX REPEAL PERMANENCY ACT OF 2005—MOTION TO PROCEED

Mr. FRIST. Mr. President, I now move to proceed to Calendar No. 84, H.R. 8, the death tax repeal, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

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 motion to proceed to Calendar No. 84, H.R. 8: To make the repeal of the estate tax permanent.

Bill Frist, Jon Kyl, John Thune, James Inhofe, Lamar Alexander, Richard Burr, Pat Roberts, Christopher Bond, John E. Sununu, Michael B. Enzi, Johnny Isakson, Conrad Burns, Mike Crapo, Larry Craig, Elizabeth Dole, Rick Santorum, Richard G. Lugar.

Mr. FRIST. Mr. President, I ask unanimous consent that the mandatory live quorum be waived and that this vote occur immediately after the previously filed cloture motion, if not waived.

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

Mr. FRIST. Mr. President, this procedure has now set a cloture vote on the motion to proceed to the Native Hawaiians legislation. That vote will occur at 5:30 on Tuesday when we return. If cloture is invoked, we will stay on that motion until it is disposed of. If cloture is not invoked, we will proceed to a vote on the cloture motion to proceed to the death tax.

USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3199, the House-passed PATRIOT Act reauthorization bill. I further ask unanimous consent that all after the enacting clause be stricken, the text of the committee-reported substitute to Calendar No. 171, S. 1389 be inserted, the bill, as amended, be read a third time and passed, and the Senate insist on its amendment and request a conference with the House with a ratio of six to four.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I intend to be very brief. Tonight the Senate is passing the renewal of the USA PATRIOT Act by unanimous consent. It is certainly not often that such a procedure would be used for a statute of such extraordinary importance. I believe that it is possible to fight terrorism ferociously without sacrificing civil liberties. Tonight I remain concerned that there will be an effort in the conference between the House and the Senate to authorize what are known as administrative subpoenas for the FBI under the law. These administrative subpoenas are warrants that FBI field offices can write themselves without having to make an application to a judge.

Under an administrative subpoena, an FBI field office could get records secretly for just about anything from just about anybody. Here is an example of how intrusive these administrative subpoenas could be. There are 56 field offices, one in almost every major city. The head of a field office could issue an administrative subpoena to a hospital director and ask for all of the hospital's medical records simply by claiming they were relevant to an investigation, the hospital director was busy or didn't have the resources to make a challenge. No judge would ever see the subpoena. The patients would not know their records had been seized. They would be totally in the dark. Your mother's, your husband's, your own medical records could move into the Government's hands, and you would be none the wiser.

Despite the very aggressive efforts in the Senate to include this power to conduct these what I believe are fishing expeditions, it is not in the version of the PATRIOT Act that is being passed tonight, since it is not in the House bill either. My view is that under rule XXVIII, it would be outside the scope of the conference to include these administrative subpoenas in any form in the PATRIOT Act. If I am informed later that it is in the conference report in some form, I will make a point of order at that time and the conference report would fall.

Finally, I want to state that I commend our leader, Senator REID and Senator LEAHY, for their handling of this. I know Senator DURBIN has been very involved in these issues for years as well. I also want to commend Chairman SPECTER who has talked with me about the PATRIOT Act on a number of occasions. We can strike a balance. We can ensure that we pull out all the stops to fight the terrorists without throwing our civil liberties into the ash can. If these administrative subpoenas show up in that conference report, that will skew the balance that is so important to make sure we can win the war on terrorism but also to protect the rights that we have brave men and women fighting for.

I yield the floor.

Mr. REID. Mr. President, last week, after negotiations that went late into the night and early morning, the Judiciary Committee unanimously approved S. 1389, a bipartisan, compromise bill to build on the PATRIOT Act.

This bill, entitled the USA PATRIOT Improvement and Reauthorization Act of 2005, is not perfect. Like all compromises, it includes provisions that are not supported by everyone in this body. However, Democratic and Republican members of the Judiciary Committee came together in a spirit of cooperation and compromise to agree on this bill, and I strongly support it.

I am very pleased that we have also been able to bring Republicans and Democrats together in the full Senate to pass this bill by unanimous consent. Given the divisions we have seen over this legislation in the years since it was passed, I believe it is very important for our Nation and for the American people that we have been able to compromise and to come together in a spirit of bipartisanship to pass this legislation unanimously.

This bill preserves the vital tools the Government needs to protect our national security. At the same time, it puts in place some important checks on the expanded authorities granted the government by the original PATRIOT Act.

Although Members of both parties may feel there are additional improvements that can be made to this bill, Senate Democrats have agreed to join our colleagues on the other side of the aisle to take up and pass the compromise legislation approved unanimously by the Judiciary Committee with no amendments in order.

The President and other officials in his administration have repeatedly called upon Congress to renew the PATRIOT Act as quickly as possible. Senate Democrats agree with the President that we should reauthorize the PATRIOT Act and do so quickly. We

are pleased to be able to pass this bill today.

I only hope the spirit of bipartisanship and cooperation we have witnessed to this point continues throughout the rest of the legislative process. The next step in this process is a conference with the House. The Senate is passing a very good bill, and I urge Senate conferees—Democratic and Republican—to do everything they can to defend its provisions in the conference report. If they do so, I am confident the bipartisanship and cooperation we see today will continue and we will get a conference report that will be strongly supported by Members on both sides of the aisle.

Mr. SPECTER. Mr. President, I seek recognition to comment on the Senate's passage of the USA PATRIOT Improvement and Reauthorization Act of 2005. When I introduced this legislation just 2 weeks ago with my colleagues Senator FEINSTEIN and Senator KYL, I did not expect to be lauding its passage so soon but I am gratified by what we have accomplished in so short a period of time.

The alacrity of the bill's passage is a testament to the significant work that preceded its introduction and the intense efforts of many in the days that followed. The bill has been refined and improved to address the concerns of those on both sides of the political aisle.

The bill has been modified to exclude some provisions that may have had unintended consequences. For example, a provision that would have required criminal investigators to notify a court after sharing the contents of a criminal wiretap with intelligence officers was deleted in response to concerns that it might have discouraged interagency information sharing. Likewise, a provision that increased requirements for pen registers under the Foreign Intelligence Surveillance Act, or FISA, was removed to maintain parity between intelligence-related pen registers and criminal pen registers. And, a provision requiring public reporting of FISA pen register information was removed, in favor of enhanced congressional access to this information.

At the same time, additional safeguards have been added to the bill to ensure that the authorities conferred by the PATRIOT Act are utilized in a manner that preserves civil liberties. For example, for delayed notice or so-called ''sneak and peek'' warrants, the bill now requires notice of the search to be given within seven days of its execution, unless the court finds that the facts of the case justify a later date. This change is consistent with pre-PATRIOT case law in at least two circuits, which favored initial delays of seven days. Nevertheless, the revised bill gives law enforcement the flexibility to obtain longer delays with court approval, if justified by the facts.

We have also modified the relevance standard for court orders to obtain business records and tangible things in intelligence cases, the so-called ''library'' provision. As introduced, the bill required applications for such orders to include ''a statement of facts'' showing ''reasonable grounds to believe that the records or other things sought are relevant to an authorized investigation.'' The revised bill further defines relevant records as those that: (1) pertain to a foreign power or an agent of a foreign power; (2) are relevant to the activities of a suspected agent of a foreign power; or (3) pertain to an individual in contact with, or known to, a suspected agent of a foreign power. This language addresses concerns about government ''fishing'' expeditions, but maintains substantial latitude for legitimate terrorism investigations.

These changes and similar improvements, many of which were hammered out during late-night negotiations among Judiciary Committee staff, led to a hard-won unanimous vote when the committee considered the legislation last week. Indeed, this compromise secured the support of ardent conservatives and liberals alike, including the one member who voted against the original PATRIOT Act—my colleague from Wisconsin, Senator FEINGOLD.

As I said when I introduced this legislation, the recent attacks in London serve as reminder that the danger of international terrorism remains real, and has not abated in the years since 9/11. So, we must remain vigilant, and we must be cautious not to recreate the legal circumstances that arguably contributed to significant intelligence failures before 9/11. As I have said, reauthorizing the PATRIOT Act, while incorporating improvements designed to safeguard our liberties and enhance oversight, is the right thing to do. So I am very pleased that the Senate has overcome partisan differences to endorse this bill unanimously.

Before I close, I would like to take a moment to thank those who have contributed to this significant achievement. First, I thank my original cosponsors, Senators FEINSTEIN and KYL, for the leadership they have demonstrated on terrorism matters. I also thank Senator LEAHY, the committee's ranking member, for working to secure broad bipartisan support of this measure and contributing substantially to the bill itself. I am also grateful to all of the members of the Judiciary Committee who made important improvements to the final bill and demonstrated a remarkable willingness to work together in a collegial fashion.

I offer a special thanks to the distinguished chairman of the Select Committee on Intelligence, Senator ROBERTS. Together with the vice chairman, Senator ROCKEFELLER, he held several oversight hearings on the PATRIOT Act, and reported a separate reauthorization bill. His bill, and his expertise, will continue to inform our review of the PATRIOT Act's intelligence provisions.

I am also grateful to my predecessor as chairman of the Judiciary Committee, Senator HATCH, who played a leading role in passage of the original PATRIOT Act and has been a strong advocate for the act in the years since it was enacted.

I also thank our majority and minority leaders, Senators FRIST and REID, for the personal attention that they and their staffs have devoted to this legislation and the efforts to secure unanimous consent for its passage.

Finally, I thank my own staff who have worked tirelessly on this bill. Those who have assisted with this measure are too numerous to mention, but I would like to acknowledge the steady leadership of the Judiciary Committee's chief counsel, Michael O'Neill, chief of staff and staff director, David Brog, and deputy chief counsel, Joe Jacquot. I also thank chief crime counsel Brett Tolman and counsel Nick Rossi for spearheading this effort. They were greatly aided by my general counsel, Carolyn Short, counsels Hannibal Kemerer and Evan Kelly, and staff members Adam Turner, Lisa Owings, Kim Aytes, Viana Cabral, Diane Paulitz and Lissa Camacho. We all know that our work is supported by a large cast of talented staff, and I am very grateful to my staff, and the entire staff of the Judiciary Committee, for their efforts on this important legislation.

With regard to the staff of other Members, I extend my personal thanks to Steven Cash with Senator FEINSTEIN; Joe Matal and Stephen Higgins with Senator KYL; Bruce Cohen, Julie Katzman and Tara Magner with Senator LEAHY; Bruce Artim and Ken Valentine with Senator HATCH; Joe Zogby with Senator DURBIN; Rita Lari and Chad Groover with Senator GRASSLEY; Reed O'Connor with Senator CORNYN; Neil McBride and Eric Rosen with Senator BIDEN; Ajit Pai with Senator BROWNBACK; Preet Bahara with Senator SCHUMER; Paul Thompson with Senator DEWINE; Lara Flint with Senator FEINGOLD; Cindy Hayden and Amy Blankenship with Senator SESSIONS; Mary Chesser with Senator COBURN; Mark Blumberg and Christine Leonard with Senator KENNEDY; Nate Jones and Patricia Curran with Senator KOHL; and James Galyean with Senator GRAHAM. Their willingness to work closely with my staff under sometimes difficult circumstances was much appreciated.

This bill heeds President Bush's call to renew the PATRIOT Act. All of the act's provisions have been renewed, and all but two provisions have been made permanent. At the same time, we have made responsible changes to safeguard civil liberties. Now we must move forward to a conference with the House in the hopes of quickly presenting President Bush with a bill he can sign into law. I am proud of what we have accomplished thus far, and I look forward to our conference with the other body.

Mr. LEAHY. Mr. President, last week, the Committee on the Judiciary

did something that the administration has been urging us to do all year—we reported a bill that reauthorizes every expiring provision of the USA PATRIOT Act. This achievement was particularly notable for its bipartisanship. Following months of intense negotiations involving members from both sides of the aisle, we produced a consensus bill that won the support of every member of the committee. I commend Chairman SPECTER and all members of the committee for their work on this important legislation. We made possible something that many of us would have thought impossible just a few weeks ago: a PATRIOT Act improvement and reauthorization package approved by every Member of the U.S. Senate.

The bill we pass today—S. 1389, as reported—has three key elements.

First, the bill protects the privacy interests of Americans. It requires the Government to convince a judge that a person is connected to terrorism or espionage before obtaining their library records, medical records or other sensitive personal information. It also requires the Government to notify the target of a ''sneak and peek'' search within 7 days, instead of the undefined delay that is currently permitted by the PATRIOT Act.

Second, the bill enhances judicial oversight and protects free speech rights. It gives the recipient of an order for sensitive personal information the right to challenge the order in court on the same grounds as they could challenge a grand jury subpoena. It also provides a right to challenge the gag order that currently prevents people who receive a request for records from speaking out even if they feel the Government is violating their rights.

Third, the bill increases transparency and ensures accountability. One of my principal objectives in this reauthorization process has been to introduce more sunshine into the PATRIOT Act. The reported bill requires increased reporting by the Department of Justice on its use of several PATRIOT Act powers, including roving wiretaps, business record orders, and ''sneak and peak'' search warrants. It also sets a 4-year ''sunset'' on three domestic surveillance powers with great potential to affect civil liberties.

Like the PATRIOT Act itself, S. 1389 is not the bill that I, or any Member, would have written if compromise were unnecessary. I would have liked the bill to include additional checks and balances on certain Government surveillance powers granted or expanded by the PATRIOT Act. I would have liked the bill to include more sunshine provisions, as well as additional sunsets. I regret that the bill repeals a sunset provision that Congress enacted last year and that is not due to expire until the end of 2006.

While far from perfect, S. 1389 is a good bill, which moves the law in what I believe is the right direction. The bill is also substantially better, from a civil liberties perspective, than either the House bill, H.R. 3199, or the bill reported by the Senate Select Committee on Intelligence, S. 1266. And as the product of true bipartisanship—an 18-to-0 vote is something you do not see every day in the Senate Judiciary Committee—it is a bill in which the American people can and should have confidence. I hope that the bipartisan effort that got us to this point will carry over to the conference and speed this bill to final passage.

Mr. FEINGOLD. Mr. President, I want to say a few words about the version of S. 1389, the USA PATRIOT Act Improvement and Reauthorization Act, that the Judiciary Committee unanimously reported last week. I am pleased that the Senate is about to pass it without modification.

The compromise that the Judiciary Committee worked out addresses a number of the concerns that I have been talking about since October 2001 when the Senate first considered the PATRIOT Act on the floor. We have come a long way since that night, and I am grateful for the efforts of my colleagues to try to deal with the civil liberties concerns that have been raised both here in the Senate and around the country. This is not a perfect bill, but it is a good bill.

This bill does not address all of the problems with the PATRIOT Act. But the compromise does deal with the core concerns that I and others have had about the standard for section 215 orders, sneak and peek search warrants, and meaningful judicial review of section 215 orders and National Security Letters, including judicial review of the gag rule. It does not go as far on any of these issues as the SAFE Act, but it does make meaningful changes to current law.

I want to be clear that this will not be the end of my efforts to further fix the PATRIOT Act. This bipartisan compromise takes a big step in the right direction, and I am pleased that I can support it, but I will continue to push for additional changes to the law.

I also want to caution that the conference process must not be allowed to dilute the safeguards in this bill. This Senate bill goes much further than the House version in ensuring that Americans' civil liberties will be protected. I urge the Senate conferees to fight—and fight hard—for this bill.

Mrs. FEINSTEIN. Mr. President, I am pleased to rise today in support of the USA PATRIOT Improvement and Reauthorization Act of 2005.

I understand that the Senate will shortly pass this legislation by unanimous consent, and I want to take this opportunity to thank Chairman SPECTER and Ranking Member LEAHY for the efforts to move this bill forward in a careful, collegial and effective matter. I believe the bill we pass today strikes a good balance between our nations need to defend against terrorism, and maintaining our deeply held civil liberties.

The USA PATRIOT Act is one of the most consequential laws that has ever been passed by Congress. It made wide ranging, and necessary changes to our intelligence and law-enforcement communities, giving them the tools they need to defeat this Nation's most dangerous and insidious enemies.

When we passed the PATRIOT Act shortly after September 11, 2001, we recognized that this was very significant legislation, providing new authorities to the Government. That's why we committed ourselves to vigorous and in-depth oversight of the implementation of the Act. In fact, sixteen of the most controversial provisions came with ''sunset clauses,'' which would cause them to expire in December of this year.

Since 2001, I have worked, along with my colleagues on both the Judiciary and Intelligence Committees to carry out that oversight. The result has been literally hundreds of hours of hearings, briefings, and document reviews. We asked tough questions, and got answers. We did extensive research, and consulted with a wide array of experts.

As part of my effort to oversee the implementation of the USA PATRIOT Act, I asked the ACLU, in a letter dated March 25, 2005, to provide an update of their October 2003 statement that they did not know of any abuses of the USA PATRIOT Act.

On April 4, 2005, the ACLU published a reply to my letter, in which they listed what they described as 'abuses and misuses' of the Act. I carefully reviewed each of the examples provided in the letter. I also reviewed information provided to me by the Department of Justice about each of the examples. And while I understand the concerns raised by the ACLU, it does not appear that these charges rose to the level of 'abuse' of the PATRIOT Act.

This conclusion has been borne out by numerous inquiries, hearings and briefings. Simply put, there have been no sustainable allegations of serious abuse of the Act.

That said, I believe that we can, and should, make some changes to the PATRIOT Act to ensure it is less likely to be abused in the future.

Furthermore, I am confident that the expiring USA PATRIOT Act provisions should be retained. The sixteen sunsetted provisions are generally working and should be reauthorized with some of the modifications reflected in the bill we take up today.

The bottom line is that the Judiciary Committee was able to do its work, and reach appropriate compromises. This allowed the cmmittee to favorably report this bill by a vote of 18–0. This type of consensus and bipartisanship is welcome and bodes well for our continued work on these critical issues.

This Nation faces difficult times. We know that there are those already in our country or trying to enter our country who would do us grievous injury and harm unless we can stop them—and to stop them, we must find

them first—before they act, not after they act. Therefore, this bill is necessary and prudent.

This legislation would permanently reauthorize 14 of the 16 provisions scheduled to sunset in December 2005 and extend two other provisions, multipoint, roving wiretaps, and the acquisition of business record, until December 2009.

I believe it was important to extend, rather than eliminate, the sunsets on these two most controversial provisions—they warrant continued scrutiny.

But this legislation does not merely extend the sunsets. It makes improvements to key portions of the act. The bill approved by Committee, and which take up today, went even further in strengthening the USA PATRIOT Act and protecting the civil liberties of Americans. It included the following modifications:

Clarifying the rules governing multipoint wiretaps as well as regulating the acquisition of business records in the course of foreign intelligence investigations by requiring that a judge determine that the request is relevant to a national security intelligence investigation, and increases the amount of information that must be provided to Congress to ensure adequate and effective oversight.

Changing Section 215 of the USA PATRIOT Act FISA Tangible Item Orders or the so-called ''library provision,'' tightening the requirement to make it clear that investigators must not only show relevance but also that the request pertains to a known or suspected agent of a foreign power or their associates.

Changing Section 213 of the USA PATRIOT Act, Delayed Notification of Search Warrants or ''Sneak and Peak,'' to include a ''7-day default'' for delayed notice search warrants. Extension of this delay is permitted to dates certain, limited to 90 days or less unless the facts of the case justify a longer period of delay, but only upon showing of facts supporting that request.

Changing Section 212 of the USA PATRIOT Act, so that electronic service provider, Verizon, Comcast, etc., are authorized to voluntarily, i.e., without a warrant, disclose customer records and the content of communications in an emergency situation—where delay could be harmful, but without a need to show ''immediacy.''

Changing Section 214 of the USA PATRIOT Act, FISA Pen Registers/Trap and Trace Devices, in a way that makes them consistent with those used in criminal cases.

Changing Section 505 of the USA PATRIOT Act, National Security Letter Protection, clarifying that any person contesting an order to produce a tangible thing, can not only challenge the order, but also any gag-order accompanying it.

Taken as a whole, these changes help ensure that these key provisions are used responsibly, in a focused and effective manner and against our Nation's enemies, not against ordinary Americans. They provide critical additional civil liberties protections, without sacrificing the safety of Americans. I strongly believe that Congress's responsibility does not end when it passes a law. We have an obligation to carry out vigorous oversight. We have an obligation to adjust and fine-tune laws to fit changing circumstances. We have an obligation to see that the law accomplishes its aims and remains balanced and appropriate.

I believe the bill before us represents the result of fulfilling those obligations, strikes a careful balance and should be approved.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, reserving the right to object to the unanimous consent request pending, I will make a brief statement regarding the PATRIOT Act, which is now being considered.

I rise in support of the compromise legislation. It is an amazing legislative achievement. This revision of the PATRIOT Act was enacted by the Senate Judiciary Committee, on which I am privileged to serve, by a vote of 18 to 0—a bipartisan vote—which indicated that both sides of the table came together in an effort to make meaningful revisions to the PATRIOT Act which will protect our freedom but not compromise our security.

We all remember the PATRIOT Act was passed shortly after 9/11, when we were the most engaged in the emotions of the moment. We worried that we might have another attack, and we needed to give our Government powers to protect us. But we worried as well that we might go too far in our emotion in the moment, so we included sunset provisions in the PATRIOT Act which forced us to revisit it. Those sunset provisions turned out to be exceedingly wise. They brought us back in the last few weeks to take another close look at that PATRIOT Act.

In the meantime, many people stepped forward with criticism of the original PATRIOT Act. One of those was my colleague, Senator LARRY CRAIG of Idaho. He and I probably have the most different voting records of any Senators you might find on the Senate floor—he being on the Republican side and my being on the Democratic side—yet we sat down and looked at the PATRIOT Act and found we had many concerns. We put together a bipartisan revision of the act, called the SAFE Act, which suggested some changes in the bill. We attracted support from across the political spectrum—from the American Conservative Union and the American Civil Liberties Union, from a wide range of different groups, right and left and center, who raised serious and important questions about whether the PATRIOT Act should be changed.

We brought that conversation to the Judiciary Committee while they were deliberating on this version of the PATRIOT Act. I am happy to report that many of the principles that Senator CRAIG and I were urging were included in this final revision of the act which now comes before us on the floor of the Senate.

There were some who worried that we might not reach that point because an early version of the SAFE Act had been threatened with a veto by the Bush White House. Nevertheless, we found that when we could come together and reason together, we could produce a work product that we believe will be acceptable not only to the Senate but we hope to the House and to the President.

Like the SAFE Act, the Senate bill retains all of the new powers created by the PATRIOT Act. That is an important thing to say and underline. Like the SAFE Act, it enhances judicial oversight and requires the Government to report to the Congress and the American people on the use of the PATRIOT Act.

Like the SAFE Act, it protects the privacy and free speech rights of innocent Americans. Here is one example: The bill would require the Government to convince a judge that a person is connected to terrorism or espionage before obtaining their library records, medical records, financial data, or other sensitive personal information. That is the right thing to do. The bill isn't perfect, but it moves us in the right direction.

Let me say a word as I close. One of the most unlikely groups became so important in this debate—the American Library Association. I cannot recall a time in recent memory when this organization showed such leadership. Time and again, they came forward to tell us that they wanted to protect the privacy of their patrons at libraries across America who might come in and take out a magazine or book, and they certainly didn't want to do that with the knowledge that the Government could sweep up all of the library records and sift through them to see if anybody had checked out a suspicious book. They sent us petitions gathered from libraries across the Nation, and I think they really did good work on behalf of our Constitution and our rights and liberties guaranteed under the Bill of Rights.

I wish to dedicate any success we have with this revision of the PATRIOT Act to the American Library Association and all those who stood with them in asking that we make meaningful changes to the act without eliminating the important provisions that continue to make America safe.

This bill today is not perfect. That's the nature of a compromise. But it does significantly improve the Patriot Act, and it extends the sunset for several controversial provisions so Congress will have another opportunity to review them in four years.

In contrast, the House of Representatives last week passed a flawed bill

that would extend the Patriot Act's expiring provisions, but not fix its fundamental problems. Many Republicans and Democrats voted against the bill because it doesn't protect our constitutional rights.

The Senate bill should serve as a model for how Republicans and Democrats can come together to protect our fundamental constitutional rights and give the government the powers it needs. This legislation shows that we can fight terrorism without changing the nature of our free and open society. It shows that we can be safe and free.

I urge my colleagues to support this legislation and to maintain this approach and balance in the Conference Committee.

I withdraw any reservation and accept the unanimous consent pending before the Senate.

The PRESIDING OFFICER. Without objection, the request is agreed to.

The bill (H.R. 3199), as amended, was read the third time and passed, as follows:

H.R. 3199

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 ''USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT

Sec. 101. References to USA Patriot Act.
Sec. 102. USA Patriot Act sunset provisions.
Sec. 103. Repeal of sunset provision relating to individual terrorists as agents of foreign powers.
Sec. 104. Repeal of sunset provision relating to section 2332b and the material support sections of title 18, United States Code.
Sec. 105. Sharing of electronic, wire, and oral interception information under section 203(b) of the USA Patriot Act.
Sec. 106. Duration of FISA surveillance of non-United States persons under section 207 of the USA Patriot Act.
Sec. 107. Access to certain business records under section 215 of the USA Patriot Act.
Sec. 108. Report on emergency disclosures under section 212 of the USA Patriot Act.
Sec. 109. Specificity and notification for roving surveillance authority under section 206 of the USA Patriot Act.
Sec. 110. Prohibition on planning terrorist attacks on mass transportation.
Sec. 111. Forfeiture.
Sec. 112. Adding offenses to the definition of Federal crime of terrorism.
Sec. 113. Amendments to section 2516(1) of title 18, United States Code.
Sec. 114. Definition of period of reasonable delay under section 213 of the USA Patriot Act.
Sec. 115. Attacks against railroad carriers and mass transportation systems.
Sec. 116. Judicial review of national security letters.
Sec. 117. Confidentiality of national security letters.
Sec. 118. Violations of nondisclosure provisions of national security letters.
Sec. 119. Reports.
Sec. 120. Definition for forfeiture provisions under section 806 of the USA Patriot Act.
Sec. 121. Limitation on authority to delay notice.
Sec. 122. Interception of communications.
Sec. 123. Penal provisions regarding trafficking in contraband cigarettes or smokeless tobacco.
Sec. 124. Prohibition of narco-terrorism.
Sec. 125. Interfering with the operation of an aircraft.
Sec. 126. Sense of Congress relating to lawful political activity.
Sec. 127. Repeal of first responder grant program.
Sec. 128. Faster and smarter funding for first responders.
Sec. 129. Oversight.
Sec. 130. GAO report on an inventory and status of homeland security first responder training.
Sec. 131. Removal of civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.
Sec. 132. Report by Attorney General.
Sec. 133. Sense of Congress.

TITLE II—TERRORIST DEATH PENALTY ENHANCEMENT

Sec. 201. Short title.

Subtitle A—Terrorist Penalties Enhancement Act

Sec. 211. Terrorist offense resulting in death.
Sec. 212. Denial of Federal benefits to terrorists.
Sec. 213. Death penalty procedures for certain air piracy cases occurring before enactment of the Federal Death Penalty Act of 1994.
Sec. 214. Ensuring death penalty for terrorist offenses which create grave risk of death.
Sec. 215. Postrelease supervision of terrorists.

Subtitle B—Prevention of Terrorist Access to Destructive Weapons Act

Sec. 221. Death penalty for certain terror related crimes.

Subtitle C—Federal Death Penalty Procedures

Sec. 231. Modification of death penalty provisions.

TITLE III—REDUCING CRIME AND TERRORISM AT AMERICA'S SEAPORTS

Sec. 301. Short title.
Sec. 302. Entry by false pretenses to any seaport.
Sec. 303. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.
Sec. 304. Use of a dangerous weapon or explosive on a passenger vessel.
Sec. 305. Criminal sanctions for violence against maritime navigation, placement of destructive devices.
Sec. 306. Transportation of dangerous materials and terrorists.
Sec. 307. Destruction of, or interference with, vessels or maritime facilities.
Sec. 308. Theft of interstate or foreign shipments or vessels.
Sec. 309. Increased penalties for noncompliance with manifest requirements.
Sec. 310. Stowaways on vessels or aircraft.
Sec. 311. Bribery affecting port security.
Sec. 312. Penalties for smuggling goods into the United States.
Sec. 313. Smuggling goods from the United States.

TITLE IV—COMBATING TERRORISM FINANCING

Sec. 401. Short title.
Sec. 402. Increased penalties for terrorism financing.
Sec. 403. Terrorism-related specified activities for money laundering.
Sec. 404. Assets of persons committing terrorist acts against foreign countries or international organizations.
Sec. 405. Money laundering through Hawalas.
Sec. 406. Technical and conforming amendments relating to the USA Patriot Act.
Sec. 407. Technical corrections to financing of terrorism statute.
Sec. 408. Cross reference correction.
Sec. 409. Amendment to amendatory language.
Sec. 410. Designation of additional money laundering predicate.

TITLE I—USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT

SEC. 101. REFERENCES TO USA PATRIOT ACT.

A reference in this Act to the USA PATRIOT ACT shall be deemed a reference to the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001.

SEC. 102. USA PATRIOT ACT SUNSET PROVISIONS.

(a) IN GENERAL.—Section 224 of the USA PATRIOT ACT is repealed.

(b) SECTIONS 206 AND 215 SUNSET.—Effective December 31, 2015, the Foreign Intelligence Surveillance Act of 1978 is amended so that sections 501, 502, and 105(c)(2) read as they read on October 25, 2001.

SEC. 103. REPEAL OF SUNSET PROVISION RELATING TO INDIVIDUAL TERRORISTS AS AGENTS OF FOREIGN POWERS.

Section 6001 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3742) is amended by—

(1) striking subsection (b); and

(2) striking ''(a)'' and all that follows through ''Section'' and inserting ''Section''.

SEC. 104. REPEAL OF SUNSET PROVISION RELATING TO SECTION 2332B AND THE MATERIAL SUPPORT SECTIONS OF TITLE 18, UNITED STATES CODE.

Section 6603 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3762) is amended by striking subsection (g).

SEC. 105. SHARING OF ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION UNDER SECTION 203(B) OF THE USA PATRIOT ACT.

Section 2517(6) of title 18, United States Code, is amended by adding at the end the following: ''Within a reasonable time after a disclosure of the contents of a communication under this subsection, an attorney for the Government shall file, under seal, a notice with a judge whose order authorized or approved the interception of that communication, stating the fact that such contents were disclosed and the departments, agencies, or entities to which the disclosure was made.''.

SEC. 106. DURATION OF FISA SURVEILLANCE OF NON-UNITED STATES PERSONS UNDER SECTION 207 OF THE USA PATRIOT ACT.

(a) ELECTRONIC SURVEILLANCE.—Section 105(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(e)) is amended—

(1) in paragraph (1)(B), by striking '', as defined in section 101(b)(1)(A)'' and inserting ''who is not a United States person''; and

(2) in subsection (2)(B), by striking ''as defined in section 101(b)(1)(A)'' and inserting ''who is not a United States person''.

(b) PHYSICAL SEARCH.—Section 304(d) of such Act (50 U.S.C. 1824(d)) is amended—

(1) in paragraph (1)(B), by striking ''as defined in section 101(b)(1)(A)'' and inserting ''who is not a United States person''; and

(2) in paragraph (2), by striking ''as defined in section 101(b)(1)(A)'' and inserting ''who is not a United States person''.

(c) PEN REGISTERS, TRAP AND TRACE DEVICES.—Section 402(e) of such Act (50 U.S.C. 1842(e)) is amended—

(1) by striking ''(e) An'' and inserting ''(e)(1) Except as provided in paragraph (2), an''; and

(2) by adding at the end the following new paragraph:

''(2) In the case of an application under subsection (c) where the applicant has certified that the information likely to be obtained is foreign intelligence information not concerning a United States person, an order, or an extension of an order, under this section may be for a period not to exceed one year.''.

SEC. 107. ACCESS TO CERTAIN BUSINESS RECORDS UNDER SECTION 215 OF THE USA PATRIOT ACT.

(a) ESTABLISHMENT OF RELEVANCE STANDARD.—Subsection (b)(2) of section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is amended by striking ''to obtain'' and all that follows and inserting ''and that the information likely to be obtained from the tangible things is reasonably expected to be (A) foreign intelligence information not concerning a United States person, or (B) relevant to an ongoing investigation to protect against international terrorism or clandestine intelligence activities.''.

(b) CLARIFICATION OF JUDICIAL DISCRETION.—Subsection (c)(1) of such section is amended to read as follows:

''(c)(1) Upon an application made pursuant to this section, if the judge finds that the application meets the requirements of subsections (a) and (b), the judge shall enter an ex parte order as requested, or as modified, approving the release of records.''.

(c) AUTHORITY TO DISCLOSE TO ATTORNEY.—Subsection (d) of such section is amended to read as follows:

''(d)(1) No person shall disclose to any person (other than a qualified person) that the United States has sought or obtained tangible things under this section.

''(2) An order under this section shall notify the person to whom the order is directed of the nondisclosure requirement under paragraph (1).

''(3) Any person to whom an order is directed under this section who discloses that the United States has sought to obtain tangible things under this section to a qualified person with respect to the order shall inform such qualified person of the nondisclosure requirement under paragraph (1) and that such qualified person is also subject to such nondisclosure requirement.

''(4) A qualified person shall be subject to any nondisclosure requirement applicable to a person to whom an order is directed under this section in the same manner as such person.

''(5) In this subsection, the term 'qualified person' means—

''(A) any person necessary to produce the tangible things pursuant to an order under this section; or

''(B) an attorney to obtain legal advice with respect to an order under this section.''.

(d) JUDICIAL REVIEW.—

(1) PETITION REVIEW PANEL.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following new subsection:

''(e)(1) Three judges designated under subsection (a) who reside within 20 miles of the District of Columbia, or if all of such judges are unavailable, other judges of the court established under subsection (a) as may be designated by the Presiding Judge of such court (who is designated by the Chief Justice of the United States from among the judges of the court), shall comprise a petition review panel which shall have jurisdiction to review petitions filed pursuant to section 501(f)(1).

''(2) Not later than 60 days after the date of the enactment of the USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005, the court established under subsection (a) shall develop and issue procedures for the review of petitions filed pursuant to section 501(f)(1) by the panel established under paragraph (1). Such procedures shall provide that review of a petition shall be conducted ex parte and in camera and shall also provide for the designation of an Acting Presiding Judge.''.

(2) PROCEEDINGS.—Section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is further amended by adding at the end the following new subsection:

''(f)(1) A person receiving an order to produce any tangible thing under this section may challenge the legality of that order by filing a petition in the panel established by section 103(e)(1). The Presiding Judge shall conduct an initial review of the petition. If the Presiding Judge determines that the petition is frivolous, the Presiding Judge shall immediately deny the petition and promptly provide a written statement of the reasons for the determination for the record. If the Presiding Judge determines that the petition is not frivolous, the Presiding Judge shall immediately assign the petition to one of the judges serving on such panel. The assigned judge shall promptly consider the petition in accordance with procedures developed and issued pursuant to section 103(e)(2). The judge considering the petition may modify or set aside the order only if the judge finds that the order does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the order, the judge shall immediately affirm the order and order the recipient to comply therewith. A petition for review of a decision to affirm, modify, or set aside an order by the United States or any person receiving such order shall be to the court of review established under section 103(b), which shall have jurisdiction to consider such petitions. The court of review shall immediately provide for the record a written statement of the reasons for its decision and, on petition of the United States or any person receiving such order for writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

''(2) Judicial proceedings under this subsection shall be concluded as expeditiously as possible. The judge considering a petition filed under this subsection shall provide for the record a written statement of the reasons for the decision. The record of proceedings, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures established by the Chief Justice of the United States in consultation with the Attorney General and the Director of National Intelligence.

''(3) All petitions under this subsection shall be filed under seal, and the court, upon the government's request, shall review any government submission, which may include classified information, as well as the government's application and related materials, ex parte and in camera.''.

(e) FBI DIRECTOR REQUIRED TO APPLY FOR ORDER OF PRODUCTION OF RECORDS FROM LIBRARY OR BOOKSTORE.—Section 501(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(a)) is amended—

(1) in paragraph (1), by striking ''The Director'' and inserting ''Subject to paragraph (3), the Director''; and

(2) by adding at the end the following new paragraph:

''(3) In the case of an application for an order requiring the production of tangible things described in paragraph (1) from a library or bookstore, the Director of the Federal Bureau of Investigation shall not delegate the authority to make such application to a designee.''.

SEC. 108. REPORT ON EMERGENCY DISCLOSURES UNDER SECTION 212 OF THE USA PATRIOT ACT.

Section 2702 of title 18, United States Code, is amended by adding at the end the following:

''(d) REPORT.—On an annual basis, the Attorney General shall submit to the Committees on the Judiciary of the House and the Senate a report containing—

''(1) the number of accounts from which the Department of Justice has received voluntary disclosures under subsection (b)(8); and

''(2) a summary of the basis for disclosure in those instances where—

''(A) voluntary disclosure under subsection (b)(8) was made to the Department of Justice; and

''(B) the investigation pertaining to those disclosures was closed without the filing of criminal charges.''.

SEC. 109. SPECIFICITY AND NOTIFICATION FOR ROVING SURVEILLANCE AUTHORITY UNDER SECTION 206 OF THE USA PATRIOT ACT.

(a) INCLUSION OF SPECIFIC FACTS IN APPLICATION.—Section 105(c)(2)(B) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)(2)(B)) is amended by striking ''where the Court finds'' and inserting ''where the Court finds, based upon specific facts provided in the application,''.

(b) NOTIFICATION OF SURVEILLANCE OF NEW FACILITY OR PLACE.—Section 105(c)(2) of such Act is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(E) that, in the case of electronic surveillance directed at a facility or place that is not known at the time the order is issued, the applicant shall notify a judge having jurisdiction under section 103 at the earliest reasonable time as determined by the court, but in no case later than 15 days, after electronic surveillance begins to be directed at a new facility or place, and such notice shall contain a statement of the facts and circumstances relied upon by the applicant to justify the belief that the facility or place at which the electronic surveillance is or was directed is being used, or is about to be used, by the target of electronic surveillance and shall specify the total number of electronic surveillances that have been or are being conducted under the authority of the order.''.

SEC. 110. PROHIBITION ON PLANNING TERRORIST ATTACKS ON MASS TRANSPORTATION.

Section 1993(a) of title 18, United States Code, is amended—

(1) by striking ''or'' at the of paragraph (7);

(2) by redesignating paragraph (8) as paragraph (9); and

(3) by inserting after paragraph (7) the following:

''(8) surveils, photographs, videotapes, diagrams, or otherwise collects information with the intent to plan or assist in planning any of the acts described in the paragraphs (1) through (7); or''.

SEC. 111. FORFEITURE.

Section 981(a)(1)(B)(i) of title 18, United States Code, is amended by inserting ''trafficking in nuclear, chemical, biological, or radiological weapons technology or material, or'' after ''involves''.

SEC. 112. ADDING OFFENSES TO THE DEFINITION OF FEDERAL CRIME OF TERRORISM.

Section 2332b)(g)(5)(B)(i) of title 18, United States Code, is amended—

(1) by inserting '', 2339D (relating to military-type training from a foreign terrorist organization)'' before '', or 2340A''; and

(2) by inserting ''832 (relating to nuclear and weapons of mass destruction threats),'' after ''831 (relating to nuclear materials),''.

SEC. 113. AMENDMENTS TO SECTION 2516(1) OF TITLE 18, UNITED STATES CODE.

(a) PARAGRAPH (c) AMENDMENT.—Section 2516(1)(c) of title 18, United States Code, is amended—

(1) by inserting ''section 37 (relating to violence at international airports), section 175b (relating to biological agents or toxins)'' after ''the following sections of this title:'';

(2) by inserting ''section 832 (relating to nuclear and weapons of mass destruction threats), section 842 (relating to explosive materials), section 930 (relating to possession of weapons in Federal facilities),'' after ''section 751 (relating to escape),'';

(3) by inserting ''section 1114 (relating to officers and employees of the United States), section 1116 (relating to protection of foreign officials), sections 1361–1363 (relating to damage to government buildings and communications), section 1366 (relating to destruction of an energy facility), '' after ''section 1014 (relating to loans and credit applications generally; renewals and discounts),'';

(4) by inserting ''section 1993 (relating to terrorist attacks against mass transportation), sections 2155 and 2156 (relating to national-defense utilities), sections 2280 and 2281 (relating to violence against maritime navigation),'' after ''section 1344 (relating to bank fraud),''; and

(5) by inserting ''section 2340A (relating to torture),'' after ''section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts),''.

(b) PARAGRAPH (p) AMENDMENT.—Section 2516(1)(p) is amended by inserting '', section 1028A (relating to aggravated identity theft)'' after ''other documents''.

(c) PARAGRAPH (q) AMENDMENT.—Section 2516(1)(q) of title 18 United States Code is amended—

(1) by inserting ''2339'' after ''2232h''; and

(2) by inserting ''2339D'' after ''2339C''.

SEC. 114. DEFINITION OF PERIOD OF REASONABLE DELAY UNDER SECTION 213 OF THE USA PATRIOT ACT.

Section 3103a(b)(3) of title 18, United States Code, is amended—

(1) by striking ''of its'' and inserting '', which shall not be more than 180 days, after its''; and

(2) by inserting ''for additional periods of not more than 90 days each'' after ''may be extended''.

SEC. 115. ATTACKS AGAINST RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Chapter 97 of title 18, United States Code, is amended by striking sections 1992 through 1993 and inserting the following:

''§ 1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air

''(a) GENERAL PROHIBITIONS.—Whoever, in a circumstance described in subsection (c), knowingly—

''(1) wrecks, derails, sets fire to, or disables railroad on-track equipment or a mass transportation vehicle;

''(2) with intent to endanger the safety of any person, or with a reckless disregard for the safety of human life, and without the authorization of the railroad carrier or mass transportation provider—

''(A) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment or a mass transportation vehicle; or

''(B) releases a hazardous material or a biological agent or toxin on or near any property described in subparagraph (A) or (B) of paragraph (3);

''(3) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

''(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, without the authorization of the railroad carrier, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck railroad on-track equipment;

''(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, without the authorization of the mass transportation provider, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider; or

''(4) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, without authorization from the railroad carrier or mass transportation provider;

''(5) with intent to endanger the safety of any person, or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, or maintaining railroad on-track equipment or a mass transportation vehicle;

''(6) commits an act, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on property described in subparagraph (A) or (B) of paragraph (3), except that this subparagraph shall not apply to rail police officers acting in the course of their law enforcement duties under section 28101 of title 49, United States Code;

''(7) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt that was made, is being made, or is to be made, to engage in a violation of this subsection; or

''(8) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (7),

shall be fined under this title or imprisoned not more than 20 years, or both.

''(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) of this section in a circumstance in which—

''(1) the railroad on-track equipment or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

''(2) the railroad on-track equipment or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense;

''(3) the railroad on-track equipment or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

''(A) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

''(B) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations; or

''(4) the offense results in the death of any person,

shall be fined under this title or imprisoned for any term of years or life, or both. In the case of a violation described in paragraph (2) of this subsection, the term of imprisonment shall be not less than 30 years; and, in the case of a violation described in paragraph (4) of this subsection, the offender shall be fined under this title and imprisoned for life and be subject to the death penalty.

''(c) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A circumstance referred to in subsection (a) is any of the following:

''(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider or railroad carrier engaged in or affecting interstate or foreign commerce.

''(2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

''(d) DEFINITIONS.—In this section—

''(1) the term 'biological agent' has the meaning given to that term in section 178(1);

''(2) the term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of more than 2½ inches in length and a box cutter;

''(3) the term 'destructive device' has the meaning given to that term in section 921(a)(4);

''(4) the term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

''(5) the term 'hazardous material' has the meaning given to that term in chapter 51 of title 49;

''(6) the term 'high-level radioactive waste' has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

''(7) the term 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, except that the term includes school bus, charter, and sightseeing transportation;

''(8) the term 'on-track equipment' means a carriage or other contrivance that runs on rails or electromagnetic guideways;

''(9) the term 'railroad on-track equipment' means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

''(10) the term 'railroad' has the meaning given to that term in chapter 201 of title 49;

''(11) the term 'railroad carrier' has the meaning given to that term in chapter 201 of title 49;

''(12) the term 'serious bodily injury' has the meaning given to that term in section 1365;

''(13) the term 'spent nuclear fuel' has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

''(14) the term 'State' has the meaning given to that term in section 2266;

''(15) the term 'toxin' has the meaning given to that term in section 178(2); and

''(16) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections at the beginning of chapter 97 of title 18, United States Code, is amended—

(A) by striking ''**RAILROADS**'' in the chapter heading and inserting ''**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**'';

(B) by striking the items relating to sections 1992 and 1993; and

(C) by inserting after the item relating to section 1991 the following:

''1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.''.

(2) The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

''97. Railroad carriers and mass transportation systems on land, on water, or through the air ..... 1991''.

(3) Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking ''1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems),'' and inserting ''1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),'';

(B) in section 2339A, by striking ''1993,''; and

(C) in section 2516(1)(c) by striking ''1992 (relating to wrecking trains),'' and inserting ''1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),''.

SEC. 116. JUDICIAL REVIEW OF NATIONAL SECURITY LETTERS.

Chapter 223 of title 18, United States Code, is amended—

(1) by inserting at the end of the table of sections the following new item:

''3511. Judicial review of requests for information.'';

and

(2) by inserting after section 3510 the following:

''§ 3511. Judicial review of requests for information

''(a) The recipient of a request for records, a report, or other information under section 2709(b) of this title, section 625(a) or (b) or 626(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947 may, in the United States district court for the district in which that person or entity does business or resides, petition for an order modifying or setting aside the request. The court may modify or set aside the request if compliance would be unreasonable or oppressive.

''(b) The recipient of a request for records, a report, or other information under section 2709(b) of this title, section 625(a) or (b) or 626(a) of the Fair Credit Reporting Act, section 1114(a)(5)A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947, may petition any court described in subsection (a) for an order modifying or setting aside a nondisclosure requirement imposed in connection with such a request.

''(1) If the petition is filed within one year of the request for records, a report, or other information under section 2709(b) of this title, section 625(a) or (b) or 626(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947, the court may modify or set aside such a nondisclosure requirement if it finds that there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. The certification made at the time of the request that disclosure may endanger of the national security of the United States or interfere with diplomatic relations shall be treated as conclusive unless the court finds that the certification was made in bad faith.

''(2) If the petition is filed one year or more after the request for records, a report, or other information under section 2709(b) of this title, section 625(a) or (b) or 626(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947, the issuing officer, within ninety days of the filing of the petition, shall either terminate the nondisclosure requirement or re-certify that disclosure may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person. In the event or re-certification, the court may modify or set aside such a nondisclosure requirement if it finds that there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. The re-certification that disclosure may endanger of the national security of the United States or interfere with diplomatic relations shall be treated as conclusive unless the court finds that the re-certification was made in bad faith. If the court denies a petition for an order modifying or setting aside a nondisclosure requirement under this paragraph, the recipient shall be precluded for a period of one year from filing another petition to modify or set aside such nondisclosure requirement.

''(c) In the case of a failure to comply with a request for records, a report, or other information made to any person or entity under section 2709(b) of this title, section 625(a) or (b) or 626(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947, the Attorney General may invoke the aid of any court of the United States within the jurisdiction in which the investigation is carried on or the person or entity resides, carries on business, or may be found, to compel compliance with the request. The court may issue an order requiring the person or entity to comply with the request. Any failure to obey the order of the court may be punished by the court as contempt thereof. Any process under this section may be served in any judicial district in which the person or entity may be found.

''(d) In all proceedings under this section, subject to any right to an open hearing in a contempt proceeding, the court must close any hearing to the extent necessary to prevent an unauthorized disclosure of a request for records, a report, or other information made to any person or entity under section 2709(b) of this title, section 625(a) or (b) or 626(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947. Petitions, filings, records, orders, and subpoenas must also be kept under seal to the extent and as long as necessary to prevent the unauthorized disclosure of a request for records, a report, or other information made to any person or entity under section 2709(b) of this title, section 625(a) or (b) or 626(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947.

''(e) In all proceedings under this section, the court shall, upon the Federal Government's request, review the submission of the Government, which may include classified information, ex parte and in camera.''.

SEC. 117. CONFIDENTIALITY OF NATIONAL SECURITY LETTERS.

(a) Section 2709(c) of title 18, United States Code, is amended to read:

''(c) PROHIBITION OF CERTAIN DISCLOSURE.—

''(1) If the Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no wire or electronic communications service provider, or officer, employee, or agent thereof, shall disclose to any person (other than those to whom such disclosure is necessary in order to comply with the request or an attorney to obtain legal advice with respect to the request) that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

''(2) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

''(3) Any recipient disclosing to those persons necessary to comply with the request or to an attorney to obtain legal advice with respect to the request shall inform such person of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).''.

(b) Section 625(d) of the Fair Credit Reporting Act (15 U.S.C. 1681u(d)) is amended to read:

''(d) CONFIDENTIALITY.—

''(1) If the Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, certifies that otherwise there

may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person (other than those to whom such disclosure is necessary in order to comply with the request or an attorney to obtain legal advice with respect to the request) that the Federal Bureau of Investigation has sought or obtained the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c), and no consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information on a consumer report.

''(2) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

''(3) Any recipient disclosing to those persons necessary to comply with the request or to an attorney to obtain legal advice with respect to the request shall inform such persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).''.

(c) Section 626(c) of the Fair Credit Reporting Act (15 U.S.C. 1681v(c)) is amended to read:

''(c) CONFIDENTIALITY.—

''(1) If the head of a government agency authorized to conduct investigations or, or intelligence or counterintelligence activities or analysis related to, international terrorism, or his designee, certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no consumer reporting agency or officer, employee, or agent of such consumer reporting agency, shall disclose to any person (other than those to whom such disclosure is necessary in order to comply with the request or an attorney to obtain legal advice with respect to the request), or specify in any consumer report, that a government agency has sought or obtained access to information under subsection (a).

''(2) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

''(3) Any recipient disclosing to those persons necessary to comply with the request or to any attorney to obtain legal advice with respect to the request shall inform such persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).''.

(d) Section 1114(a)(5)(D) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(D)) is amended to read:

''(D) PROHIBITION OF CERTAIN DISCLOSURE.—

''(i) If the Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no financial institution, or officer, employee, or agent of such institution, shall disclose to any person (other than those to whom such disclosure is necessary in order to comply with the request or an attorney to obtain legal advice with respect to the request) that the Federal Bureau of Investigation has sought or obtained access to a customer's or entity's financial records under paragraph (5).

''(ii) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

''(iii) Any recipient disclosing to those persons necessary to comply with the request or to an attorney to obtain legal advice with respect to the request shall inform such persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).''.

(e) Section 802(b) of the National Security Act of 1947 (50 U.S.C. 436(b)) is amended to read as follows:

''(b) PROHIBITION OF CERTAIN DISCLOSURE.—

''(1) If an authorized investigative agency described in subsection (a) certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no governmental or private entity, or officer, employee, or agent of such entity, may disclose to any person (other than those to whom such disclosure is necessary in order to comply with the request or an attorney to obtain legal advice with respect to the request) that such entity has received or satisfied a request made by an authorized investigative agency under this section.

''(2) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

''(3) Any recipient disclosing to those persons necessary to comply with the request or to an attorney to obtain legal advice with respect to the request shall inform such persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).''.

SEC. 118. VIOLATIONS OF NONDISCLOSURE PROVISIONS OF NATIONAL SECURITY LETTERS.

Section 1510 of title 18, United States Code, is amended by adding at the end the following:

''(e) Whoever knowingly violates section 2709(c)(1) of this title, sections 625(d) or 626(c) of the Fair Credit Reporting Act (15 U.S.C. 1681u(d) or 1681v(c)), section 1114(a)(3) or 1114(a)(5)(D) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(3) or 3414(a)(5)(D)), or section 802(b) of the National Security Act of 1947 (50 U.S.C. 436(b)) shall be imprisoned for not more than one year, and if the violation is committed with the intent to obstruct an investigation or judicial proceeding, shall be imprisoned for not more than five years.''.

SEC. 119. REPORTS.

Any report made to a committee of Congress regarding national security letters under section 2709(c)(1) of title 18, United States Code, sections 625(d) or 626(c) of the Fair Credit Reporting Act (15 U.S.C. 1681u(d) or 1681v(c)), section 1114(a)(3) or 1114(a)(5)(D) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(3) or 3414(a)(5)(D)), or section 802(b) of the National Security Act of 1947 (50 U.S.C. 436(b)) shall also be made to the Committees on the Judiciary of the House of Representatives and the Senate.

SEC. 120. DEFINITION FOR FORFEITURE PROVISIONS UNDER SECTION 806 OF THE USA PATRIOT ACT.

Section 981(a)(1)(G) of title 18, United States Code, is amended by striking ''section 2331'' each place it appears and inserting ''2332b(g)(5)(B)''.

SEC. 121. LIMITATION ON AUTHORITY TO DELAY NOTICE.

(a) IN GENERAL.—Section 3103a(b)(1) of title 18, United States Code, is amended by inserting '', except if the adverse results consists only of unduly delaying a trial'' after ''2705''.

(b) REPORTING REQUIREMENT.—Section 3103a of title 18, United States Code, is amended by adding at the end the following:

''(c) REPORTS.—On an annual basis, the Administrative Office of the United States Courts shall report to the Committees on the Judiciary of the House of Representatives and the Senate the number of search warrants granted during the reporting period, and the number of delayed notices authorized during that period, indicating the adverse result that occasioned that delay.''.

SEC. 122. INTERCEPTION OF COMMUNICATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c)—

(A) by inserting before ''section 201 (bribery of public officials and witnesses)'' the following: ''section 81 (arson within special maritime and territorial jurisdiction),'';

(B) by inserting before ''subsection (d), (e), (f), (g), (h), or (i) of section 844 (unlawful use of explosives)'' the following: ''subsections (m) or (n) of section 842 (relating to plastic explosives),''; and

(C) by inserting before ''section 1992 (relating to wrecking trains)'' the following: '', section 930(c) (relating to attack on federal facility with firearm), section 956 (conspiracy to harm persons or property overseas),''; and

(2) in paragraph (j)—

(A) by striking ''or'' before ''section 46502 (relating to aircraft piracy)'' and inserting a comma after ''section 60123(b) (relating to the destruction of a natural gas pipeline''; and

(B) by inserting '', the second sentence of section 46504 (relating to assault on a flight crew with dangerous weapon), or section 46505(b)(3) or (c) (relating to explosive or incendiary devices, or endangerment of human life, by means of weapons on aircraft)'' before of ''title 49''.

SEC. 123. PENAL PROVISIONS REGARDING TRAFFICKING IN CONTRABAND CIGARETTES OR SMOKELESS TOBACCO.

(a) THRESHOLD QUANTITY FOR TREATMENT AS CONTRABAND CIGARETTES.—(1) Section 2341(2) of title 18, United States Code, is amended by striking ''60,000 cigarettes'' and inserting ''10,000 cigarettes''.

(2) Section 2342(b) of that title is amended by striking ''60,000'' and inserting ''10,000''.

(3) Section 2343 of that title is amended—

(A) in subsection (a), by striking ''60,000'' and inserting ''10,000''; and

(B) in subsection (b), by striking ''60,000'' and inserting ''10,000''.

(b) CONTRABAND SMOKELESS TOBACCO.—(1) Section 2341 of that title is amended—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

''(6) the term 'smokeless tobacco' means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted;

''(7) the term 'contraband smokeless tobacco' means a quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, that are in the possession of any person other than—

''(A) a person holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1986 as manufacturer of tobacco products or as an export warehouse proprietor, a person operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930 (19 U.S.C. 1311, 1555), or an agent of such person;

''(B) a common carrier transporting such smokeless tobacco under a proper bill of lading or freight bill which states the quantity, source, and designation of such smokeless tobacco;

''(C) a person who—

''(i) is licensed or otherwise authorized by the State where such smokeless tobacco is found to engage in the business of selling or distributing tobacco products; and

''(ii) has complied with the accounting, tax, and payment requirements relating to such license or authorization with respect to such smokeless tobacco; or

''(D) an officer, employee, or agent of the United States or a State, or any department, agency, or instrumentality of the United States or a State (including any political subdivision of a State), having possession of such smokeless tobacco in connection with the performance of official duties;''.

(2) Section 2342(a) of that title is amended by inserting ''or contraband smokeless tobacco'' after ''contraband cigarettes''.

(3) Section 2343(a) of that title is amended by inserting '', or any quantity of smokeless tobacco in excess of 500 single-unit consumer-sized cans or packages,'' before ''in a single transaction''.

(4) Section 2344(c) of that title is amended by inserting ''or contraband smokeless tobacco'' after ''contraband cigarettes''.

(5) Section 2345 of that title is amended by inserting ''or smokeless tobacco'' after ''cigarettes'' each place it appears.

(6) Section 2341 of that title is further amended in paragraph (2), as amended by subsection (a)(1) of this section, in the matter preceding subparagraph (A), by striking ''State cigarette taxes in the State where such cigarettes are found, if the State'' and inserting ''State or local cigarette taxes in the State or locality where such cigarettes are found, if the State or local government''.

(c) RECORDKEEPING, REPORTING, AND INSPECTION.—Section 2343 of that title, as amended by this section, is further amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''only—'' and inserting ''such information as the Attorney General considers appropriate for purposes of enforcement of this chapter, including—''; and

(B) in the flush matter following paragraph (3), by striking the second sentence;

(2) by redesignating subsection (b) as subsection (c);

(3) by inserting after subsection (a) the following new subsection (b):

''(b) Any person, except for a tribal government, who engages in a delivery sale, and who ships, sells, or distributes any quantity in excess of 10,000 cigarettes, or any quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, within a single month, shall submit to the Attorney General, pursuant to rules or regulations prescribed by the Attorney General, a report that sets forth the following:

''(1) The person's beginning and ending inventory of cigarettes and cans or packages of smokeless tobacco (in total) for such month.

''(2) The total quantity of cigarettes and cans or packages of smokeless tobacco that the person received within such month from each other person (itemized by name and address).

''(3) The total quantity of cigarettes and cans or packages of smokeless tobacco that the person distributed within such month to each person (itemized by name and address) other than a retail purchaser.''; and

(4) by adding at the end the following new subsections:

''(d) Any report required to be submitted under this chapter to the Attorney General shall also be submitted to the Secretary of the Treasury and to the attorneys general and the tax administrators of the States from where the shipments, deliveries, or distributions both originated and concluded.

''(e) In this section, the term 'delivery sale' means any sale of cigarettes or smokeless tobacco in interstate commerce to a consumer if—

''(1) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or by any other means where the consumer is not in the same physical location as the seller when the purchase or offer of sale is made; or

''(2) the cigarettes or smokeless tobacco are delivered by use of the mails, common carrier, private delivery service, or any other means where the consumer is not in the same physical location as the seller when the consumer obtains physical possession of the cigarettes or smokeless tobacco.

''(f) In this section, the term 'interstate commerce' means commerce between a State and any place outside the State, or commerce between points in the same State but through any place outside the State.''.

(d) DISPOSAL OR USE OF FORFEITED CIGARETTES AND SMOKELESS TOBACCO.—Section 2344(c) of that title, as amended by this section, is further amended by striking ''seizure and forfeiture,'' and all that follows and inserting ''seizure and forfeiture, and any cigarettes or smokeless tobacco so seized and forfeited shall be either—

''(1) destroyed and not resold; or

''(2) used for undercover investigative operations for the detection and prosecution of crimes, and then destroyed and not resold.''.

(e) EFFECT ON STATE AND LOCAL LAW.—Section 2345 of that title is amended—

(1) in subsection (a), by striking ''a State to enact and enforce'' and inserting ''a State or local government to enact and enforce its own''; and

(2) in subsection (b), by striking ''of States, through interstate compact or otherwise, to provide for the administration of State'' and inserting ''of State or local governments, through interstate compact or otherwise, to provide for the administration of State or local''.

(f) ENFORCEMENT.—Section 2346 of that title is amended—

(1) by inserting ''(a)'' before ''The Attorney General''; and

(2) by adding at the end the following new subsection:

''(b)(1) A State, through its attorney general, a local government, through its chief law enforcement officer (or a designee thereof), or any person who holds a permit under chapter 52 of the Internal Revenue Code of 1986, may bring an action in the United States district courts to prevent and restrain violations of this chapter by any person (or by any person controlling such person), except that any person who holds a permit under chapter 52 of the Internal Revenue Code of 1986 may not bring such an action against a State or local government. No civil action may be commenced under this paragraph against an Indian tribe or an Indian in Indian country (as defined in section 1151).

''(2) A State, through its attorney general, or a local government, through its chief law enforcement officer (or a designee thereof), may in a civil action under paragraph (1) also obtain any other appropriate relief for violations of this chapter from any person (or by any person controlling such person), including civil penalties, money damages, and injunctive or other equitable relief. Nothing in this chapter shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government, or an Indian tribe against any unconsented lawsuit under this chapter, or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government, or an Indian tribe.

''(3) The remedies under paragraphs (1) and (2) are in addition to any other remedies under Federal, State, local, or other law.

''(4) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized State official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

''(5) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.''.

(g) CONFORMING AND CLERICAL AMENDMENTS.—(1) The section heading for section 2343 of that title is amended to read as follows:

''§ 2343. Recordkeeping, reporting, and inspection''.

(2) The section heading for section 2345 of such title is amended to read as follows:

''§ 2345. Effect on State and local law''.

(3) The table of sections at the beginning of chapter 114 of that title is amended—

(A) by striking the item relating to section 2343 and inserting the following new item:

''2343. Recordkeeping, reporting, and inspection.'';

and

(B) by striking the item relating to section 2345 and insert the following new item:

''2345. Effect on State and local law.''.

(4)(A) The heading for chapter 114 of that title is amended to read as follows:

''CHAPTER 114—TRAFFICKING IN CONTRABAND CIGARETTES AND SMOKELESS TOBACCO''.

(B) The table of chapters at the beginning of part I of that title is amended by striking the item relating to section 114 and inserting the following new item:

''114. Trafficking in contraband cigarettes and smokeless tobacco ..... 2341''.

SEC. 124. PROHIBITION OF NARCO-TERRORISM.

Part A of the Controlled Substance Import and Export Act (21 U.S.C. 951 et seq.) is amended by inserting after section 1010 the following:

''NARCO-TERRORISTS WHO AID AND SUPPORT TERRORISTS OR FOREIGN TERRORIST ORGANIZATIONS

''SEC. 1010A. (a) PROHIBITED ACTS.—Whoever, in a circumstance described in subsection (c), manufactures, distributes, imports, exports, or possesses with intent to distribute or manufacture a controlled substance, flunitrazepam, or listed chemical, or attempts or conspires to do so, knowing or intending that such activity, directly or indirectly, aids or provides support, resources, or anything of pecuniary value to—

''(1) a foreign terrorist organization; or

''(2) any person or group involved in the planning, preparation for, or carrying out of,

a terrorist offense, shall be punished as provided under subsection (b).

''(b) PENALTIES.—Whoever violates subsection (a) shall be fined under this title, imprisoned for not less than 20 years and not more than life and shall be sentenced to a term of supervised release of not less than 5 years.

''(c) JURISDICTION.—There is jurisdiction over an offense under this section if—

''(1) the prohibited drug activity or the terrorist offense is in violation of the criminal laws of the United States;

''(2) the offense or the prohibited drug activity occurs in or affects interstate or foreign commerce;

''(3) the offense, the prohibited drug activity or the terrorist offense involves the use of the mails or a facility of interstate or foreign commerce;

''(4) the terrorist offense occurs in or affects interstate or foreign commerce or would have occurred in or affected interstate or foreign commerce had it been consummated;

''(5) an offender provides anything of pecuniary value to a foreign terrorist organization;

''(6) an offender provides anything of pecuniary value for a terrorist offense that is designed to influence the policy or affect the conduct of the United States government;

''(7) an offender provides anything of pecuniary value for a terrorist offense that occurs in part within the United States and is designed to influence the policy or affect the conduct of a foreign government;

''(8) an offender provides anything of pecuniary value for a terrorist offense that causes or is designed to cause death or serious bodily injury to a national of the United States while that national is outside the United States, or substantial damage to the property of a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions) while that property is outside of the United States;

''(9) the offense occurs in whole or in part within the United States, and an offender provides anything of pecuniary value for a terrorist offense that is designed to influence the policy or affect the conduct of a foreign government;

''(10) the offense or the prohibited drug activity occurs in whole or in part outside of the United States (including on the high seas), and a perpetrator of the offense or the prohibited drug activity is a national of the United States or a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions); or

''(11) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States.

''(d) PROOF REQUIREMENTS.—The prosecution shall not be required to prove that any defendant knew that an organization was designated as a 'foreign terrorist organization' under the Immigration and Nationality Act.

''(e) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) ANYTHING OF PECUNIARY VALUE.—The term 'anything of pecuniary value' has the meaning given the term in section 1958(b)(1) of title 18, United States Code.

''(2) TERRORIST OFFENSE.—The term 'terrorist offense' means—

''(A) an act which constitutes an offense within the scope of a treaty, as defined under section 2339C(e)(7) of title 18, United States Code, which has been implemented by the United States;

''(B) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

''(3) TERRORIST ORGANIZATION.—The term 'terrorist organization' has the meaning given the term in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).''.

SEC. 125. INTERFERING WITH THE OPERATION OF AN AIRCRAFT.

Section 32 of title 18, United States Code, is amended—

(1) in subsection (a), by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8) respectively;

(2) by inserting after paragraph (4) of subsection (a), the following:

''(5) interferes with or disables, with intent to endanger the safety of any person or with a reckless disregard for the safety of human life, anyone engaged in the authorized operation of such aircraft or any air navigation facility aiding in the navigation of any such aircraft;'';

(3) in subsection (a)(8), by striking ''paragraphs (1) through (6)'' and inserting ''paragraphs (1) through (7)''; and

(4) in subsection (c), by striking ''paragraphs (1) through (5)'' and inserting ''paragraphs (1) through (6)''.

SEC. 126. SENSE OF CONGRESS RELATING TO LAWFUL POLITICAL ACTIVITY.

It is the sense of Congress that the Federal Government should not investigate an American citizen for alleged criminal conduct solely on the basis of the citizen's membership in a non-violent political organization or the fact that the citizen was engaging in other lawful political activity.

SEC. 127. REPEAL OF FIRST RESPONDER GRANT PROGRAM.

Section 1014 of the USA PATRIOT ACT is amended by striking subsection (c).

SEC. 128. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.

(a) IN GENERAL.—The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is amended—

(1) in section 1(b) in the table of contents by adding at the end the following:

''TITLE XVIII—FUNDING FOR FIRST RESPONDERS

''1801. Definitions.
''1802. Faster and Smarter Funding for First Responders.
''1803. Covered grant eligibility and criteria.
''1804. Risk-based evaluation and prioritization.
''1805. Task Force on Terrorism Preparedness for First Responders.
''1806. Use of funds and accountability requirements.
''1807. National standards for first responder equipment and training.''.

(2) by adding at the end the following:

''TITLE XVIII—FUNDING FOR FIRST RESPONDERS

''SEC. 1801. DEFINITIONS.

''In this title:

''(1) BOARD.—The term 'Board' means the First Responder Grants Board established under section 1804.

''(2) COVERED GRANT.—The term 'covered grant' means any grant to which this title applies under section 1802.

''(3) DIRECTLY ELIGIBLE TRIBE.—The term 'directly eligible tribe' means any Indian tribe or consortium of Indian tribes that—

''(A) meets the criteria for inclusion in the qualified applicant pool for Self-Governance that are set forth in section 402(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bb(c));

''(B) employs at least 10 full-time personnel in a law enforcement or emergency response agency with the capacity to respond to calls for law enforcement or emergency services; and

''(C)(i) is located on, or within 5 miles of, an international border or waterway;

''(ii) is located within 5 miles of a facility designated as high-risk critical infrastructure by the Secretary;

''(iii) is located within or contiguous to one of the 50 largest metropolitan statistical areas in the United States; or

''(iv) has more than 1,000 square miles of Indian country, as that term is defined in section 1151 of title 18, United States Code.

''(4) ELEVATIONS IN THE THREAT ALERT LEVEL.—The term 'elevations in the threat alert level' means any designation (including those that are less than national in scope) that raises the homeland security threat level to either the highest or second highest threat level under the Homeland Security Advisory System referred to in section 201(d)(7).

''(5) EMERGENCY PREPAREDNESS.—The term 'emergency preparedness' shall have the same meaning that term has under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a).

''(6) ESSENTIAL CAPABILITIES.—The term 'essential capabilities' means the levels, availability, and competence of emergency personnel, planning, training, and equipment across a variety of disciplines needed to effectively and efficiently prevent, prepare for, respond to, and recover from acts of terrorism consistent with established practices.

''(7) FIRST RESPONDER.—The term 'first responder' shall have the same meaning as the term 'emergency response provider'.

''(8) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(9) REGION.—The term 'region' means—

''(A) any geographic area consisting of all or parts of 2 or more contiguous States, counties, municipalities, or other local governments that have a combined population of at least 1,650,000 or have an area of not less than 20,000 square miles, and that, for purposes of an application for a covered grant, is represented by 1 or more governments or governmental agencies within such geographic area, and that is established by law or by agreement of 2 or more such governments or governmental agencies in a mutual aid agreement; or

''(B) any other combination of contiguous local government units (including such a combination established by law or agreement of two or more governments or governmental agencies in a mutual aid agreement) that is formally certified by the Secretary as a region for purposes of this Act with the consent of—

''(i) the State or States in which they are located, including a multi-State entity established by a compact between two or more States; and

''(ii) the incorporated municipalities, counties, and parishes that they encompass.

''(10) TASK FORCE.—The term 'Task Force' means the Task Force on Terrorism Preparedness for First Responders established under section 1805.

''(11) TERRORISM PREPAREDNESS.—The term 'terrorism preparedness' means any activity designed to improve the ability to prevent, prepare for, respond to, mitigate against, or recover from threatened or actual terrorist attacks.

"SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.

''(a) COVERED GRANTS.—This title applies to grants provided by the Department to States, regions, or directly eligible tribes for the primary purpose of improving the ability of first responders to prevent, prepare for, respond to, mitigate against, or recover from threatened or actual terrorist attacks, especially those involving weapons of mass destruction, administered under the following:

''(1) STATE HOMELAND SECURITY GRANT PROGRAM.—The State Homeland Security Grant Program of the Department, or any successor to such grant program.

''(2) URBAN AREA SECURITY INITIATIVE.—The Urban Area Security Initiative of the Department, or any successor to such grant program.

''(3) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—The Law Enforcement Terrorism Prevention Program of the Department, or any successor to such grant program.

''(b) EXCLUDED PROGRAMS.—This title does not apply to or otherwise affect the following Federal grant programs or any grant under such a program:

''(1) NONDEPARTMENT PROGRAMS.—Any Federal grant program that is not administered by the Department.

''(2) FIRE GRANT PROGRAMS.—The fire grant programs authorized by sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229, 2229a).

''(3) EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE ACCOUNT GRANTS.—The Emergency Management Performance Grant program and the Urban Search and Rescue Grants program authorized by title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.); the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (113 Stat. 1047 et seq.); and the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

"SEC. 1803. COVERED GRANT ELIGIBILITY AND CRITERIA.

''(a) GRANT ELIGIBILITY.—Any State, region, or directly eligible tribe shall be eligible to apply for a covered grant.

''(b) GRANT CRITERIA.—The Secretary shall award covered grants to assist States and local governments in achieving, maintaining, and enhancing the essential capabilities for terrorism preparedness established by the Secretary.

''(c) STATE HOMELAND SECURITY PLANS.—

''(1) SUBMISSION OF PLANS.—The Secretary shall require that any State applying to the Secretary for a covered grant must submit to the Secretary a 3-year State homeland security plan that—

''(A) describes the essential capabilities that communities within the State should possess, or to which they should have access, based upon the terrorism risk factors relevant to such communities, in order to meet the Department's goals for terrorism preparedness;

''(B) demonstrates the extent to which the State has achieved the essential capabilities that apply to the State;

''(C) demonstrates the needs of the State necessary to achieve, maintain, or enhance the essential capabilities that apply to the State;

''(D) includes a prioritization of such needs based on threat, vulnerability, and consequence assessment factors applicable to the State;

''(E) describes how the State intends—

''(i) to address such needs at the city, county, regional, tribal, State, and interstate level, including a precise description of any regional structure the State has established for the purpose of organizing homeland security preparedness activities funded by covered grants;

''(ii) to use all Federal, State, and local resources available for the purpose of addressing such needs; and

''(iii) to give particular emphasis to regional planning and cooperation, including the activities of multijurisdictional planning agencies governed by local officials, both within its jurisdictional borders and with neighboring States;

''(F) with respect to the emergency preparedness of first responders, addresses the unique aspects of terrorism as part of a comprehensive State emergency management plan; and

''(G) provides for coordination of response and recovery efforts at the local level, including procedures for effective incident command in conformance with the National Incident Management System.

''(2) CONSULTATION.—The State plan submitted under paragraph (1) shall be developed in consultation with and subject to appropriate comment by local governments and first responders within the State.

''(3) APPROVAL BY SECRETARY.—The Secretary may not award any covered grant to a State unless the Secretary has approved the applicable State homeland security plan.

''(4) REVISIONS.—A State may revise the applicable State homeland security plan approved by the Secretary under this subsection, subject to approval of the revision by the Secretary.

''(d) CONSISTENCY WITH STATE PLANS.—The Secretary shall ensure that each covered grant is used to supplement and support, in a consistent and coordinated manner, the applicable State homeland security plan or plans.

''(e) APPLICATION FOR GRANT.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, any State, region, or directly eligible tribe may apply for a covered grant by submitting to the Secretary an application at such time, in such manner, and containing such information as is required under this subsection, or as the Secretary may reasonably require.

''(2) DEADLINES FOR APPLICATIONS AND AWARDS.—All applications for covered grants must be submitted at such time as the Secretary may reasonably require for the fiscal year for which they are submitted. The Secretary shall award covered grants pursuant to all approved applications for such fiscal year as soon as practicable, but not later than March 1 of such year.

''(3) AVAILABILITY OF FUNDS.—All funds awarded by the Secretary under covered grants in a fiscal year shall be available for obligation through the end of the subsequent fiscal year.

''(4) MINIMUM CONTENTS OF APPLICATION.—The Secretary shall require that each applicant include in its application, at a minimum—

''(A) the purpose for which the applicant seeks covered grant funds and the reasons why the applicant needs the covered grant to meet the essential capabilities for terrorism preparedness within the State, region, or directly eligible tribe to which the application pertains;

''(B) a description of how, by reference to the applicable State homeland security plan or plans under subsection (c), the allocation of grant funding proposed in the application, including, where applicable, the amount not passed through under section 1806(g)(1), would assist in fulfilling the essential capabilities for terrorism preparedness specified in such plan or plans;

''(C) a statement of whether a mutual aid agreement applies to the use of all or any portion of the covered grant funds;

''(D) if the applicant is a State, a description of how the State plans to allocate the covered grant funds to regions, local governments, and Indian tribes;

''(E) if the applicant is a region—

''(i) a precise geographical description of the region and a specification of all participating and nonparticipating local governments within the geographical area comprising that region;

''(ii) a specification of what governmental entity within the region will administer the expenditure of funds under the covered grant; and

''(iii) a designation of a specific individual to serve as regional liaison;

''(F) a capital budget showing how the applicant intends to allocate and expend the covered grant funds;

''(G) if the applicant is a directly eligible tribe, a designation of a specific individual to serve as the tribal liaison; and

''(H) a statement of how the applicant intends to meet the matching requirement, if any, that applies under section 1806(g)(2).

''(5) REGIONAL APPLICATIONS.—

''(A) RELATIONSHIP TO STATE APPLICATIONS.—A regional application—

''(i) shall be coordinated with an application submitted by the State or States of which such region is a part;

''(ii) shall supplement and avoid duplication with such State application; and

''(iii) shall address the unique regional aspects of such region's terrorism preparedness needs beyond those provided for in the application of such State or States.

''(B) STATE REVIEW AND SUBMISSION.—To ensure the consistency required under subsection (d) and the coordination required under subparagraph (A) of this paragraph, an applicant that is a region must submit its application to each State of which any part is included in the region for review and concurrence prior to the submission of such application to the Secretary. The regional application shall be transmitted to the Secretary through each such State within 30 days of its receipt, unless the Governor of such a State notifies the Secretary, in writing, that such regional application is inconsistent with the State's homeland security plan and provides an explanation of the reasons therefor.

''(C) DISTRIBUTION OF REGIONAL AWARDS.—If the Secretary approves a regional application, then the Secretary shall distribute a regional award to the State or States submitting the applicable regional application under subparagraph (B), and each such State shall, not later than the end of the 45-day period beginning on the date after receiving a regional award, pass through to the region all covered grant funds or resources purchased with such funds, except those funds necessary for the State to carry out its responsibilities with respect to such regional application: *Provided*, That in no such case shall the State or States pass through to the region less than 80 percent of the regional award.

''(D) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO REGIONS.—Any State that receives a regional award under subparagraph (C) shall certify to the Secretary, by not later than 30 days after the expiration of the period described in subparagraph (C) with respect to the grant, that the State has made available to the region the required funds and resources in accordance with subparagraph (C).

''(E) DIRECT PAYMENTS TO REGIONS.—If any State fails to pass through a regional award to a region as required by subparagraph (C) within 45 days after receiving such award and does not request or receive an extension of such period under section 1806(h)(2), the region may petition the Secretary to receive directly the portion of the regional award that is required to be passed through to such region under subparagraph (C).

''(F) REGIONAL LIAISONS.—A regional liaison designated under paragraph (4)(E)(iii) shall—

''(i) coordinate with Federal, State, local, regional, and private officials within the region concerning terrorism preparedness;

''(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials within the region to assist in the development of the regional application and to improve the region's access to covered grants; and

''(iii) administer, in consultation with State, local, regional, and private officials within the region, covered grants awarded to the region.

''(6) TRIBAL APPLICATIONS.—

''(A) SUBMISSION TO THE STATE OR STATES.—To ensure the consistency required under subsection (d), an applicant that is a directly eligible tribe must submit its application to each State within the boundaries of which any part of such tribe is located for direct submission to the Department along with the application of such State or States.

''(B) OPPORTUNITY FOR STATE COMMENT.—Before awarding any covered grant to a directly eligible tribe, the Secretary shall provide an opportunity to each State within the boundaries of which any part of such tribe is located to comment to the Secretary on the consistency of the tribe's application with the State's homeland security plan. Any such comments shall be submitted to the Secretary concurrently with the submission of the State and tribal applications.

''(C) FINAL AUTHORITY.—The Secretary shall have final authority to determine the consistency of any application of a directly eligible tribe with the applicable State homeland security plan or plans, and to approve any application of such tribe. The Secretary shall notify each State within the boundaries of which any part of such tribe is located of the approval of an application by such tribe.

''(D) TRIBAL LIAISON.—A tribal liaison designated under paragraph (4)(G) shall—

''(i) coordinate with Federal, State, local, regional, and private officials concerning terrorism preparedness;

''(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials to assist in the development of the application of such tribe and to improve the tribe's access to covered grants; and

''(iii) administer, in consultation with State, local, regional, and private officials, covered grants awarded to such tribe.

''(E) LIMITATION ON THE NUMBER OF DIRECT GRANTS.—The Secretary may make covered grants directly to not more than 20 directly eligible tribes per fiscal year.

''(F) TRIBES NOT RECEIVING DIRECT GRANTS.—An Indian tribe that does not receive a grant directly under this section is eligible to receive funds under a covered grant from the State or States within the boundaries of which any part of such tribe is located, consistent with the homeland security plan of the State as described in subsection (c). If a State fails to comply with section 1806(g)(1), the tribe may request payment under section 1806(h)(3) in the same manner as a local government.

''(7) EQUIPMENT STANDARDS.—If an applicant for a covered grant proposes to upgrade or purchase, with assistance provided under the grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards established by the Secretary, the applicant shall include in the application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

''SEC. 1804. RISK-BASED EVALUATION AND PRIORITIZATION.

''(a) FIRST RESPONDER GRANTS BOARD.—

''(1) ESTABLISHMENT OF BOARD.—The Secretary shall establish a First Responder Grants Board, consisting of—

''(A) the Secretary;

''(B) the Under Secretary for Emergency Preparedness and Response;

''(C) the Under Secretary for Border and Transportation Security;

''(D) the Under Secretary for Information Analysis and Infrastructure Protection;

''(E) the Under Secretary for Science and Technology;

''(F) the Director of the Office for Domestic Preparedness;

''(G) the Administrator of the United States Fire Administration; and

''(H) the Administrator of the Animal and Plant Health Inspection Service.

''(2) CHAIRMAN.—

''(A) IN GENERAL.—The Secretary shall be the Chairman of the Board.

''(B) EXERCISE OF AUTHORITIES BY DEPUTY SECRETARY.—The Deputy Secretary of Homeland Security may exercise the authorities of the Chairman, if the Secretary so directs.

''(b) FUNCTIONS OF UNDER SECRETARIES.—The Under Secretaries referred to in subsection (a)(1) shall seek to ensure that the relevant expertise and input of the staff of their directorates are available to and considered by the Board.

''(c) PRIORITIZATION OF GRANT APPLICATIONS.—

''(1) FACTORS TO BE CONSIDERED.—The Board shall evaluate and annually prioritize all pending applications for covered grants based upon the degree to which they would, by achieving, maintaining, or enhancing the essential capabilities of the applicants on a nationwide basis, lessen the threat to, vulnerability of, and consequences for persons (including transient commuting and tourist populations) and critical infrastructure. Such evaluation and prioritization shall be based upon the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States. The Board shall coordinate with State, local, regional, and tribal officials in establishing criteria for evaluating and prioritizing applications for covered grants.

''(2) CRITICAL INFRASTRUCTURE SECTORS.—The Board specifically shall consider threats of terrorism against the following critical infrastructure sectors in all areas of the United States, urban and rural:

''(A) Agriculture and food.
''(B) Banking and finance.
''(C) Chemical industries.
''(D) The defense industrial base.
''(E) Emergency services.
''(F) Energy.
''(G) Government facilities.
''(H) Postal and shipping.
''(I) Public health and health care.
''(J) Information technology.
''(K) Telecommunications.
''(L) Transportation systems.
''(M) Water.
''(N) Dams.
''(O) Commercial facilities.
''(P) National monuments and icons.

The order in which the critical infrastructure sectors are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such sectors.

''(3) TYPES OF THREAT.—The Board specifically shall consider the following types of threat to the critical infrastructure sectors described in paragraph (2), and to populations in all areas of the United States, urban and rural:

''(A) Biological threats.
''(B) Nuclear threats.
''(C) Radiological threats.
''(D) Incendiary threats.
''(E) Chemical threats.
''(F) Explosives.
''(G) Suicide bombers.
''(H) Cyber threats.
''(I) Any other threats based on proximity to specific past acts of terrorism or the known activity of any terrorist group.

The order in which the types of threat are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such threats.

''(4) CONSIDERATION OF ADDITIONAL FACTORS.—The Board shall take into account any other specific threat to a population (including a transient commuting or tourist population) or critical infrastructure sector that the Board has determined to exist. In evaluating the threat to a population or critical infrastructure sector, the Board shall give greater weight to threats of terrorism based upon their specificity and credibility, including any pattern of repetition.

''(5) MINIMUM AMOUNTS.—After evaluating and prioritizing grant applications under paragraph (1), the Board shall ensure that, for each fiscal year—

''(A) each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, that has an approved State homeland security plan receives no less than 0.25 percent of the funds available for covered grants for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under section 1803(c)(1)(D);

''(B) each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, that has an approved State homeland security plan and that meets one or both of the additional high-risk qualifying criteria under paragraph (6) receives no less than 0.45 percent of the funds available for covered grants for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under section 1803(c)(1)(D);

''(C) the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each receives no less than 0.08 percent of the funds available for covered grants for that fiscal year for purposes of implementing its approved State homeland security plan in accordance with the prioritization of needs under section 1803(c)(1)(D); and

''(D) directly eligible tribes collectively receive no less than 0.08 percent of the funds available for covered grants for such fiscal year for purposes of addressing the needs identified in the applications of such tribes, consistent with the homeland security plan of each State within the boundaries of which any part of any such tribe is located, except that this clause shall not apply with respect to funds available for a fiscal year if the Secretary receives less than 5 applications for such fiscal year from such tribes under section 1803(e)(6)(A) or does not approve at least one such application.

''(6) ADDITIONAL HIGH-RISK QUALIFYING CRITERIA.—For purposes of paragraph (5)(B), additional high-risk qualifying criteria consist of—

''(A) having a significant international land border; or

''(B) adjoining a body of water within North America through which an international boundary line extends.

''(d) EFFECT OF REGIONAL AWARDS ON STATE MINIMUM.—Any regional award, or portion thereof, provided to a State under section 1803(e)(5)(C) shall not be considered in calculating the minimum State award under subsection (c)(5) of this section.

''SEC. 1805. TASK FORCE ON TERRORISM PREPAREDNESS FOR FIRST RESPONDERS.

''(a) ESTABLISHMENT.—To assist the Secretary in updating, revising, or replacing essential capabilities for terrorism preparedness, the Secretary shall establish an advisory body pursuant to section 871(a) not later than 60 days after the date of the enactment of this section, which shall be known as the Task Force on Terrorism Preparedness for First Responders.

''(b) UPDATE, REVISE, OR REPLACE.—The Secretary shall regularly update, revise, or replace the essential capabilities for terrorism preparedness as necessary, but not less than every 3 years.

''(c) REPORT.—

''(1) IN GENERAL.—The Task Force shall submit to the Secretary, by not later than 12 months after its establishment by the Secretary under subsection (a) and not later than every 2 years thereafter, a report on its recommendations for essential capabilities for terrorism preparedness.

''(2) CONTENTS.—Each report shall—

''(A) include a priority ranking of essential capabilities in order to provide guidance to the Secretary and to the Congress on determining the appropriate allocation of, and funding levels for, first responder needs;

''(B) set forth a methodology by which any State or local government will be able to determine the extent to which it possesses or has access to the essential capabilities that States and local governments having similar risks should obtain;

''(C) describe the availability of national voluntary consensus standards, and whether there is a need for new national voluntary consensus standards, with respect to first responder training and equipment;

''(D) include such additional matters as the Secretary may specify in order to further the terrorism preparedness capabilities of first responders; and

''(E) include such revisions to the contents of previous reports as are necessary to take into account changes in the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection or other relevant information as determined by the Secretary.

''(3) CONSISTENCY WITH FEDERAL WORKING GROUP.—The Task Force shall ensure that its recommendations for essential capabilities for terrorism preparedness are, to the extent feasible, consistent with any preparedness goals or recommendations of the Federal working group established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d–6(a)).

''(4) COMPREHENSIVENESS.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness are made within the context of a comprehensive State emergency management system.

''(5) PRIOR MEASURES.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness take into account any capabilities that State or local officials have determined to be essential and have undertaken since September 11, 2001, to prevent, prepare for, respond to, or recover from terrorist attacks.

''(d) MEMBERSHIP.—

''(1) IN GENERAL.—The Task Force shall consist of 25 members appointed by the Secretary, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of governmental and nongovernmental first responder disciplines from the State and local levels, including as appropriate—

''(A) members selected from the emergency response field, including fire service and law enforcement, hazardous materials response, emergency medical services, and emergency management personnel (including public works personnel routinely engaged in emergency response);

''(B) health scientists, emergency and inpatient medical providers, and public health professionals, including experts in emergency health care response to chemical, biological, radiological, and nuclear terrorism, and experts in providing mental health care during emergency response operations;

''(C) experts from Federal, State, and local governments, and the private sector, representing standards-setting organizations, including representation from the voluntary consensus codes and standards development community, particularly those with expertise in first responder disciplines; and

''(D) State and local officials with expertise in terrorism preparedness, subject to the condition that if any such official is an elected official representing one of the two major political parties, an equal number of elected officials shall be selected from each such party.

''(2) COORDINATION WITH THE DEPARTMENT OF HEALTH AND HEALTH SERVICES.—In the selection of members of the Task Force who are health professionals, including emergency medical professionals, the Secretary shall coordinate such selection with the Secretary of Health and Human Services.

''(3) EX OFFICIO MEMBERS.—The Secretary and the Secretary of Health and Human Services shall each designate one or more officers of their respective Departments to serve as ex officio members of the Task Force. One of the ex officio members from the Department of Homeland Security shall be the designated officer of the Federal Government for purposes of subsection (e) of section 10 of the Federal Advisory Committee Act (5 U.S.C. App.).

''(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Notwithstanding section 871(a), the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the Task Force.

''SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY REQUIREMENTS.

''(a) IN GENERAL.—A covered grant may be used for—

''(1) purchasing or upgrading equipment, including computer software, to enhance terrorism preparedness;

''(2) exercises to strengthen terrorism preparedness;

''(3) training for prevention (including detection) of, preparedness for, response to, or recovery from attacks involving weapons of mass destruction, including training in the use of equipment and computer software;

''(4) developing or updating State homeland security plans, risk assessments, mutual aid agreements, and emergency management plans to enhance terrorism preparedness;

''(5) establishing or enhancing mechanisms for sharing terrorism threat information;

''(6) systems architecture and engineering, program planning and management, strategy formulation and strategic planning, lifecycle systems design, product and technology evaluation, and prototype development for terrorism preparedness purposes;

''(7) additional personnel costs resulting from—

''(A) elevations in the threat alert level of the Homeland Security Advisory System by the Secretary, or a similar elevation in threat alert level issued by a State, region, or local government with the approval of the Secretary;

''(B) travel to and participation in exercises and training in the use of equipment and on prevention activities; and

''(C) the temporary replacement of personnel during any period of travel to and participation in exercises and training in the use of equipment and on prevention activities;

''(8) the costs of equipment (including software) required to receive, transmit, handle, and store classified information;

''(9) protecting critical infrastructure against potential attack by the addition of barriers, fences, gates, and other such devices, except that the cost of such measures may not exceed the greater of—

''(A) $1,000,000 per project; or

''(B) such greater amount as may be approved by the Secretary, which may not exceed 10 percent of the total amount of the covered grant;

''(10) the costs of commercially available interoperable communications equipment (which, where applicable, is based on national, voluntary consensus standards) that the Secretary, in consultation with the Chairman of the Federal Communications Commission, deems best suited to facilitate interoperability, coordination, and integration between and among emergency communications systems, and that complies with prevailing grant guidance of the Department for interoperable communications;

''(11) educational curricula development for first responders to ensure that they are prepared for terrorist attacks;

''(12) training and exercises to assist public elementary and secondary schools in developing and implementing programs to instruct students regarding age-appropriate skills to prevent, prepare for, respond to, mitigate against, or recover from an act of terrorism;

''(13) paying of administrative expenses directly related to administration of the grant, except that such expenses may not exceed 3 percent of the amount of the grant;

''(14) paying for the conduct of any activity permitted under the Law Enforcement Terrorism Prevention Program, or any such successor to such program; and

''(15) other appropriate activities as determined by the Secretary.

''(b) PROHIBITED USES.—Funds provided as a covered grant may not be used—

''(1) to supplant State or local funds;

''(2) to construct buildings or other physical facilities;

''(3) to acquire land; or

''(4) for any State or local government cost sharing contribution.

''(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this section shall be construed to preclude State and local governments from using covered grant funds in a manner that also enhances first responder preparedness for emergencies and disasters unrelated to acts of terrorism, if such use assists such governments in achieving essential capabilities for terrorism preparedness established by the Secretary.

''(d) REIMBURSEMENT OF COSTS.—(1) In addition to the activities described in subsection (a), a covered grant may be used to provide a reasonable stipend to paid-on-call or volunteer first responders who are not otherwise compensated for travel to or participation in training covered by this section. Any such

reimbursement shall not be considered compensation for purposes of rendering such a first responder an employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

''(2) An applicant for a covered grant may petition the Secretary for the reimbursement of the cost of any activity relating to prevention (including detection) of, preparedness for, response to, or recovery from acts of terrorism that is a Federal duty and usually performed by a Federal agency, and that is being performed by a State or local government (or both) under agreement with a Federal agency.

''(e) ASSISTANCE REQUIREMENT.—The Secretary may not require that equipment paid for, wholly or in part, with funds provided as a covered grant be made available for responding to emergencies in surrounding States, regions, and localities, unless the Secretary undertakes to pay the costs directly attributable to transporting and operating such equipment during such response.

''(f) FLEXIBILITY IN UNSPENT HOMELAND SECURITY GRANT FUNDS.—Upon request by the recipient of a covered grant, the Secretary may authorize the grantee to transfer all or part of funds provided as the covered grant from uses specified in the grant agreement to other uses authorized under this section, if the Secretary determines that such transfer is in the interests of homeland security.

''(g) STATE, REGIONAL, AND TRIBAL RESPONSIBILITIES.—

''(1) PASS-THROUGH.—The Secretary shall require a recipient of a covered grant that is a State to obligate or otherwise make available to local governments, first responders, and other local groups, to the extent required under the State homeland security plan or plans specified in the application for the grant, not less than 80 percent of the grant funds, resources purchased with the grant funds having a value equal to at least 80 percent of the amount of the grant, or a combination thereof, by not later than the end of the 45-day period beginning on the date the grant recipient receives the grant funds.

''(2) COST SHARING.—

''(A) IN GENERAL.—The Federal share of the costs of an activity carried out with a covered grant to a State, region, or directly eligible tribe awarded after the 2-year period beginning on the date of the enactment of this section shall not exceed 75 percent.

''(B) INTERIM RULE.—The Federal share of the costs of an activity carried out with a covered grant awarded before the end of the 2-year period beginning on the date of the enactment of this section shall be 100 percent.

''(C) IN-KIND MATCHING.—Each recipient of a covered grant may meet the matching requirement under subparagraph (A) by making in-kind contributions of goods or services that are directly linked with the purpose for which the grant is made, including, but not limited to, any necessary personnel overtime, contractor services, administrative costs, equipment fuel and maintenance, and rental space.

''(3) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—Any State that receives a covered grant shall certify to the Secretary, by not later than 30 days after the expiration of the period described in paragraph (1) with respect to the grant, that the State has made available for expenditure by local governments, first responders, and other local groups the required amount of grant funds pursuant to paragraph (1).

''(4) QUARTERLY REPORT ON HOMELAND SECURITY SPENDING.—The Federal share described in paragraph (2)(A) may be increased by up to 2 percent for any State, region, or directly eligible tribe that, not later than 30 days after the end of each fiscal quarter, submits to the Secretary a report on that fiscal quarter. Each such report must include, for each recipient of a covered grant or a pass-through under paragraph (1)—

''(A) the amount obligated to that recipient in that quarter;

''(B) the amount expended by that recipient in that quarter; and

''(C) a summary description of the items purchased by such recipient with such amount.

''(5) ANNUAL REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a covered grant shall submit an annual report to the Secretary not later than 60 days after the end of each Federal fiscal year. Each recipient of a covered grant that is a region must simultaneously submit its report to each State of which any part is included in the region. Each recipient of a covered grant that is a directly eligible tribe must simultaneously submit its report to each State within the boundaries of which any part of such tribe is located. Each report must include the following:

''(A) The amount, ultimate recipients, and dates of receipt of all funds received under the grant during the previous fiscal year.

''(B) The amount and the dates of disbursements of all such funds expended in compliance with paragraph (1) or pursuant to mutual aid agreements or other sharing arrangements that apply within the State, region, or directly eligible tribe, as applicable, during the previous fiscal year.

''(C) How the funds were utilized by each ultimate recipient or beneficiary during the preceding fiscal year.

''(D) The extent to which essential capabilities identified in the applicable State homeland security plan or plans were achieved, maintained, or enhanced as the result of the expenditure of grant funds during the preceding fiscal year.

''(E) The extent to which essential capabilities identified in the applicable State homeland security plan or plans remain unmet.

''(6) INCLUSION OF RESTRICTED ANNEXES.—A recipient of a covered grant may submit to the Secretary an annex to the annual report under paragraph (5) that is subject to appropriate handling restrictions, if the recipient believes that discussion in the report of unmet needs would reveal sensitive but unclassified information.

''(7) PROVISION OF REPORTS.—The Secretary shall ensure that each annual report under paragraph (5) is provided to the Under Secretary for Emergency Preparedness and Response and the Director of the Office for Domestic Preparedness.

''(h) INCENTIVES TO EFFICIENT ADMINISTRATION OF HOMELAND SECURITY GRANTS.—

''(1) PENALTIES FOR DELAY IN PASSING THROUGH LOCAL SHARE.—If a recipient of a covered grant that is a State fails to pass through to local governments, first responders, and other local groups funds or resources required by subsection (g)(1) within 45 days after receiving funds under the grant, the Secretary may—

''(A) reduce grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1);

''(B) terminate payment of funds under the grant to the recipient, and transfer the appropriate portion of those funds directly to local first responders that were intended to receive funding under that grant; or

''(C) impose additional restrictions or burdens on the recipient's use of funds under the grant, which may include—

''(i) prohibiting use of such funds to pay the grant recipient's grant-related overtime or other expenses;

''(ii) requiring the grant recipient to distribute to local government beneficiaries all or a portion of grant funds that are not required to be passed through under subsection (g)(1); or

''(iii) for each day that the grant recipient fails to pass through funds or resources in accordance with subsection (g)(1), reducing grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1), except that the total amount of such reduction may not exceed 20 percent of the total amount of the grant.

''(2) EXTENSION OF PERIOD.—The Governor of a State may request in writing that the Secretary extend the 45-day period under section 1803(e)(5)(E) or paragraph (1) for an additional 15-day period. The Secretary may approve such a request, and may extend such period for additional 15-day periods, if the Secretary determines that the resulting delay in providing grant funding to the local government entities that will receive funding under the grant will not have a significant detrimental impact on such entities' terrorism preparedness efforts.

''(3) PROVISION OF NON-LOCAL SHARE TO LOCAL GOVERNMENT.—

''(A) IN GENERAL.—The Secretary may upon request by a local government pay to the local government a portion of the amount of a covered grant awarded to a State in which the local government is located, if—

''(i) the local government will use the amount paid to expedite planned enhancements to its terrorism preparedness as described in any applicable State homeland security plan or plans;

''(ii) the State has failed to pass through funds or resources in accordance with subsection (g)(1); and

''(iii) the local government complies with subparagraphs (B) and (C).

''(B) SHOWING REQUIRED.—To receive a payment under this paragraph, a local government must demonstrate that—

''(i) it is identified explicitly as an ultimate recipient or intended beneficiary in the approved grant application;

''(ii) it was intended by the grantee to receive a severable portion of the overall grant for a specific purpose that is identified in the grant application;

''(iii) it petitioned the grantee for the funds or resources after expiration of the period within which the funds or resources were required to be passed through under subsection (g)(1); and

''(iv) it did not receive the portion of the overall grant that was earmarked or designated for its use or benefit.

''(C) EFFECT OF PAYMENT.—Payment of grant funds to a local government under this paragraph—

''(i) shall not affect any payment to another local government under this paragraph; and

''(ii) shall not prejudice consideration of a request for payment under this paragraph that is submitted by another local government.

''(D) DEADLINE FOR ACTION BY SECRETARY.—The Secretary shall approve or disapprove each request for payment under this paragraph by not later than 15 days after the date the request is received by the Department.

''(i) REPORTS TO CONGRESS.—The Secretary shall submit an annual report to the Congress by January 31 of each year covering the preceding fiscal year—

''(1) describing in detail the amount of Federal funds provided as covered grants that

were directed to each State, region, and directly eligible tribe in the preceding fiscal year;

''(2) containing information on the use of such grant funds by grantees; and

''(3) describing—

''(A) the Nation's progress in achieving, maintaining, and enhancing the essential capabilities established by the Secretary as a result of the expenditure of covered grant funds during the preceding fiscal year; and

''(B) an estimate of the amount of expenditures required to attain across the United States the essential capabilities established by the Secretary.

''SEC. 1807. NATIONAL STANDARDS FOR FIRST RESPONDER EQUIPMENT AND TRAINING.

''(a) EQUIPMENT STANDARDS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall, not later than 6 months after the date of enactment of this section, support the development of, promulgate, and update as necessary national voluntary consensus standards for the performance, use, and validation of first responder equipment for purposes of section 1805(e)(7). Such standards—

''(A) shall be, to the maximum extent practicable, consistent with any existing voluntary consensus standards;

''(B) shall take into account, as appropriate, new types of terrorism threats that may not have been contemplated when such existing standards were developed;

''(C) shall be focused on maximizing interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety; and

''(D) shall cover all appropriate uses of the equipment.

''(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary shall specifically consider the following categories of first responder equipment:

''(A) Thermal imaging equipment.

''(B) Radiation detection and analysis equipment.

''(C) Biological detection and analysis equipment.

''(D) Chemical detection and analysis equipment.

''(E) Decontamination and sterilization equipment.

''(F) Personal protective equipment, including garments, boots, gloves, and hoods and other protective clothing.

''(G) Respiratory protection equipment.

''(H) Interoperable communications, including wireless and wireline voice, video, and data networks.

''(I) Explosive mitigation devices and explosive detection and analysis equipment.

''(J) Containment vessels.

''(K) Contaminant-resistant vehicles.

''(L) Such other equipment for which the Secretary determines that national voluntary consensus standards would be appropriate.

''(b) TRAINING STANDARDS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall support the development of, promulgate, and regularly update as necessary national voluntary consensus standards for first responder training carried out with amounts provided under covered grant programs, that will enable State and local government first responders to achieve optimal levels of terrorism preparedness as quickly as practicable. Such standards shall give priority to providing training to—

''(A) enable first responders to prevent, prepare for, respond to, mitigate against, and recover from terrorist threats, including threats from chemical, biological, nuclear, and radiological weapons and explosive devices capable of inflicting significant human casualties; and

''(B) familiarize first responders with the proper use of equipment, including software, developed pursuant to the standards established under subsection (a).

''(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary specifically shall include the following categories of first responder activities:

''(A) Regional planning.

''(B) Joint exercises.

''(C) Intelligence collection, analysis, and sharing.

''(D) Emergency notification of affected populations.

''(E) Detection of biological, nuclear, radiological, and chemical weapons of mass destruction.

''(F) Such other activities for which the Secretary determines that national voluntary consensus training standards would be appropriate.

''(3) CONSISTENCY.—In carrying out this subsection, the Secretary shall ensure that such training standards are consistent with the principles of emergency preparedness for all hazards.

''(c) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In establishing national voluntary consensus standards for first responder equipment and training under this section, the Secretary shall consult with relevant public and private sector groups, including—

''(1) the National Institute of Standards and Technology;

''(2) the National Fire Protection Association;

''(3) the National Association of County and City Health Officials;

''(4) the Association of State and Territorial Health Officials;

''(5) the American National Standards Institute;

''(6) the National Institute of Justice;

''(7) the Inter-Agency Board for Equipment Standardization and Interoperability;

''(8) the National Public Health Performance Standards Program;

''(9) the National Institute for Occupational Safety and Health;

''(10) ASTM International;

''(11) the International Safety Equipment Association;

''(12) the Emergency Management Accreditation Program; and

''(13) to the extent the Secretary considers appropriate, other national voluntary consensus standards development organizations, other interested Federal, State, and local agencies, and other interested persons.

''(d) COORDINATION WITH SECRETARY OF HHS.—In establishing any national voluntary consensus standards under this section for first responder equipment or training that involve or relate to health professionals, including emergency medical professionals, the Secretary shall coordinate activities under this section with the Secretary of Health and Human Services.''.

(b) DEFINITION OF EMERGENCY RESPONSE PROVIDERS.—Paragraph (6) of section 2 of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 101(6)) is amended by striking ''includes'' and all that follows and inserting ''includes Federal, State, and local governmental and nongovernmental emergency public safety, law enforcement, fire, emergency response, emergency medical (including hospital emergency facilities), and related personnel, organizations, agencies, and authorities.''.

SEC. 129. OVERSIGHT.

The Secretary of Homeland Security shall establish within the Office for Domestic Preparedness an Office of the Comptroller to oversee the grants distribution process and the financial management of the Office for Domestic Preparedness.

SEC. 130. GAO REPORT ON AN INVENTORY AND STATUS OF HOMELAND SECURITY FIRST RESPONDER TRAINING.

(a) IN GENERAL.—The Comptroller General of the United States shall report to the Congress in accordance with this section—

(1) on the overall inventory and status of first responder training programs of the Department of Homeland Security and other departments and agencies of the Federal Government; and

(2) the extent to which such programs are coordinated.

(b) CONTENTS OF REPORTS.—The reports under this section shall include—

(1) an assessment of the effectiveness of the structure and organization of such training programs;

(2) recommendations to—

(A) improve the coordination, structure, and organization of such training programs; and

(B) increase the availability of training to first responders who are not able to attend centralized training programs;

(3) the structure and organizational effectiveness of such programs for first responders in rural communities;

(4) identification of any duplication or redundancy among such programs;

(5) a description of the use of State and local training institutions, universities, centers, and the National Domestic Preparedness Consortium in designing and providing training;

(6) a cost-benefit analysis of the costs and time required for first responders to participate in training courses at Federal institutions;

(7) an assessment of the approval process for certifying non-Department of Homeland Security training courses that are useful for anti-terrorism purposes as eligible for grants awarded by the Department;

(8) a description of the use of Department of Homeland Security grant funds by States and local governments to acquire training;

(9) an analysis of the feasibility of Federal, State, and local personnel to receive the training that is necessary to adopt the National Response Plan and the National Incident Management System; and

(10) the role of each first responder training institution within the Department of Homeland Security in the design and implementation of terrorism preparedness and related training courses for first responders.

(c) DEADLINES.—The Comptroller General shall—

(1) submit a report under subsection (a)(1) by not later than 60 days after the date of the enactment of this Act; and

(2) submit a report on the remainder of the topics required by this section by not later than 120 days after the date of the enactment of this Act.

SEC. 131. REMOVAL OF CIVIL LIABILITY BARRIERS THAT DISCOURAGE THE DONATION OF FIRE EQUIPMENT TO VOLUNTEER FIRE COMPANIES.

(a) LIABILITY PROTECTION.—A person who donates fire control or fire rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death caused by the equipment after the donation.

(b) EXCEPTIONS.—Subsection (a) does not apply to a person if—

(1) the person's act or omission causing the injury, damage, loss, or death constitutes

gross negligence or intentional misconduct; or

(2) the person is the manufacturer of the fire control or fire rescue equipment.

(c) PREEMPTION.—This section preempts the laws of any State to the extent that such laws are inconsistent with this section, except that notwithstanding subsection (b) this section shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(d) DEFINITIONS.—In this section:

(1) PERSON.—The term ''person'' includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term ''fire control or fire rescue equipment'' includes any fire vehicle, fire fighting tool, communications equipment, protective gear, fire hose, or breathing apparatus.

(3) STATE.—The term ''State'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(4) VOLUNTEER FIRE COMPANY.—The term ''volunteer fire company'' means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(e) EFFECTIVE DATE.—This section applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after the date of the enactment of this section.

SEC. 132. REPORT BY ATTORNEY GENERAL.

(a) REPORTS ON DATA-MINING ACTIVITIES.—

(1) REQUIREMENT FOR REPORT.—The Attorney General shall collect the information described in paragraph (2) from the head of each department or agency of the Federal Government that is engaged in any activity to use or develop data-mining technology and shall report to Congress on all such activities.

(2) CONTENT OF REPORT.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology and the data that will be used.

(B) A thorough discussion of the plans for the use of such technology and the target dates for the deployment of the data-mining technology.

(C) An assessment of the likely efficacy of the data-mining technology in providing accurate and valuable information consistent with the stated plans for the use of the technology.

(D) An assessment of the likely impact of the implementation of the data-mining technology on privacy and civil liberties.

(E) A list and analysis of the laws and regulations that govern the information to be collected, reviewed, gathered, and analyzed with the data-mining technology and a description of any modifications of such laws that will be required to use the information in the manner proposed under such program.

(F) A thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to—

(i) protect the privacy and due process rights of individuals; and

(ii) ensure that only accurate information is collected and used.

(G) A thorough discussion of the procedures allowing individuals whose personal information will be used in the data-mining technology to be informed of the use of their personal information and what procedures are in place to allow for individuals to opt out of the technology. If no such procedures are in place, a thorough explanation as to why not.

(H) Any necessary classified information in an annex that shall be available to the Committee on the Judiciary of both the Senate and the House of Representatives.

(3) TIME FOR REPORT.—The report required under paragraph (1) shall be—

(A) submitted not later than 180 days after the date of enactment of this Act; and

(B) updated once a year to include any new data-mining technologies.

(b) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term ''data-mining'' means a query or search or other analysis of 1 or more electronic databases, where—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government for purposes other than intelligence or law enforcement;

(B) the search does not use a specific individual's personal identifiers to acquire information concerning that individual; and

(C) a department or agency of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist or other criminal activity.

(2) DATABASE.—The term ''database'' does not include telephone directories, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

SEC. 133. SENSE OF CONGRESS.

It is the sense of Congress that under section 981 of title 18, United States Code, victims of terrorists attacks should have access to the assets forfeited.

TITLE II—TERRORIST DEATH PENALTY ENHANCEMENT

SEC. 201. SHORT TITLE.

This title may be cited as the ''Terrorist Death Penalty Enhancement Act of 2005''.

Subtitle A—Terrorist Penalties Enhancement Act

SEC. 211. TERRORIST OFFENSE RESULTING IN DEATH.

(a) NEW OFFENSE.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''§ 2339E. Terrorist offenses resulting in death

''(a) Whoever, in the course of committing a terrorist offense, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.

''(b) As used in this section, the term 'terrorist offense' means—

''(1) a Federal felony offense that is—

''(A) a Federal crime of terrorism as defined in section 2332b(g) except to the extent such crime is an offense under section 1363; or

''(B) an offense under this chapter, section 175, 175b, 229, or 831, or section 236 of the Atomic Energy Act of 1954; or

''(2) a Federal offense that is an attempt or conspiracy to commit an offense described in paragraph (1).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

''2339E. Terrorist offenses resulting in death.''.

SEC. 212. DENIAL OF FEDERAL BENEFITS TO TERRORISTS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, as amended by section 211 of this subtitle, is further amended by adding at the end the following:

''§ 2339F. Denial of Federal benefits to terrorists

''(a) An individual or corporation who is convicted of a terrorist offense (as defined in section 2339E) shall, as provided by the court on motion of the Government, be ineligible for any or all Federal benefits for any term of years or for life.

''(b) As used in this section, the term 'Federal benefit' has the meaning given that term in section 421(d) of the Controlled Substances Act, and also includes any assistance or benefit described in section 115(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, with the same limitations and to the same extent as provided in section 115 of that Act with respect to denials of benefits and assistance to which that section applies.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter 113B of title 18, United States Code, as amended by section 211 of this subtitle, is further amended by adding at the end the following new item:

''2339E. Denial of federal benefits to terrorists.''.

SEC. 213. DEATH PENALTY PROCEDURES FOR CERTAIN AIR PIRACY CASES OCCURRING BEFORE ENACTMENT OF THE FEDERAL DEATH PENALTY ACT OF 1994.

Section 60003 of the Violent Crime Control and Law Enforcement Act of 1994, (Public Law 103–322), is amended, as of the time of its enactment, by adding at the end the following:

''(c) DEATH PENALTY PROCEDURES FOR CERTAIN PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—An individual convicted of violating section 46502 of title 49, United States Code, or its predecessor, may be sentenced to death in accordance with the procedures established in chapter 228 of title 18, United States Code, if for any offense committed before the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), but after the enactment of the Antihijacking Act of 1974 (Public Law 93–366), it is determined by the finder of fact, before consideration of the factors set forth in sections 3591(a)(2) and 3592(a) and (c) of title 18, United States Code, that one or more of the factors set forth in former section 46503(c)(2) of title 49, United States Code, or its predecessor, has been proven by the Government to exist, beyond a reasonable doubt, and that none of the factors set forth in former section 46503(c)(1) of title 49, United States Code, or its predecessor, has been proven by the defendant to exist, by a preponderance of the information. The meaning of the term 'especially heinous, cruel, or depraved', as used in the factor set forth in former section 46503(c)(2)(B)(iv) of title 49, United States Code, or its predecessor, shall be narrowed by adding the limiting language 'in that it involved torture or serious physical abuse to the victim', and shall be construed as when that term is used in section 3592(c)(6) of title 18, United States Code.''.

SEC. 214. ENSURING DEATH PENALTY FOR TERRORIST OFFENSES WHICH CREATE GRAVE RISK OF DEATH.

(a) ADDITION OF TERRORISM TO DEATH PENALTY OFFENSES NOT RESULTING IN DEATH.—Section 3591(a)(1) of title 18, United States Code, is amended by inserting '', section 2339E,'' after ''section 794''.

(b) MODIFICATION OF AGGRAVATING FACTORS FOR TERRORISM OFFENSES.—Section 3592(b) of title 18, United States Code, is amended—

(1) in the heading, by inserting '', terrorism,'' after ''espionage''; and

(2) by inserting immediately after paragraph (3) the following:

''(4) SUBSTANTIAL PLANNING.—The defendant committed the offense after substantial planning.''.

SEC. 215. POSTRELEASE SUPERVISION OF TERRORISTS.

Section 3583(j) of title 18, United States Code, is amended in subsection (j), by striking '', the commission'' and all that follows through ''person,'' .

Subtitle B—Prevention of Terrorist Access to Destructive Weapons Act

SEC. 221. DEATH PENALTY FOR CERTAIN TERROR RELATED CRIMES.

(a) PARTICIPATION IN NUCLEAR AND WEAPONS OF MASS DESTRUCTION THREATS TO THE UNITED STATES.—Section 832(c) of title 18, United States Code, is amended by inserting ''punished by death or'' after ''shall be''.

(b) MISSILE SYSTEMS TO DESTROY AIRCRAFT.—Section 2332g(c)(3) of title 18, United States Code, is amended by inserting ''punished by death or'' after ''shall be''.

(c) ATOMIC WEAPONS.—Section 222b.of the Atomic Energy Act of 1954 (42 U.S.C. 2272) is amended by inserting ''death or'' before ''imprisonment for life''.

(d) RADIOLOGICAL DISPERSAL DEVICES.—Section 2332h(c)(3) of title 18, United States Code, is amended by inserting ''death or'' before ''imprisonment for life''.

(e) VARIOLA VIRUS.—Section 175c(c)(3) of title 18, United States Code, is amended by inserting ''death or'' before ''imprisonment for life''.

Subtitle C—Federal Death Penalty Procedures

SEC. 231. MODIFICATION OF DEATH PENALTY PROVISIONS.

(a) ELIMINATION OF PROCEDURES APPLICABLE ONLY TO CERTAIN CONTROLLED SUBSTANCES ACT CASES.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) in subsection (e)(2), by striking ''(1)(b)'' and inserting (1)(B);

(2) by striking subsection (g) and all that follows through subsection (p);

(3) by striking subsection (r); and

(4) in subsection (q), by striking paragraphs (1) through (3).

(b) MODIFICATION OF MITIGATING FACTORS.—Section 3592(a)(4) of title 18, United States Code, is amended—

(1) by striking ''Another'' and inserting ''The Government could have, but has not, sought the death penalty against another''; and

(2) by striking '', will not be punished by death''.

(c) MODIFICATION OF AGGRAVATING FACTORS FOR OFFENSES RESULTING IN DEATH.—Section 3592(c) of title 18, United States Code, is amended—

(1) in paragraph (7), by inserting ''or by creating the expectation of payment,'' after ''or promise of payment,'';

(2) in paragraph (1), by inserting ''section 2339E (terrorist offenses resulting in death),'' after ''destruction),'';

(3) by inserting immediately after paragraph (16) the following:

''(17) OBSTRUCTION OF JUSTICE.—The defendant engaged in any conduct resulting in the death of another person in order to obstruct investigation or prosecution of any offense.''.

(d) ADDITIONAL GROUND FOR IMPANELING NEW JURY.—Section 3593(b)(2) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by inserting after subparagraph (D) the following:

''(E) a new penalty hearing is necessary due to the inability of the jury to reach a unanimous penalty verdict as required by section 3593(e); or''.

(e) JURIES OF LESS THAN 12 MEMBERS.—Subsection (b) of section 3593 of title 18, United States Code, is amended by striking ''unless'' and all that follows through the end of the subsection and inserting ''unless the court finds good cause, or the parties stipulate, with the approval of the court, a lesser number.''.

(f) IMPANELING OF NEW JURY WHEN UNANIMOUS RECOMMENDATION CANNOT BE REACHED.—Section 3594 of title 18, United States Code, is amended by inserting after the first sentence the following: ''If the jury is unable to reach any unanimous recommendation under section 3593(e), the court, upon motion by the Government, may impanel a jury under section 3593(b)(2)(E) for a new sentencing hearing.''.

(g) PEREMPTORY CHALLENGES.—Rule 24(c) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (1), by striking ''6'' and inserting ''9''; and

(2) in paragraph (4), by adding at the end the following:

''(C) SEVEN, EIGHT OR NINE ALTERNATES.—Four additional peremptory challenges are permitted when seven, eight, or nine alternates are impaneled.''.

TITLE III—REDUCING CRIME AND TERRORISM AT AMERICA'S SEAPORTS

SEC. 301. SHORT TITLE.

This title may be cited as the ''Reducing Crime and Terrorism at America's Seaports Act of 2005''.

SEC. 302. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.

(a) IN GENERAL.—Section 1036 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''or'' at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

''(3) any secure or restricted area of any seaport, designated as secure in an approved security plan, as required under section 70103 of title 46, United States Code, and the rules and regulations promulgated under that section; or'';

(2) in subsection (b)(1), by striking ''5 years'' and inserting ''10 years'';

(3) in subsection (c)(1), by inserting '', captain of the seaport,'' after ''airport authority''; and

(4) by striking the section heading and inserting the following:

''§ 1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18 is amended by striking the matter relating to section 1036 and inserting the following:

''1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.''.

(c) DEFINITION OF SEAPORT.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

''§ 26. Definition of seaport

''As used in this title, the term 'seaport' means all piers, wharves, docks, and similar structures, adjacent to any waters subject to the jurisdiction of the United States, to which a vessel may be secured, including areas of land, water, or land and water under and in immediate proximity to such structures, buildings on or contiguous to such structures, and the equipment and materials on such structures or in such buildings.''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 18 is amended by inserting after the matter relating to section 25 the following:

''26. Definition of seaport.''.

SEC. 303. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE TO, OBSTRUCTION OF BOARDING, OR PROVIDING FALSE INFORMATION.

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

''§ 2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information

''(a)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order by an authorized Federal law enforcement officer to heave to that vessel.

''(2) It shall be unlawful for any person on board a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to—

''(A) forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law or to resist a lawful arrest; or

''(B) intentionally provide materially false information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew.

''(b) Whoever violates this section shall be fined under this title or imprisoned for not more than 5 years, or both.

''(c) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Secretary of the Treasury or the Secretary of Homeland Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

''(d) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

''(e) In this section—

''(1) the term 'Federal law enforcement officer' has the meaning given the term in section 115(c);

''(2) the term 'heave to' means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding;

''(3) the term 'vessel subject to the jurisdiction of the United States' has the meaning given the term in section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903); and

''(4) the term 'vessel of the United States' has the meaning given the term in section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903).''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 109, title 18, United States Code, is amended by inserting after the item for section 2236 the following:

''2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.''.

SEC. 304. USE OF A DANGEROUS WEAPON OR EXPLOSIVE ON A PASSENGER VESSEL.

Section 1993 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting '', passenger vessel,'' after ''transportation vehicle'';

(B) in paragraphs (2)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider'' each place that term appears;

(C) in paragraph (3)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle'' each place that term appears; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider'' each place that term appears;

(D) in paragraph (5)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider''; and

(E) in paragraph (6), by inserting ''or owner of a passenger vessel'' after ''transportation provider'' each place that term appears;

(2) in subsection (b)(1), by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(3) in subsection (c)—

(A) by redesignating paragraph (6) through (8) as paragraphs (7) through (9); and

(B) by inserting after paragraph (5) the following:

''(6) the term 'passenger vessel' has the meaning given that term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel, as that term is defined under section 2101(35) of that title.''.

SEC. 305. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION, PLACEMENT OF DESTRUCTIVE DEVICES.

(a) PLACEMENT OF DESTRUCTIVE DEVICES.—Chapter 111 of title 18, United States Code, as amended by subsection (a), is further amended by adding at the end the following:

''§ 2282A. Devices or dangerous substances in waters of the United States likely to destroy or damage Ships or to interfere with maritime commerce

''(a) A person who knowingly places, or causes to be placed, in navigable waters of the United States, by any means, a device or dangerous substance which is likely to destroy or cause damage to a vessel or its cargo, cause interference with the safe navigation of vessels, or interference with maritime commerce (such as by damaging or destroying marine terminals, facilities, or any other marine structure or entity used in maritime commerce) with the intent of causing such destruction or damage, interference with the safe navigation of vessels, or interference with maritime commerce shall be fined under this title or imprisoned for any term of years, or for life; or both.

''(b) A person who causes the death of any person by engaging in conduct prohibited under subsection (a) may be punished by death.

''(c) Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.

''(d) In this section:

''(1) The term 'dangerous substance' means any solid, liquid, or gaseous material that has the capacity to cause damage to a vessel or its cargo, or cause interference with the safe navigation of a vessel.

''(2) The term 'device' means any object that, because of its physical, mechanical, structural, or chemical properties, has the capacity to cause damage to a vessel or its cargo, or cause interference with the safe navigation of a vessel.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by subsection (b), is further amended by adding after the item related to section 2282 the following:

''2282A. Devices or dangerous substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.''.

(b) VIOLENCE AGAINST MARITIME NAVIGATION.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code as amended by subsections (a) and (c), is further amended by adding at the end the following:

''§ 2282B. Violence against aids to maritime navigation

''Whoever intentionally destroys, seriously damages, alters, moves, or tampers with any aid to maritime navigation maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard pursuant to section 81 of title 14, United States Code, or lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of title 14, United States Code, if such act endangers or is likely to endanger the safe navigation of a ship, shall be fined under this title or imprisoned for not more than 20 years.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by subsections (b) and (d) is further amended by adding after the item related to section 2282A the following:

''2282B. Violence against aids to maritime navigation.''.

SEC. 306. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.—Chapter 111 of title 18, as amended by section 305, is further amended by adding at the end the following:

''§ 2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials

''(a) IN GENERAL.—Whoever knowingly transports aboard any vessel within the United States and on waters subject to the jurisdiction of the United States or any vessel outside the United States and on the high seas or having United States nationality an explosive or incendiary device, biological agent, chemical weapon, or radioactive or nuclear material, knowing or having reason to believe that any such item is intended to be used to commit an offense listed under section 2332b(g)(5)(B), shall be fined under this title or imprisoned for any term of years or for life, or both.

''(b) DEATH PENALTY.—If the death of any individual results from an offense under subsection (a) the offender may be punished by death.

''(c) DEFINITIONS.—In this section:

''(1) BIOLOGICAL AGENT.—The term 'biological agent' means any biological agent, toxin, or vector (as those terms are defined in section 178).

''(2) BY-PRODUCT MATERIAL.—The term 'by-product material' has the meaning given that term in section 11(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

''(3) CHEMICAL WEAPON.—The term 'chemical weapon' has the meaning given that term in section 229F(1).

''(4) EXPLOSIVE OR INCENDIARY DEVICE.—The term 'explosive or incendiary device' has the meaning given the term in section 232(5) and includes explosive materials, as that term is defined in section 841(c) and explosive as defined in section 844(j).

''(5) NUCLEAR MATERIAL.—The term 'nuclear material' has the meaning given that term in section 831(f)(1).

''(6) RADIOACTIVE MATERIAL.—The term 'radioactive material' means—

''(A) source material and special nuclear material, but does not include natural or depleted uranium;

''(B) nuclear by-product material;

''(C) material made radioactive by bombardment in an accelerator; or

''(D) all refined isotopes of radium.

''(8) SOURCE MATERIAL.—The term 'source material' has the meaning given that term in section 11(z) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

''(9) SPECIAL NUCLEAR MATERIAL.—The term 'special nuclear material' has the meaning given that term in section 11(aa) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

''§ 2284. Transportation of terrorists

''(a) IN GENERAL.—Whoever knowingly transports any terrorist aboard any vessel within the United States and on waters subject to the jurisdiction of the United States or any vessel outside the United States and on the high seas or having United States nationality, knowing or having reason to believe that the transported person is a terrorist, shall be fined under this title or imprisoned for any term of years or for life, or both.

''(b) DEFINED TERM.—In this section, the term 'terrorist' means any person who intends to commit, or is avoiding apprehension after having committed, an offense listed under section 2332b(g)(5)(B).''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by section 305, is further amended by adding at the end the following:

''2283. Transportation of explosive, chemical, biological, or radioactive or nuclear materials.

''2284. Transportation of terrorists.''.

SEC. 307. DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 111 the following:

''CHAPTER 111A—DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES

''Sec.

''2290. Jurisdiction and scope.

''2291. Destruction of vessel or maritime facility.

''2292. Imparting or conveying false information.

''§ 2290. Jurisdiction and scope

''(a) JURISDICTION.—There is jurisdiction, including extraterritorial jurisdiction, over an offense under this chapter if the prohibited activity takes place—

''(1) within the United States and within waters subject to the jurisdiction of the United States; or

''(2) outside United States and—

''(A) an offender or a victim is a national of the United States (as that term is defined under section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); or

''(B) the activity involves a vessel of the United States (as that term is defined under section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903).

''(b) SCOPE.—Nothing in this chapter shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

''§ 2291. Destruction of vessel or maritime facility

''(a) OFFENSE.—Whoever intentionally—

''(1) sets fire to, damages, destroys, disables, or wrecks any vessel;

''(2) places or causes to be placed a destructive device, as defined in section 921(a)(4), destructive substance, as defined in section 31(a)(3), or an explosive, as defined in section 844(j) in, upon, or near, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any vessel, or any part or other materials used or intended to be used in connection with the operation of a vessel;

''(3) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or near, any maritime facility, including any aid to navigation, lock, canal, or vessel traffic service facility or equipment;

''(4) interferes by force or violence with the operation of any maritime facility, including any aid to navigation, lock, canal, or vessel traffic service facility or equipment, if such action is likely to endanger the safety of any vessel in navigation;

''(5) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or near, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

''(6) performs an act of violence against or incapacitates any individual on any vessel, if such act of violence or incapacitation is likely to endanger the safety of the vessel or those on board;

''(7) performs an act of violence against a person that causes or is likely to cause serious bodily injury, as defined in section 1365(h)(3), in, upon, or near, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

''(8) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any vessel in navigation; or

''(9) attempts or conspires to do anything prohibited under paragraphs (1) through (8),

shall be fined under this title or imprisoned not more than 30 years, or both.

''(b) LIMITATION.—Subsection (a) shall not apply to any person that is engaging in otherwise lawful activity, such as normal repair and salvage activities, and the transportation of hazardous materials regulated and allowed to be transported under chapter 51 of title 49.

''(c) PENALTY.—Whoever is fined or imprisoned under subsection (a) as a result of an act involving a vessel that, at the time of the violation, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be fined under this title, imprisoned for a term up to life, or both.

''(d) DEATH PENALTY.—If the death of any individual results from an offense under subsection (a) the offender shall be punished by death or imprisonment for any term or years or for life.

''(e) THREATS.—Whoever knowingly imparts or conveys any threat to do an act which would violate this chapter, with an apparent determination and will to carry the threat into execution, shall be fined under this title or imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.

''§ 2292. Imparting or conveying false information

''(a) IN GENERAL.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act that would be a crime prohibited by this chapter or by chapter 111 of this title, shall be subject to a civil penalty of not more than $5,000, which shall be recoverable in a civil action brought in the name of the United States.

''(b) MALICIOUS CONDUCT.—Whoever knowingly, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be fined under this title or imprisoned not more than 5 years.''.

(c) CONFORMING AMENDMENT.—The table of chapters at the beginning of title 18, United States Code, is amended by inserting after the item for chapter 111 the following:

''111A. Destruction of, or interference with, vessels or maritime facilities ..... 2290''.

SEC. 308. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS OR VESSELS.

(a) THEFT OF INTERSTATE OR FOREIGN SHIPMENTS.—Section 659 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting ''trailer,'' after ''motortruck,'';

(B) by inserting ''air cargo container,'' after ''aircraft,''; and

(C) by inserting '', or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility,'' after ''air navigation facility'';

(2) in the fifth undesignated paragraph, by striking ''in each case'' and all that follows through ''or both'' the second place it appears and inserting ''be fined under this title or imprisoned not more than 15 years, or both, but if the amount or value of such money, baggage, goods, or chattels is less than $1,000, shall be fined under this title or imprisoned for not more than 5 years, or both''; and

(3) by inserting after the first sentence in the eighth undesignated paragraph the following: ''For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transshipment or otherwise.''.

(b) STOLEN VESSELS.—

(1) IN GENERAL.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

'' 'Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.''.

(2) TRANSPORTATION AND SALE OF STOLEN VESSELS.—

(A) TRANSPORTATION.—Section 2312 of title 18, United States Code, is amended—

(i) by striking ''motor vehicle or aircraft'' and inserting ''motor vehicle, vessel, or aircraft''; and

(ii) by striking ''10 years'' and inserting ''15 years''.

(B) SALE.—Section 2313(a) of title 18, United States Code, is amended—

(i) by striking ''motor vehicle or aircraft'' and inserting ''motor vehicle, vessel, or aircraft''; and

(ii) by striking ''10 years'' and inserting ''15 years''.

(c) REVIEW OF SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal Sentencing Guidelines to determine whether sentencing enhancement is appropriate for any offense under section 659 or 2311 of title 18, United States Code, as amended by this title.

(d) ANNUAL REPORT OF LAW ENFORCEMENT ACTIVITIES.—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this title.

(e) REPORTING OF CARGO THEFT.—The Attorney General shall take the steps necessary to ensure that reports of cargo theft collected by Federal, State, and local officials are reflected as a separate category in the Uniform Crime Reporting System, or any successor system, by no later than December 31, 2006.

SEC. 309. INCREASED PENALTIES FOR NONCOMPLIANCE WITH MANIFEST REQUIREMENTS.

(a) REPORTING, ENTRY, CLEARANCE REQUIREMENTS.—Section 436(b) of the Tariff Act of 1930 (19 U.S.C. 1436(b)) is amended by—

(1) striking ''or aircraft pilot'' and inserting ''aircraft pilot, operator, owner of such vessel, vehicle or aircraft, or any other responsible party (including non-vessel operating common carriers)'';

(2) striking ''$5,000'' and inserting ''$10,000''; and

(3) striking ''$10,000'' and inserting ''$25,000''.

(b) CRIMINAL PENALTY.—Section 436(c) of the Tariff Act of 1930 (19 U.S.C. 1436(c)) is amended—

(1) by striking ''or aircraft pilot'' and inserting ''aircraft pilot, operator, owner of such vessel, vehicle, or aircraft, or any other responsible party (including non-vessel operating common carriers)''; and

(2) by striking ''$2,000'' and inserting ''$10,000''.

(c) FALSITY OR LACK OF MANIFEST.—Section 584(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1584(a)(1)) is amended by striking ''$1,000'' in each place it occurs and inserting ''$10,000''.

SEC. 310. STOWAWAYS ON VESSELS OR AIRCRAFT.

Section 2199 of title 18, United States Code, is amended by striking ''Shall be fined under this title or imprisoned not more than one year, or both.'' and inserting the following:

''(1) shall be fined under this title, imprisoned not more than 5 years, or both;

''(2) if the person commits an act proscribed by this section, with the intent to commit serious bodily injury, and serious bodily injury occurs (as defined under section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242) to any person other than a participant as a result of a violation of this section, shall be fined under this title or imprisoned not more than 20 years, or both; and

''(3) if death results from an offense under this section, shall be subject to the death penalty or to imprisonment for any term or years or for life.''.

SEC. 311. BRIBERY AFFECTING PORT SECURITY.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"§ 226. Bribery affecting port security

''(a) IN GENERAL.—Whoever knowingly—

''(1) directly or indirectly, corruptly gives, offers, or promises anything of value to any public or private person, with intent to commit international terrorism or domestic terrorism (as those terms are defined under section 2331), to—

''(A) influence any action or any person to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud affecting any secure or restricted area or seaport; or

''(B) induce any official or person to do or omit to do any act in violation of the lawful duty of such official or person that affects any secure or restricted area or seaport; or

''(2) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for—

''(A) being influenced in the performance of any official act affecting any secure or restricted area or seaport; and

''(B) knowing that such influence will be used to commit, or plan to commit, international or domestic terrorism,

shall be fined under this title or imprisoned not more than 20 years, or both.

''(b) DEFINITION.—In this section, the term 'secure or restricted area' means an area of a vessel or facility designated as secure in an approved security plan, as required under section 70103 of title 46, United States Code, and the rules and regulations promulgated under that section.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

''226. Bribery affecting port security.''.

SEC. 312. PENALTIES FOR SMUGGLING GOODS INTO THE UNITED STATES.

The third undesignated paragraph of section 545 of title 18, United States Code, is amended by striking ''5 years'' and inserting ''20 years''.

SEC. 313. SMUGGLING GOODS FROM THE UNITED STATES.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§ 554. Smuggling goods from the United States

''(a) IN GENERAL.—Whoever fraudulently or knowingly exports or sends from the United States, or attempts to export or send from the United States, any merchandise, article, or object contrary to any law or regulation of the United States, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise, article or object, prior to exportation, knowing the same to be intended for exportation contrary to any law or regulation of the United States, shall be fined under this title, imprisoned not more than 10 years, or both.

''(b) DEFINITION.—In this section, the term 'United States' has the meaning given that term in section 545.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

''554. Smuggling goods from the United States.''.

(c) SPECIFIED UNLAWFUL ACTIVITY.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting ''section 554 (relating to smuggling goods from the United States),'' before ''section 641 (relating to public money, property, or records),''.

(d) TARIFF ACT OF 1990.—Section 596 of the Tariff Act of 1930 (19 U.S.C. 1595a) is amended by adding at the end the following:

''(d) Merchandise exported or sent from the United States or attempted to be exported or sent from the United States contrary to law, or the proceeds or value thereof, and property used to facilitate the receipt, purchase, transportation, concealment, or sale of such merchandise prior to exportation shall be forfeited to the United States.''.

(e) REMOVING GOODS FROM CUSTOMS CUSTODY.—Section 549 of title 18, United States Code, is amended in the 5th paragraph by striking ''two years'' and inserting ''10 years''.

TITLE IV—COMBATING TERRORISM FINANCING

SEC. 401. SHORT TITLE.

This title may be cited as the ''Combating Terrorism Financing Act of 2005''.

SEC. 402. INCREASED PENALTIES FOR TERRORISM FINANCING.

Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended—

(1) in subsection (a), by deleting ''$10,000'' and inserting ''$50,000''.

(2) in subsection (b), by deleting ''ten years'' and inserting ''twenty years''.

SEC. 403. TERRORISM-RELATED SPECIFIED ACTIVITIES FOR MONEY LAUNDERING.

(a) AMENDMENTS TO RICO.—Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (B), by inserting ''section 1960 (relating to illegal money transmitters),'' before ''sections 2251''; and

(2) in subparagraph (F), by inserting ''section 274A (relating to unlawful employment of aliens),'' before ''section 277''.

(b) AMENDMENTS TO SECTION 1956(c)(7).—Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) inserting '', or section 2339C (relating to financing of terrorism)'' before ''of this title''; and

(2) striking ''or any felony violation of the Foreign Corrupt Practices Act'' and inserting ''any felony violation of the Foreign Corrupt Practices Act, or any violation of section 208 of the Social Security Act (relating to obtaining funds through misuse of a social security number)''.

(c) CONFORMING AMENDMENTS TO SECTIONS 1956(e) AND 1957(e).—

(1) Section 1956(e) of title 18, United States Code, is amended to read as follows:

''(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postal Service, and the Attorney General. Violations of this section involving offenses described in paragraph (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.''.

(2) Section 1957(e) of title 18, United States Code, is amended to read as follows:

''(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postal Service, and the Attorney General.''.

SEC. 404. ASSETS OF PERSONS COMMITTING TERRORIST ACTS AGAINST FOREIGN COUNTRIES OR INTERNATIONAL ORGANIZATIONS.

Section 981(a)(1)(G) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting ''; or''; and

(3) by inserting the following after clause (iii):

''(iv) of any individual, entity, or organization engaged in planning or perpetrating any act of international terrorism (as defined in section 2331) against any international organization (as defined in section 209 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4309(b)) or against any foreign Government. Where the property sought for forfeiture is located beyond the territorial boundaries of the United States, an act in furtherance of such planning or perpetration must have occurred within the jurisdiction of the United States.''.

SEC. 405. MONEY LAUNDERING THROUGH HAWALAS.

Section 1956 of title 18, United States Code, is amended by adding at the end the following:

''(j)(1) For the purposes of subsections (a)(1) and (a)(2), a transaction, transportation, transmission, or transfer of funds shall be considered to be one involving the proceeds of specified unlawful activity, if the transaction, transportation, transmission, or transfer is part of a set of parallel or dependent transactions, any one of which involves the proceeds of specified unlawful activity.

''(2) As used in this section, a 'dependent transaction' is one that completes or complements another transaction or one that would not have occurred but for another transaction.''.

SEC. 406. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO THE USA PATRIOT ACT.

(a) TECHNICAL CORRECTIONS.—

(1) Section 322 of Public Law 107–56 is amended by striking ''title 18'' and inserting ''title 28''.

(2) Section 5332(a)(1) of title 31, United States Code, is amended by striking ''article of luggage'' and inserting ''article of luggage or mail''.

(3) Section 1956(b)(3) and (4) of title 18, United States Code, are amended by striking ''described in paragraph (2)'' each time it appears; and

(4) Section 981(k) of title 18, United States Code, is amended by striking ''foreign bank'' each time it appears and inserting ''foreign bank or financial institution''.

(b) CODIFICATION OF SECTION 316 OF THE USA PATRIOT ACT.—

(1) Chapter 46 of title 18, United States Code, is amended—

(A) by inserting at the end the following:

"§ 987. Anti-terrorist forfeiture protection

''(a) RIGHT TO CONTEST.—An owner of property that is confiscated under this chapter or

any other provision of law relating to the confiscation of assets of suspected international terrorists, may contest that confiscation by filing a claim in the manner set forth in the Federal Rules of Civil Procedure (Supplemental Rules for Certain Admiralty and Maritime Claims), and asserting as an affirmative defense that—

''(1) the property is not subject to confiscation under such provision of law; or

''(2) the innocent owner provisions of section 983(d) apply to the case.

''(b) EVIDENCE.—In considering a claim filed under this section, a court may admit evidence that is otherwise inadmissible under the Federal Rules of Evidence, if the court determines that the evidence is reliable, and that compliance with the Federal Rules of Evidence may jeopardize the national security interests of the United States.

''(c) CLARIFICATIONS.—

''(1) PROTECTION OF RIGHTS.—The exclusion of certain provisions of Federal law from the definition of the term 'civil forfeiture statute' in section 983(i) shall not be construed to deny an owner of property the right to contest the confiscation of assets of suspected international terrorists under—

''(A) subsection (a) of this section;

''(B) the Constitution; or

''(C) subchapter II of chapter 5 of title 5, United States Code (commonly known as the 'Administrative Procedure Act').

''(2) SAVINGS CLAUSE.—Nothing in this section shall limit or otherwise affect any other remedies that may be available to an owner of property under section 983 or any other provision of law.''; and

(B) in the chapter analysis, by inserting at the end the following:

''987. Anti-terrorist forfeiture protection.''.

(2) Subsections (a), (b), and (c) of section 316 of Public Law 107–56 are repealed.

(c) CONFORMING AMENDMENTS CONCERNING CONSPIRACIES.—

(1) Section 33(a) of title 18, United States Code is amended by inserting ''or conspires'' before ''to do any of the aforesaid acts''.

(2) Section 1366(a) of title 18, United States Code, is amended—

(A) by striking ''attempts'' each time it appears and inserting ''attempts or conspires''; and

(B) by inserting '', or if the object of the conspiracy had been achieved,'' after ''the attempted offense had been completed''.

SEC. 407. TECHNICAL CORRECTIONS TO FINANCING OF TERRORISM STATUTE.

Section 2332b(g)(5)(B) of title 18, United States Code, is amended by inserting '')'' after ''2339C (relating to financing of terrorism''.

SEC. 408. CROSS REFERENCE CORRECTION.

Section 5318(n)(4)(A) of title 31, United States Code, is amended by striking ''National Intelligence Reform Act of 2004'' and inserting ''Intelligence Reform and Terrorism Prevention Act of 2004''.

SEC. 409. AMENDMENT TO AMENDATORY LANGUAGE.

Section 6604 of the Intelligence Reform and Terrorism Prevention Act of 2004 is amended (effective on the date of the enactment of that Act)—

(1) by striking ''Section 2339c(c)(2)'' and inserting ''Section 2339C(c)(2)''; and

(2) by striking ''Section 2339c(e)'' and inserting ''Section 2339C(e)''.

SEC. 410. DESIGNATION OF ADDITIONAL MONEY LAUNDERING PREDICATE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting '', or section 2339D (relating to receiving military-type training from a foreign terrorist organization)'' after ''section 2339A or 2339B (relating to providing material support to terrorists)''; and

(2) by striking ''or'' before ''section 2339A or 2339B''.

The PRESIDING OFFICER appointed Mr. SPECTER, Mr. HATCH, Mr. KYL, MR. DEWINE, Mr. SESSIONS, Mr. ROBERTS, Mr. LEAHY, Mr. KENNEDY, Mr. ROCKEFELLER, and Mr. LEVIN conferees on the part of the Senate.

Mr. FRIST. Mr. President, I thank our colleagues on this very important piece of legislation—both those who have reservations and those who support this very important act. I talked to the Attorney General a short while ago, and he expressed his appreciation to this body.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 212, 220, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 253, 254, 255 through 285, 287 through 293, 295, 296, 297 through 302, 303, 304, 305, 306, 307, 308, and all nominations on the Secretary's desk reported by the Armed Services Committee today; Calendar No. 311, Ronald Sega, PN–661; provided further that the following committees be discharged from further consideration of the listed nominations and the Senate proceed en bloc to their consideration: HELP Committee, Charles Ciccolella, PN–524; Foreign Relations Committee, William Burns, PN–747; William Timken, PN–737; Richard Jones, PN–757; Francis Ricciardone, PN–758.

I further ask that the Chair now put the question on Calendar No. 212, the nomination of Granta Nakayama, to be Assistant Administrator of EPA, and I note for the record that Senator BURNS is opposed and he would vote against this nominee.

The PRESIDING OFFICER. The question is, shall the Senate advise and consent to the nomination of Granta Y. Nakayama, to be an Assistant Administrator of the Environmental Protection Agency?

The nomination was confirmed.

Mr. FRIST. Mr. President, I ask unanimous consent that the remaining nominations that I enumerated be confirmed en bloc, the motions to reconsider be laid upon the table, and the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

ENVIRONMENTAL PROTECTION AGENCY

Granta Y. Nakayama, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

DEPARTMENT OF ENERGY

James A. Rispoli, of Virginia, to be an Assistant Secretary of Energy (Environmental Management).

DEPARTMENT OF STATE

Henrietta Holsman Fore, of Nevada, to be an Under Secretary of State (Management).

Josette Sheeran Shiner, of Virginia, to be an Under Secretary of State (Economic, Business, and Agricultural Affairs).

Karen P. Hughes, of Texas, to be Under Secretary of State for Public Diplomacy, with the rank of Ambassador.

Kristen Silverberg, of Texas, to be an Assistant Secretary of State (International Organization Affairs).

Jendayi Elizabeth Frazer, of Virginia, to be an Assistant Secretary of State (African Affairs).

Henry Crumpton, of Virginia, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large.

James Cain, of North Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

Alan W. Eastham, Jr., of Arkansas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malawi.

Katherine Hubay Peterson, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Republic of Botswana.

Michael Retzer, of Mississippi, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

Gillian Arlette Milovanovic, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Macedonia.

DEPARTMENT OF VETERANS AFFAIRS

James Philip Terry, of Virginia, to be Chairman of the Board of Veterans' Appeals for a term of six years.

DEPARTMENT OF THE TREASURY

John C. Dugan, of Maryland, to be Comptroller of the Currency for a term of five years.

John M. Reich, of Virginia, to be Director of the Office of Thrift Supervision for a term of five years.

SECURITIES AND EXCHANGE COMMISSION

Christopher Cox, of California, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 2009.

Roel C. Campos, of Texas, to be a Member of the Securities and Exchange Commission for a term expiring June 5, 2010. (Reappointment)

Annette L. Nazareth, of the District of Columbia, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 2007.

FEDERAL DEPOSIT INSURANCE CORPORATION

Martin J. Gruenberg, of Maryland, to be Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.

Martin J. Gruenberg, of Maryland, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for the remainder of the term expiring December 27, 2006.

Martin J. Gruenberg, of Maryland, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term expiring December 27, 2012. (Reappointment)

DEPARTMENT OF JUSTICE

Michael J. Garcia, of New York, to be United States Attorney for the Southern District of New York for the term of four years.

Peter Manson Swaim, of Indiana, to be United States Marshal for the Southern District of Indiana for the term of four years.

Phillip Jackson Bell, of Georgia, to be Deputy Under Secretary of Defense for Logistics and Materiel Readiness.

Keith E. Eastin, of Texas, to be an Assistant Secretary of the Army.

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Norton A. Schwartz, 0000

The following named officer for appointment as Vice Chief of Staff of the Air Force, and for appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 8034 and 601:

To be general

Lt. Gen. John D.W. Corley, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Kevin P. Chilton, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Donald J. Hoffman, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj.Gen. David A. Deptula, 0000

The following named officer for appointment in the United States Air Force, to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601, and to be the Senior Member of the Military Staff Committee of the United Nations under title 10, U.S.C., section 711:

To be lieutenant general

Lt. Gen. Victor E. Renuart, Jr., 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. John L. Hudson, 0000

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.SC., section 8069:

To be major general

Brig. Gen. Melissa A. Rank, 0000

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Ted F. Bowlds, 0000
Brigadier General David E. Clary, 0000
Brigadier General David M. Edgington, 0000
Brigadier General Delwyn R. Eulberg, 0000
Brigadier General David S. Gray, 0000
Brigadier General Wendell L. Griffin, 0000
Brigadier General Irving L. Halter, Jr., 0000
Brigadier General Kevin J. Kennedy, 0000
Brigadier General John C. Koziol, 0000
Brigadier General William T. Lord, 0000
Brigadier General Arthur B. Morrill, III, 0000
Brigadier General Larry D. New, 0000
Brigadier General Richard Y. Newton, III, 0000
Brigadier General Allen G. Peck, 0000
Brigadier General Jeffrey R. Riemer, 0000
Brigadier General Eric J. Rosborg, 0000
Brigadier General David J. Scott, 0000
Brigadier General Mark D. Shackelford, 0000
Brigadier General John T. Sheridan, 0000
Brigadier General Gregory L. Trebon, 0000
Brigadier General Roy M. Worden, 0000

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brigadier General Charles W. Collier, Jr., 0000
Brigadier General Scott A. Hammond, 0000
Brigadier General Henry C. Morrow, 0000
Brigadier General Roger C. Nafziger, 0000
Brigadier General Gary L. Sayler, 0000
Brigadier General Darryll D.M. Wong, 0000

To be brigadier general

Colonel Michael D. Akey, 0000
Colonel Frances M. Auclair, 0000
Colonel Kathleen F. Berg, 0000
Colonel Stanley E. Clarke, III, 0000
Colonel James F. Dawson, Jr., 0000
Colonel Michael D. Gullihur, 0000
Colonel Tony A. Hart, 0000
Colonel Martin K. Holland, 0000
Colonel Mary J. Kight, 0000
Colonel James W. Kwiatkowski, 0000
Colonel Ulay W. Littleton, Jr., 0000
Colonel Patrick J. Moisio, 0000
Colonel Loda R. Moore, 0000
Colonel Thomas A. Peraro, 0000
Colonel William M. Schuessler, 0000
Colonel Robert M. Stonestreet, 0000
Colonel Jannette Young, 0000

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. William E. Ward, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Robert W. Wagner, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Keith B. Alexander, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Ronald L. Burgess, Jr., 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. David H. Petraeus, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Martin E. Dempsey, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. William E. Mortensen, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S. C., section 601:

To be lieutenant general

Lt. Gen. Claude V. Christianson, 0000

The following named officer for appointment in the United States Army to the positions and grade indicated under title 10, U.S. C., section 3037:

To be major general and the judge advocate general of the United States Army

Maj. Gen. Scott C. Black, 0000

The following named officer for appointment in the United States Army to the positions and grade indicated under title 10, U.S.C., section 3037:

To be major general and the assistant judge advocate general of the United States Army

Maj. Gen. Daniel V. Wright, 0000

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S. C., section 624:

To be major general

Brigadier General Jay W. Hood, 0000

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Douglas L. Carver, 0000

IN THE MARINE CORPS

The following named officer for appointment as Assistant Commandant of the Marine Corps, and for appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 5044 and 601:

To be general

Lt. Gen. Robert Magnus, 0000

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. John G. Castellaw, 0000

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Emerson N. Gardner, Jr., 0000

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Joseph F. Weber, 0000

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Richard S. Kramlich, 0000

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. John F. Goodman, 0000

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Ann E. Rondeau, 0000

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. David C. Nichols, Jr., 0000

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, US.C., section 601:

To be rear admiral

Rear Adm. (lh) Henry Balam Tomlin, III, 0000

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral

Rear Adm. (lh) Craig O. McDonald, 0000

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral

Rear Adm. (lh) Ben F. Gaumer, 0000

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral

Rear Adm. (lh) Raymond K. Alexander, 0000

The following named officers for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral

Rear Adm. (lh) David O. Anderson, 0000
Rear Adm. (lh) Hugo G. Blackwood, 0000
Rear Adm. (lh) Dirk J. Debbink, 0000

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Thomas K. Burkhard, 0000

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Donna L. Crisp, 0000

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Michael S. Roesner, 0000

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. Raymond P. English, 0000

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Richard R. Jeffries, 0000
Capt. David J. Smith, 0000

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Mark F. Heinrich, 0000
Capt. Charles M. Lilli, 0000

The following named officer for appointment in the United States Navy to the.grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Michael D. Hardee, 0000

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Timothy V. Flynn, III, 0000
Capt. Charles H. Goddard, 0000
Capt. John C. Orzalli, 0000

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Tony L. Cothron, 0000

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Moira N. Flanders, 0000

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Michael A. Brown, 0000

The following named officers for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. Julius S. Caeser, 0000
Capt. William P. Loeffler, 0000
Capt. Lee J. Metcalf, 0000
Capt. Garland P. Wright, Jr., 0000

[NEW REPORTS]

DEPARTMENT OF THE TREASURY

Sandra L. Pack, of Maryland, to be an Assistant Secretary of the Treasury, vice Teresa M. Ressel, resigned.

Timothy D. Adams, of Virginia, to be an Under Secretary of the Treasury.

Randal Quarles, of Utah, to be an Under Secretary of the Treasury.

Kevin I. Fromer, of Virginia, to be a Deputy Under Secretary of the Treasury.

Robert M. Kimmitt, of Virginia, to be Deputy Secretary of the Treasury.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Shara L. Aranoff, of Maryland, to be a Member of the United States International Trade Commission for a term expiring December 16, 2012.

Ronald M. Sega, of Colorado, to be Under Secretary of the Air Force.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN309 AIR FORCE nominations (10) beginning THOMAS L. BLASE, and ending GREGORY L. TATE, which nominations were received by the Senate and appeared in the Congressional Record of March 14, 2005.

PN736 AIR FORCE nominations (17) beginning DAVID J. LUTHER, and ending MERIDITH A. WARNER, which nominations were received by the Senate and appeared in the Congressional Record of July 19, 2005.

IN THE ARMY

PN221 ARMY nominations (21) beginning JOHN M. BALAS JR., and ending PAUL J. WARDEN, which nominations were received by the Senate and appeared in the Congressional Record of February 15, 2005.

PN293 ARMY nominations (85) beginning EDWARD D. ARRINGTON, and ending CLIFTON E. YU, which nominations were received by the Senate and appeared in the Congressional Record of March 4, 2005.

PN315 ARMY nominations (13) beginning BARRY D. BOWDEN, and ending CRAIG N. WILEY, which nominations were received by the Senate and appeared in the Congressional Record of March 14, 2005.

PN616 ARMY nominations (166) beginning WILLIAM P.* ADELMAN, and ending JOSEPH J.* ZUBAK, which nominations were received by the Senate and appeared in the Congressional Record of June 9, 2005.

PN617 ARMY nominations (31) beginning TERRY W. AUSTIN, and ending PAUL J. YACOVONE, which nominations were received by the Senate and appeared in the Congressional Record of June 9, 2005.

PN618 ARMY nominations (16) beginning SCOTT W.* BURGAN, and ending JULIE A.* SMITH, which nominations were received by the Senate and appeared in the Congressional Record of June 9, 2005.

PN708 ARMY nominations (6) beginning MONROE N. FARMER JR., and ending WENDY C. SPRIGGS, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN709 ARMY nominations (5) beginning JERRY R. ACTON JR., and ending STEVEN R. MOUNT, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN710 ARMY nominations (11) beginning MARIA E. BOVILL, and ending MICHAEL J.* WALKER, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN711 ARMY nominations (18) beginning THELDA J.* ATKIN, and ending TAMI ZALEWSKI, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN712 ARMY nominations (106) beginning CHRISTOPHER AMAKER, and ending STEPHEN C. WOOLDRIDGE, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN713 ARMY nominations (79) beginning DENISE D. ADAMSMANN, and ending ROBIN A. VILLIARD, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN714 ARMY nominations (1631) beginning THOMAS H. AARSEN, and ending X3541, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

IN THE MARINE CORPS

PN158 MARINE CORPS nomination of Daniel J. Peterlick, which was received by the Senate and appeared in the Congressional Record of February 8, 2005.

PN177 MARINE CORPS nominations (2) beginning DANNY A. HURD, and ending GEORGE C. MCLAIN, which nominations were received by the Senate and appeared in the Congressional Record of February 8, 2005.

IN THE NAVY

PN398 NAVY nominations (4) beginning JAMES W. CALDWELL JR., and ending RICHARD J. PAPESCA, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN399 NAVY nominations (10) beginning DAVID K. CHAPMAN, and ending WILLIAM V. WEINMAN JR., which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN400 NAVY nomination of Robert W. Worringer, which was received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN401 NAVY nomination of Melissa J. MacKay, which was received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN402 NAVY nominations (3) beginning THOMAS J. CUFF, and ending CARVEN A. SCOTT, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN403 NAVY nominations (2) beginning STEVEN F. MOMANO, and ending AGUSTIN L. OTERO, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN404 NAVY nominations (2) beginning LARRY THOMAS, and ending DAVID J. WRAY, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN405 NAVY nominations (4) beginning KERI A. BUCK, and ending WILLIAM J. WILSON III, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN406 NAVY nominations (5) beginning NICHOLAS A. FILIPPONE, and ending NANCY S. VEGEL, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN407 NAVY nominations (6) beginning EDWARD Y. ANDRUS, and ending THOMAS E. STOWELL, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN 408 NAVY nominations (25) beginning REBEKAH R. BARRISH, and ending SAMUEL G. SUMWALT, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN409 NAVY nominations (17) beginning CHARLES E. ADAMS, and ending KATHERINE A. WALTER, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN410 NAVY nominations (18) beginning WALTER J. ADELMANN JR., and ending CLAYTON G. TETTELBACH, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN411 NAVY nominations (151) beginning RUSSELL E. ALLEN, and ending STEPHEN E. ZINI, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN542 NAVY nominations (3) beginning ANTHONY COOPER, and ending WILLIAM S. GURECK, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN543 NAVY nominations (4) beginning ANNIE B. ANDREWS, and ending SUSAN L. SHERMAN, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN544 NAVY nominations (6) beginning ROBERT G. BERGMAN, and ending PHILIP G. STROZZO, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN545 NAVY nominations (6) beginning SCOTT D. KATZ, and ending PAUL C. STEWART, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN546 NAVY nominations (6) beginning WILLIAM T. AINSWORTH, and ending GEORGE D. SEATON, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN547 NAVY nominations (9) beginning KATHERINE M. DONOVAN, and ending MARTHA M. WARNER, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN548 NAVY nominations (12) beginning TERRY W. AUBERRY, and ending DAVID B. WILKIE, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN549 NAVY nominations (14) beginning NICHOLAS V. BUCK, and ending MATHIAS W. WINTER, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN550 NAVY nominations (17) beginning MICHAEL E. DEVINE, and ending ALVIN C. WILSON III, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN551 NAVY nominations (29) beginning RAYMOND M. ALFARO, and ending JOSEPH YUSICIAN, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN552–1 NAVY nominations (169) beginning ALAN J. ABRAMSON, and ending DOUGLAS E. WRIGHT, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN582 NAVY nominations (6) beginning CARL J. CWIKLINSKI, and ending ROBERT P. McCLANAHAN JR., which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN583 NAVY nominations (5) beginning JOSEPH A. CLEMENTS, and ending GAROLD G. ULMER, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN584 NAVY nominations (14) beginning JEFFREY T. BOROWY, and ending JULIUS C. WASHINGTON, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN585 NAVY nominations (34) beginning DIANNE A. ARCHER, and ending JEFFERY S. WOLFE, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN586 NAVY nominations (11) beginning ROBERT B. BLAZEWICK, and ending ERIC C. PRICE, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN587 NAVY nominations (35) beginning WILLIAM J. ADAMS JR., and ending STEVEN J. WINTER, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN588 NAVY nominations (32) beginning GREGORY S. BLASCHKE, and ending DAVID G. WRIGHT, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN589 NAVY nominations (13) beginning IOANA BETTIOS, and ending MICHAEL J. WOLFGANG, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN590 NAVY nominations (22) beginning LINNEA M. AXMAN, and ending LAURIE L. WILLIAMSON, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN592 NAVY nominations (2) beginning JOHN G. DILLENDER, and ending DIANE L. SNYDER, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN593 NAVY nominations (4) beginning JANE D. BINGHAM, and ending STEVEN R. MORGAN, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN594 NAVY nominations (33) beginning GREGORY F. BECHT, and ending MICHAEL L. ZABEL, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN595 NAVY nominations (28) beginning DEANA L. ABERNATHEY, and ending LINDA J. TIEASKIE, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN596 NAVY nominations (12) beginning MAUREEN E. CARROLL, and ending JACOB R. WALKER, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN597 NAVY nominations (20) beginning THOMAS L. AMERSON, and ending KENNETH E. WAVELL, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN598 NAVY nominations (4) beginning BRIAN D. HODGSON, and ending POMAY TSOI, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN599 NAVY nominations (25) beginning GREGORY L. BELCHER, and ending WAYNE M. WEISS, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN629 NAVY nominations (5) beginning RICHARD W. HAUPT, and ending ALVIN A. PLEXICO JR., which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN630 NAVY nominations (11) beginning RONALD M. BISHOP JR., and ending ANTHONY S. VIVONA, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN631 NAVY nominations (12) beginning CHERYL J. COTTON, and ending TRACY D. WHITELEY, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN632 NAVY nominations (14) beginning ALBERT R. COSTA, and ending CHRISTOPHER S. WIRTH, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN633 NAVY nominations (14) beginning DAVID J. BYERS, and ending MARC T. STEINER, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN634 NAVY nominations (17) beginning JASON W. CARTER, and ending LAURA G. YAMBRICK, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN635 NAVY nominations (17) beginning CLIFFORD W. BEAN III, and ending DONNA M. YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN636 NAVY nominations (37) beginning THOMAS J. ANDERSON, and ending MICHAEL ZIV, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN637 NAVY nominations (37) beginning JASON L. ANSLEY, and ending TRACY A. VINCENT, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN638 NAVY nominations (59) beginning DANIEL A. ABRAMS, and ending JOHN W. WOOD, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN639–1 NAVY nominations (317) beginning JOHN C. ABSETZ, and ending JOHN J. ZERR II, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN715 NAVY nominations (40) beginning JAMES R. MARTIN, and ending GLEN WOOD, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN716 NAVY nominations (66) beginning MARJORIE ALEXANDER, and ending MARIA A. YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN717 NAVY nominations (27) beginning ERIC M. AABY, and ending CHARLES S. WILLMORE, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN722 NAVY nominations (3) beginning WILLIAM D. BRYAN, and ending BILLY W. SLOAN, which nominations were received by the Senate and appeared in the Congressional Record of July 14, 2005.

PN723 NAVY nominations (10) beginning BRUCE H. BOYLE, and ending BRADLEY E. TELLEEN, which nominations were received by the Senate and appeared in the Congressional Record of July 14, 2005.

PN724 NAVY nominations (25) beginning JEFFREY G. ANT, and ending BENJAMIN W. YOUNG JR., which nominations were received by the Senate and appeared in the Congressional Record of July 14, 2005.

PN725 NAVY nominations (28) beginning SYED N. AHMAD, and ending BARBARA H. ZELIFF, which nominations were received by the Senate and appeared in the Congressional Record of July 14, 2005.

PN726 NAVY nominations (44) beginning ANTHONY A. ARITA, and ending LINDA D. YOUBERG, which nominations were received by the Senate and appeared in the Congressional Record of July 14, 2005.

PN727 NAVY nominations (60) beginning JAMES T. ALBRITTON, and ending TODD E. YANIK, which nominations were received by the Senate and appeared in the Congressional Record of July 14, 2005.

PN728 NAVY nominations (154) beginning THOMAS C. ALEWINE, and ending TARA J. ZIEBER, which nominations were received by the Senate and appeared in the Congressional Record of July 14, 2005.

NOMINATION REFERENCE AND REPORT

Ordered, That the following nomination be referred to the Committee on Health, Education, Labor, and Pensions:

Charles S. Ciccolella, of Virginia, to be Assistant Secretary of Labor for Veterans' Employment and Training, vice Frederico Juarbe, Jr., resigned.

Ordered, That the following nomination be referred to the Committee on Foreign Relations:

William J. Burns, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Russia Federation.

Ordered, That the following nomination be referred to the Committee on Foreign Relations:

William Robert Timken, Jr., of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

Ordered, That the following nomination be referred to the Committee on Foreign Relations:

Richard Henry Jones, of Nebraska, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

Ordered, That the following nomination be referred to the Committee on Foreign Relations:

Francis Joseph Ricciardone, Jr., of New Hampshire, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Arab Republic of Egypt.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDER FOR NOMINATIONS TO REMAIN IN STATUS QUO

Mr. FRIST. Mr. President, I ask unanimous consent that all nominations received by the Senate during the 109th Congress remain in status quo during the August adjournment of the Senate under the provisions of rule XXXI, paragraph 6, of the Standing Rules of the Senate, with the exception of the nomination of John Robert Bolton, PN326 and PN327.

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

NATIONAL PROSTATE CANCER AWARENESS MONTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 230, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 230) designating September 2005 as ''National Prostate Cancer Awareness Month''.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 230) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 230

Whereas countless families in the United States have a family member that suffers from prostate cancer;

Whereas 1 in 6 men in the United States is diagnosed with prostate cancer;

Whereas throughout the past decade, prostate cancer has been the most commonly diagnosed type of cancer other than skin cancer and the second most common cause of cancer-related deaths among men in the United States;

Whereas, in 2005, more than 232,090 men in the United States will be diagnosed with prostate cancer and 30,350 men in the United States will die of prostate cancer according to estimates from the American Cancer Society;

Whereas 30 percent of the new diagnoses of prostate cancer occur in men under the age of 65;

Whereas a man in the United States turns 50 years old about every 14 seconds, increasing his odds of being diagnosed with prostate cancer;

Whereas African American males suffer from prostate cancer at an incidence rate up to 65 percent higher than white males and at a mortality rate double that of white males;

Whereas obesity is a significant predictor of the severity of prostate cancer and the chance that the disease will lead to death;

Whereas if a man in the United States has 1 family member diagnosed with prostate cancer, he has double the risk of prostate cancer, if he has 2 family members with such diagnosis, he has 5 times the risk, and if he has 3 family members with such diagnosis, he has a 97 percent risk of prostate cancer;

Whereas screening by both a digital rectal examination (DRE) and a prostate specific antigen blood test (PSA) can detect prostate cancer in earlier and more treatable stages and reduce the rate of mortality due to the disease;

Whereas ongoing research promises further improvements in prostate cancer prevention, early detection, and treatments; and

Whereas educating people in the United States, including health care providers, about prostate cancer and early detection strategies is crucial to saving the lives of men and preserving and protecting our families: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 2005 as ''National Prostate Cancer Awareness Month'';

(2) declares that it is critical to—

(A) raise awareness about the importance of screening methods and the treatment of prostate cancer;

(B) increase research funding to be proportionate with the burden of prostate cancer so that the causes of the disease, improved screening and treatments, and ultimately a cure may be discovered; and

(C) continue to consider methods to improve both access to and the quality of health care services for detecting and treating prostate cancer; and

(3) calls on the people of the United States, interested groups, and affected persons to—

(A) promote awareness of prostate cancer;

(B) take an active role in the fight to end the devastating effects of prostate cancer on individuals, their families, and the economy; and

(C) observe September 2005 with appropriate ceremonies and activities.

ENCOURAGING THE TRANSITIONAL NATIONAL ASSEMBLY OF IRAQ

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 231, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 231) encouraging the Transitional National Assembly of Iraq to adopt a constitution that grants women equal rights under the law and to work to protect such rights.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 231) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 231

Whereas Iraq is a sovereign nation and a party to the International Covenant on Civil and Political Rights, done at New York December 16, 1966, and entered into force March 23, 1976;

Whereas in Iraq's January 2005 parliamentary elections, more than 2,000 women ran for office and currently 31 percent of the seats in Iraq's National Assembly are occupied by women;

Whereas women lead the Iraqi ministries of Displacement and Migration, Communications, Municipalities and Public Works, Environment, and Science and Technology;

Whereas the Transitional Administrative Law provides for substantial participation of women in the Iraqi National Assembly and of personnel in all levels of the government;

Whereas the Personal Status Law provides for family and property rights for women in Iraq;

Whereas through grants funded by the United States Government's Iraqi Women's Democracy Initiative, nongovernmental organizations are providing training in political leadership, communications, coalition-building skills, voter education, constitution drafting, legal reform, and the legislative process;

Whereas a 275-member Transitional National Assembly, which is charged with the responsibility of drafting a new constitution, was elected to serve as Iraq's national legislature for a transition period.

Whereas Article 12 of Iraq's Transitional Administrative Law states that ''[a]ll Iraqis [are] equal in their rights without regard to gender . . . and they are equal before the law'';

Whereas Article 12 of the Transitional Administrative Law further states that ''[d]iscrimination against an Iraqi citizen on the basis of his gender . . . is prohibited'';

Whereas on May 10, 2005, Iraq's National Assembly appointed a committee, composed of Assembly members, to begin drafting a constitution for Iraq that will be subject to the approval of the Iraqi people in a national referendum;

Whereas the Senate recognizes the need to affirm the spirit and free the energies of women in Iraq who have spent countless hours, years, and lifetimes working for the basic human right of equal constitutional protection;

Whereas the Senate recognizes the risks Iraqi women have faced in working for the future of their country and admire their courageous commitment to democracy; and

Whereas the full and equal participation of all Iraqi citizens in all aspects of society is essential to achieving Iraq's democratic and economic potential: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Iraqi people for the progress achieved toward the establishment of a representative democratic government;

(2) recognizes the importance of ensuring women in Iraq have equal rights and opportunities under the law and in society and supports continued, substantial, and vigorous participation of women in the Iraqi National Assembly and in all levels of the government;

(3) recognizes the importance of ensuring women's rights in all legislation, with special attention to preserving women's equal rights under family, property, and inheritance laws;

(4) strongly encourages Iraq's Transitional National Assembly to adopt a constitution that grants women equal rights and opportunities under the law and to work to protect such rights;

(5) pledges to support the efforts of Iraqi women to fully participate in a democratic Iraq; and

(6) wishes the Iraqi people every success in developing, approving, and enacting a new constitution that ensures the civil and political rights of every citizen without reservation of any kind based on gender, religion, or national or social origin.

NATIONAL ALL SCHEDULES PRESCRIPTION ELECTRONIC REPORTING ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1132, which was received from the House.

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

The legislative clerk read as follows:

A bill (H.R. 1132) to provide for the establishment of a controlled substance monitoring program in each State.

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

Mr. KENNEDY. Mr. President, I commend our majority leader for bringing the Prescription Electronic Reporting Act to the floor for a vote so quickly, and I commend Senators ENZI, SESSIONS, DURBIN, and DODD for their contributions to this bill and their efforts to prevent the diversion of prescription drugs. Our goal is to help States establish electronic databases to monitor the use of prescription drugs and deal more effectively with the growing national epidemic of prescription drug abuse.

Over 6 million Americans currently use prescription drugs for nonmedical purposes. Thirty-one million people say they have abused such drugs at least once in their lives. The number of people reporting such abuse is higher than the total combined number of people abusing cocaine, hallucinogens, inhalants, and heroin.

The growing trend of prescription drug abuse is alarming. Since 1992, the total number of people abusing prescription drugs has soared by over 90 percent. The number of young adults who abuse prescription pain relievers and other addictive drugs has more than tripled. Prescription drug abuse among youths 12 to 17 has risen by tenfold. Today, 20 percent of teenagers have abused prescription drugs, and 37 percent have a close friend who does.

Better local programs to monitor addictive medications can help curb this abuse. Approximately 20 States have such programs in place, including Massachusetts, but they vary greatly in the collection and storage of data and the methods for using the databases.

The information in the databases can be used to identify physicians and patients who encourage the nonmedical use of prescription drugs. It can help people seek treatment early for their addiction. It can also be used to reduce the diversion of prescription drugs for illegal use.

Our bill authorizes the Secretary of HHS to make grants to States to establish needed monitoring programs. States with existing programs can use the grants to improve their systems and standardize the data to allow easy sharing of the information with other States.

Any such program, however, must include strong safeguards for medical privacy and make certain that the databases cannot be used to put improper pressure on physicians to avoid prescribing essential drugs. The effective treatment of pain is an enormous medical challenge, and good care will be much more difficult if patients fear that their prescription drug records will not be protected, or if physicians begin to look over their shoulder every time they prescribe pain medication.

We all share the goal of reaching the right balance between the interests of patients, physicians, and law enforcement, and this legislation does that. It requires the Secretary to develop criteria for ensuring the privacy and security of the database, including penalties for improper use. In their grant applications, States must show that they have enacted legislation with appropriate penalties, and explain how they will meet privacy and security criteria, such as by using encryption technology. They must have plans for purging data, and for certifying that requests for information are legitimate. The bill also requires the Secretary to provide a follow-up analysis of the privacy protections within 3 years after funds are appropriated.

The problem of prescription drug abuse is growing exponentially and worsens every year. Today, the group most at risk is our children. Now is the time to act to limit the diversion of prescription drugs and protect our most vulnerable citizens from prescription drug abuse.

Physicians want to treat pain without contributing to addiction. Law enforcement officials want to stop the flow of prescription drugs from pharmacies to the streets. A national monitoring program will provide a valuable resource to achieve these goals.

I commend Majority Leader FRIST, Chairman ENZI, and Senator SESSIONS for their leadership on this important health issue, and I urge our colleagues to pass this legislation as a significant step toward ending prescription drug abuse.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 1132) was read the third time and passed.

NATIONAL WOMEN'S HISTORY MUSEUM ACT OF 2005

Mr. FRIST. Mr. President I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 168, S. 501.

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

The legislative clerk read as follows:

A bill (S. 501) to provide a site for the National Women's History Museum in the District of Columbia.

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

Mr. FRIST. I ask unanimous consent that the Collins amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 1646) was agreed to, as follows:

(Purpose: To specify that no Federal funds are to be used to establish, construct, or operate the National Women's History Museum)

At the end, add the following:

SEC. 6. FEDERAL PARTICIPATION.

The United States shall pay no expense incurred in the establishment, construction, or operation of the National Women's History Museum, which shall be operated and maintained by the Museum Sponsor after completion of construction.

The bill (S. 501), as amended, was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

REGULATION OF CONTACT LENSES AS MEDICAL DEVICES

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 177, S. 172.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 172) to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes.

There being no objection, the Senate proceeded to consider the bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment.

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

S. 172

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

[SECTION 1. FINDINGS.

[Congress finds as follows:

[(1) All contact lenses have significant effects on the eye and pose serious potential health risks if improperly manufactured or used without appropriate involvement of a qualified eye care professional.

[(2) Most contact lenses currently marketed in the United States, including certain plano and decorative contact lenses, have been approved as medical devices pursuant to premarket approval applications or cleared pursuant to premarket notifications by the Food and Drug Administration (''FDA'').

[(3) FDA has asserted medical device jurisdiction over most corrective and noncorrective contact lenses as medical devices currently marketed in the United States, including certain plano and decorative contact lenses, so as to require approval pursuant to premarket approval applications or clearance pursuant to premarket notifications.

[(4) All contact lenses can present risks if used without the supervision of a qualified eye care professional. Eye injuries in children and other consumers have been reported for contact lenses that are regulated by FDA as medical devices primarily when used without professional involvement, and noncorrective contact lenses sold without approval or clearance as medical devices have caused eye injuries in children.

[SEC. 2. REGULATION OF CERTAIN ARTICLES AS MEDICAL DEVICES.

[Section 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j) is amended by adding at the end the following:

[''Regulation of Contact Lens as Devices

[''(n)(1) All contact lenses shall be deemed to be devices under section 201(h).

[''(2) Paragraph 1 shall not be construed as having any legal effect on any article that is not described in that paragraph.''.]

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(1) All contact lenses have significant effects on the eye and pose serious potential health risks if improperly manufactured or used without appropriate involvement of a qualified eye care professional.

(2) Most contact lenses currently marketed in the United States, including certain plano and decorative contact lenses, have been approved as medical devices pursuant to premarket approval applications or cleared pursuant to premarket notifications by the Food and Drug Administration (''FDA'').

(3) FDA has asserted medical device jurisdiction over most corrective and noncorrective contact lenses as medical devices currently marketed in the United States, including certain plano and decorative contact lenses, so as to require approval pursuant to premarket approval applications or clearance pursuant to premarket notifications.

(4) All contact lenses can present risks if used without the supervision of a qualified eye care professional. Eye injuries in children and other consumers have been reported for contact lenses that are regulated by FDA as medical devices primarily when used without professional involvement, and noncorrective contact lenses sold without approval or clearance as medical devices have caused eye injuries in children.

SEC. 2. REGULATION OF CERTAIN ARTICLES AS MEDICAL DEVICES.

Section 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j) is amended by adding at the end the following:

''Regulation of Contact Lens as Devices

''(n)(1) All contact lenses shall be deemed to be devices under section 201(h).

''(2) Paragraph (1) shall not be construed as having any legal effect on any article that is not subject to such paragraph.''.

Mr. FRIST. I ask unanimous consent that the DeWine amendment be agreed to, the committee-reported amendment, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 1647) was agreed to, as follows:

(Purpose: To provide a complete substitute)

In lieu of the matter to be inserted, insert the following:

SECTION 1. REGULATION OF CERTAIN ARTICLES AS MEDICAL DEVICES.

Section 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j) is amended by adding at the end the following subsection:

''Regulation of Contact Lens as Devices

''(n)(1) All contact lenses shall be deemed to be devices under section 201(h).

''(2) Paragraph (1) shall not be construed as bearing on or being relevant to the question of whether any product other than a contact lens is a device as defined by section 201(h) or a drug as defined by section 201(g).''.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 172), as amended, was passed.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, and upon the recommendation of the majority leader, pursuant to 22 U.S.C. 2761, as amended, appoints the following individuals as delegates of the Senate Delegation to the British-American Interparliamentary Group conference during the 109th Congress: the Honorable JUDD GREGG of New Hampshire; and the Honorable PAT ROBERTS of Kansas.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. FRIST. I ask unanimous consent that notwithstanding the Senate's adjournment, committees be authorized to report legislative and executive matters on Wednesday, August 31, from 10 a.m. to 12 noon.

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

AUTHORITY TO MAKE APPOINTMENTS

Mr. FRIST. I ask unanimous consent that notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences or interparliamentary conferences authorized by law, by concurrent action of the two Houses or by order of the Senate.

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

ORDERS FOR TUESDAY, SEPTEMBER 6, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the provisions of H. Con. Res. 225 until 12 noon on Tuesday, September 6.

I further ask that following the prayer and the 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 morning business until 12:30, with Senators permitted to speak for up to 5 minutes each; provided further that the Senate stand in recess from 12:30 to 2:15 for weekly policy luncheons.

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

UNANIMOUS CONSENT AGREEMENT—MOTION TO PROCEED TO S. 147

Mr. FRIST. I ask unanimous consent that at 2:15, the Senate resume the motion to proceed to S. 147, the Native Hawaiians bill.

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

PROGRAM

Mr. FRIST. We will return for business on Tuesday, September 6. We will be voting at 5:30. There could be two votes that evening on the previously filed cloture motion.

THANKING STAFF AND SENATE PAGES

Mr. FRIST. Mr. President, I thank members and staff for their hard work. I also want to take this opportunity to thank the pages who have been with us over the last several weeks. It has been a real pleasure and a great opportunity for us to both work with them over the course of the summer and to also thank them for their tremendous work. I know several of the pages have gone back home over the course of the day, and we extend our appreciation to each and every one of them as well. This is their last day of their period here in the Senate.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, through the Chair to the distinguished majority leader, we, at least the Democrats, on Tuesday will have a regular party caucus. So since I did not hear that, will we be recessing on Tuesday from 12:30 to 2:15?

Mr. FRIST. That is correct, we will be having our normal policy lunches that day and then we will have votes at 5:30 in the afternoon.

UNANIMOUS CONSENT REQUEST—S. 667

Mr. REID. Mr. President, I know the hour is late. I will be as quick as possible on this very important issue.

Four months ago the Senate Finance Committee reported S. 667, the Personal Responsibility and Individual Development for Everyone Act, known as the PRIDE Act. This would reauthorize temporary assistance for needy families, which was due for reauthorization in 2002. It is a bipartisan bill and received virtually unanimous support in the committee, a compromise that demonstrates how things can work.

The PRIDE Act contains increased funding to help parents cover the costs of childcare, among other things, so that they can join the workforce. It contains critical transitional medical assistance so that parents who work do not immediately lose their health care benefits in the transition to work. In short, it will help tens of thousands of Americans who are simply trying to do the right thing by their families and their communities.

That is why our Governors and State legislatures, both Democrats and Republicans, have asked that we reauthorize the program and pass the PRIDE Act at the earliest possible date.

Unfortunately, instead of helping working families and listening to our Governors and legislatures by immediately taking up this important bipartisan legislation, Republicans have spent months fighting among themselves, delaying its consideration. In the meantime, these working families that I have described in our States have had to live with uncertainty about whether this program will continue and, if so, in what form and at what cost.

While we have been forced to wait several months for the majority to work out their intraparty squabbles, Congress has had to pass a series of stop-gap extensions to keep the program going. Just before the last recess we passed what was the tenth extension of this program. However, that extension will expire at the end of September if we do not act on permanent legislation before then.

Even more threatening, some of our Republican colleagues are interested in including TANF in reconciliation, which will mean serious cuts, not increases, in many of the important programs contained in the bipartisan legislation reported by the Finance Committee.

I commend Senators BAUCUS and GRASSLEY, the chairman and ranking member of that committee, for their efforts in behalf of this legislation and the American people. The chairman and ranking member of the Finance Committee have been working together for months in an effort to bring the committee-reported bill to the floor, but we must consider this measure soon. Therefore, I ask unanimous consent that no later than the close of business on September 9, the Senate begin consideration of Calendar No. 60, S. 667, the PRIDE Act, and that all amendments be relevant to the subject matter of the bill without the need for textual reference; and that the bill be completed before the Senate considers any reconciliation bill.

The PRESIDING OFFICER. Is there objection?

Mr. FRIST. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I very much appreciate the Democratic leader's comments on the PRIDE Act, especially stressing the critical importance of this piece of legislation. It is a bipartisan bill. I do, too, want to thank the chairman and the ranking member, Senators GRASSLEY and BAUCUS, for their diligent work, their hard work in bringing this bill forward. I look forward to working with the Chair and ranking member in appropriate scheduling of this bill.

I do object.

The PRESIDING OFFICER. Objection is heard.

A CIVIL WORKING RELATIONSHIP

Mr. REID. Mr. President, prior to our leaving the body for the day and for a number of weeks, I want to express my appreciation for the pleasure it has been to work with the leader. I have enjoyed it. We have differences every day about what Members want to do in this body. We have tried, and I think we have accomplished civility. I have never to my knowledge raised my voice to the majority leader, nor has he raised his voice to me. We have distinct differences on occasion, but we have been able to work through those. I hope our ability to work together, in spite of the differences of the two political parties, has been good for the country.

We have spent time talking about what we need to do and how we are going to accomplish that. We have sometimes even disagreements on that. But the disagreements are not in any way unpleasant.

On behalf of the Democratic Senators, I express my appreciation for your always being able and willing to respond to my phone calls quickly. Mr. President, I say through you to the distinguished Senator from Tennessee, he is always a gentleman, for which I am very grateful.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I do have a longer statement I will make here shortly, but I think while the Democratic leader is here, what we have seen over the course of the last day, in the last week, in the last several weeks, does represent the very best of what this body is all about.

The American people, as the Democratic leader suggested, expect us to govern in a way working together with civility, and I think we have demonstrated that on some very tough and contentious issues. I look forward, as we enter into the post-recess session, to continuing that bipartisan civil spirit as we address, again, some very challenging issues.

LOOKING AHEAD: ISSUES BEFORE THE SENATE

Mr. FRIST. Mr. President, in the last few minutes here, I do want to look back very briefly and look ahead and foreshadow some of the issues we will be looking at. Before we leave for this August recess, I would like to look at and review very quickly some of the big, important issues we will be tackling this fall.

First and foremost, we will focus on one of the most significant and historic constitutional responsibilities, and that is, as we all know, to provide advice and consent on the President's Supreme Court nomination. Our goal, as spelled out a little bit earlier is to have a fair debate and a dignified debate on Judge Roberts, and to confirm him before the Supreme Court begins its new term on October 3. We can do that. We will do that.

I have worked very closely with the Democratic leader and with the President and with Senators SPECTER and

LEAHY to lay out a hearing and floor schedule to move the process forward in September. To summarize, because we were on the floor a couple of hours ago talking about that in a colloquy, Judge Roberts' hearing will begin in the Judiciary Committee on September 6 and Chairman SPECTER intends to hold a committee vote on Judge Roberts Thursday, September 15. We will begin the Senate floor debate no later than the week of Monday, September 26. I look forward to an up-or-down confirmation vote no later than Thursday, September 29.

As we approach this process, let me say a couple of words about Judge Roberts. He is the best of the best legal minds in America. Everybody who has met him has reflected that. His credentials, so impressive, have reflected that. He is a graduate of Harvard University and Harvard Law School, a lawyer who has served two Presidents and argued 39 cases before the Supreme Court. He is a Federal judge who was unanimously confirmed by the Senate to serve on the DC Circuit Court. He has earned bipartisan respect as one of the finest appellate advocates in the Nation.

I have had the opportunity to get to know Judge Roberts personally over the last several weeks and I, like everyone else, have been so impressed with his intellect and his modest demeanor and his willingness to communicate freely and openly. He will be the kind of Justice who will make America proud, embodying the very best of the American spirit, embodying the best of the qualities America expects in a Justice on its highest court: Someone who is smart, fair, impartial, and committed to faithfully interpreting the Constitution and the law.

As we move this process forward to confirm Judge Roberts, I hope and I do believe that the Senate has and will put aside any sort of partisan delay or obstruction or personal attacks of judicial nominees.

I am concerned with two tactics that have emerged that should concern us all—tactics that at first may appear perfectly reasonable but are really designed to thwart the confirmation process. One tactic is asking Judge Roberts to prejudge cases and predetermine outcomes that threaten his judicial independence.

Some have asked the question: ''whose side is Judge Roberts on?'' in a particular case. And there is only one appropriate answer to that question: Judge Roberts is on the side of the Constitution. When he puts on the judicial robe and takes a seat on the bench with his fellow Justices, he will not be serving as an advocate for a client or a particular point of view. He will serve as a fair and impartial judge who is sworn to uphold the Constitution.

The other tactic that concerns me is the fishing expedition for confidential, privileged documents. The Judiciary Committee and the Senate will have an extensive and comprehensive record of Judge Roberts to review. Already, the White House has released 15,000 pages of documents from Judge Roberts's service in the Federal Government and is expediting the release of tens of thousands more. The committee also can review the more than 300 cases decided by Judge Roberts, the legal briefs and oral argument transcripts from his 39 cases before the Supreme Court, and the 14 hours of hearing transcripts from his previous nomination before the Senate. There will be ample evidence for Senators to consider when they vote yes or no on Judge Roberts, without requiring review of confidential, privileged documents he wrote as a lawyer for his clients.

As we move forward, I urge my colleagues to reject these tactics and to work together in a bipartisan way. We must ensure that Judge Roberts receives a fair hearing, and a fair up or down confirmation vote before the Supreme Court begins its new term on October 3.

In addition to fulfilling this grave responsibility, we also will be carrying out our duty to protect America's national and economic security. The London bombings remind us that the terrorists continue to plot and plan their evil acts. We must stay vigilant and tireless in our pursuit—breaking up their cells, chasing down the money trail, and bringing each and every collaborator to justice.

Defending the homeland also requires defending our borders. The Homeland Security bill we passed 2 weeks ago adds 2,000 more border patrol agents, investigators and detention officers—don't think we have ''deportation officers, per se—to our border team. It expands much needed detention space so that we can be sure that people caught entering the country illegally are not released before their cases are processed. The Homeland Security bill also provides $340 million for U.S. Visitor and Immigration Status Indicator Technology—US VISIT. This new technology will enhance our ability to verify the identity of visitors with visas.

We are working hard to secure our borders. Part of that effort also involves reforming our immigration system. America is a natIon of immigrants. It is what has made us strong, vibrant and a beacon of hope to the world. People come to America looking for a better life. And we live better lives because of them. But we must ensure that immigrants who come to America come here legally. Over 7,000 miles of land stretch across our borders. Our ports handle 16 million cargo containers. And 330 million non-citizens—students, visitors and workers—cross our borders every year.

Among these visitors is an unprecedented flow of illegal immigrants. And many of them die in the trying. Last year alone, several hundred people died in the deserts and mountains that separate the United States from Mexico. Most died of exposure to the elements. Some died in accidents. An alarming number were murdered. Along Arizona's southern border—the only area for which we have good data—over 20 people died as a result of hanging, blunt-force trauma, gun shot wounds and other apparently deliberate acts during 2004. More corpses may be buried in shallow, unmarked graves. We don't keep records. We simply don't know. That is why I am asking the Government Accountability Office to produce a report on the deaths along our border to guide our future action.

These tragedies challenge our standards of compassion. But the sheer vastness of the illegal flow also compromises our security.

Among those seeking a better life are those seeking to harm our country. Some bring drugs. Some traffic in human beings. A few may even have links to terrorist groups. The safety and security of every citizen and every visitor who wishes to share in the American dream requires that we reform our laws to strengthen and improve our immigration system.

We also will turn to finishing our work on the Department of Defense authorization bill. Our troops in the field are depending on it. The security of our country depends on it. I thank our distinguished chairman, Chairman JOHN WARNER, who has been a tremendous leader on this bill and continues to represent the very best, I believe, in what a Senator should be as he takes that Department of Defense authorization bill through the activities that we must on the floor of the Senate.

This fall, as we work hard to address the national security concerns, we also will focus on another type of security—economic security, starting with the deficit. For the first time in a decade, we have the opportunity to seriously address the national deficit. President Bush has proposed a plan to cut that deficit in half in 5 years. By working together and rolling up our sleeves, we can hammer out a strategy to get this done.

We have to start that, I believe, by reducing the rate of Government growth, and the spending reconciliation bill will deliver real savings and strengthen our fiscal position. It has been about 9 years since we have had a spending aspect of that reconciliation bill.

A second way we can improve our economic security for working families is by permanently repealing the death tax. We all know the death tax is disruptive. It is unfair. It hurts small businesses. It destroys small businesses and hurts families and the hard-working people they hire. A typical family spends between $30,000 and $150,000 just trying to avoid this unfair tax. That alone is enough to start a small business or create dozens of jobs. Instead, it is simply wasted in trying to avoid a tax that is unfair.

Last week I, with another Senator, met a small group of business owners. The death tax was their very top concern. They talked about how their

small family businesses were hurt—family farms and newspapers, shops and factories. So the death tax needs to go. It needs to be put to rest permanently. We will be addressing that soon after we return. Another issue of fairness that demands our attention is asbestos litigation. We have been grappling with this issue for years. Now it is apparent to everyone that asbestos litigation is out of control. More than 700,000 individuals have filed claims; over 8,400 defendant companies have been named in lawsuits; 300,000 claims are pending right now. More than $70 billion has been spent trying to resolve the claims, driving 77 companies bankrupt.

This pace of bankruptcies is accelerating. About a third have taken place in the past 4 years. These are big companies such as Johns Manville, Owens Corning, U.S. Gypsum, and W.R. Grace. Over 90 percent of the industries in America are affected.

Even with the billions spent, and the companies bankrupted, very few victims have received adequate compensation. If the victims receive anything at all, it is only after suffering long delays while waiting for unpredictable and inequitable awards.

The current system has only one real winner—the trial lawyers. Plaintiff trial lawyers get more than half of every settlement dollar. And they are on the hunt for new companies to sue, even companies with little or no connection to the asbestos problem.

Last month, the asbestos fairness bill passed out of committee on a bipartisan vote. It is my intention to bring that bill to the floor and pass it this fall and deliver a system based on fairness and compassion. These are just a few of the issues we will be tackling when we return after the Labor Day recess. We will also work to get our own house in order and finish the spending bills. And we will vote on the issue of Native Hawaiians, as well.

We have had an enormously productive 7 months. And I am proud of the progress we have made on behalf of our fellow citizens. When we began the 109th Congress, America faced a number of structural problems threatening our safety, prosperity and freedom. We needed to take bold action, so we laid out an ambitious plan. We began by passing the fifth fastest budget in Senate history. From there, we pulled together to pass a comprehensive class action reform bill with nearly three quarters of the Senate voting in favor. With this success at our backs, we turned to bankruptcy abuse. And we succeeded in passing the most sweeping overhaul of bankruptcy law in 25 years. Like class action, the bankruptcy bill passed with broad, bipartisan support. And like class action, we voted to restore fairness, integrity and personal responsibility to the legal system.

We then moved to the highway bill. For years, America's roads, ports and infrastructure have been falling into disrepair. Our highways and city streets have become choked with 24-hour traffic. For millions of workers, commuting has become a daily nightmare. Finally, after 3 years of hard work and negotiation, over a dozen hearings, and countless hours of testimony, we passed the highway bill by an overwhelming bipartisan vote. Communities will finally receive the funding they need to improve their roads and ports. And America's drivers will face less time sitting in traffic, wasting time and burning up gas. Which brings me to energy.

Yesterday, in an historic vote, the Senate passed America's most comprehensive energy plan in 40 years. After years of careful and patient negotiation, we finally delivered an energy plan that promises to make America safer and more secure, and our energy supply cleaner and more reliable.

In seven short months, we tackled big issues and got big results. Together we moved America forward. We broke the impasse that was crippling the judicial nomination process. We passed the Central American Free Trade Agreement which promises to strengthen our own security and prosperity in the Western hemisphere. CAFTA will create our second largest export market in Latin America, behind only Mexico. From Washington State apples to Florida oranges, America's producers will thrive. And Central America's democracies will benefit.

We renewed our commitment to our troops and the war on terror. And tonight, by unanimous consent, we passed the Patriot Act and will send it to conference with the House. The Patriot Act is an essential tool in this new war on terror. It allows us to track and stop terrorists before they are able to kill innocent people. Through it, our law enforcement and intelligence communities are working more closely together toward the common goal of keeping America safe. We face a different kind of enemy—one that hides in far away lands, and among us right here at home. The Patriot Act will help defeat terrorist cells operating right here in America.

We are working hard to defeat terrorism on all fronts. On the battlefields of Iraq and Afghanistan. In our own backyard. And at its the roots: the evil and murderous ideology that seeks the destruction of our way of life. And we are winning. Our steady commitment to the spread of democracy is beginning to bear fruit. Elections are taking hold in the Middle East—in Iraq, Afghanistan, the Palestinian Territories, Egypt, Saudi Arabia, and Kuwait.

A new Pew Research poll shows that growing confidence in the Muslim world that America truly supports democracy for their people. And even more encouraging, a growing number believe that democracy can work.

America's policies both here at home and abroad are making America stronger and more secure. With continued hard work and determination, we can keep the ball moving forward.

We have a lot to do when we get back. I am confident that with the President and the House as partners, we will continue to deliver meaningful solutions to the American people. I am confident that we will continue to secure a freer, safer and healthier future for generations of Americans to come. I wish my colleagues a happy, restful and productive August recess.

ADJOURNMENT UNTIL TUESDAY, SEPTEMBER 6, 2005

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order under the provisions of H. Con. Res. 225.

Thereupon, the Senate, at 8:35 p.m., adjourned until Tuesday, September 6, 2005, at 12 noon.

DISCHARGED NOMINATIONS

The Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of the following nomination and the nomination was confirmed:

CHARLES S. CICCOLELLA, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were confirmed:

WILLIAM ROBERT TIMKEN, JR., OF OHIO, TO BE AMBASSADOR TO THE FEDERAL REPUBLIC OF GERMANY.

WILLIAM J. BURNS, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR TO THE RUSSIAN FEDERATION.

RICHARD HENRY JONES, OF NEBRASKA, TO BE AMBASSADOR TO ISRAEL.

FRANCIS JOSEPH RICCIARDONE, JR., OF NEW HAMPSHIRE, TO BE AMBASSADOR TO THE ARAB REPUBLIC OF EGYPT.

NOMINATIONS

Executive nominations received by the Senate July 29, 2005:

SUPREME COURT OF THE UNITED STATES

JOHN G. ROBERTS, JR., OF MARYLAND, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES, VICE SANDRA DAY O'CONNER, RETIRING.

DEPARTMENT OF THE TREASURY

TERRY NEESE, OF OKLAHOMA, TO BE DIRECTOR OF THE MINT FOR A TERM OF FIVE YEARS, VICE HENRIETTA HOLSMAN FORE.

DEPARTMENT OF COMMERCE

FRANKLIN L. LAVIN, OF OHIO, TO BE UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE, VICE GRANT D. ALDONAS, RESIGNED.

DEPARTMENT OF STATE

FRANCIS ROONEY, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE HOLY SEE.

JOSETTE SHEERAN SHINER, OF VIRGINIA, TO BE UNITED STATES ALTERNATE GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF FIVE YEARS; UNITED STATES ALTERNATE GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES ALTERNATE GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES ALTERNATE GOVERNOR OF THE AFRICAN DEVELOPMENT FUND; UNITED STATES ALTERNATE GOVERNOR OF THE ASIAN DEVELOPMENT BANK; AND UNITED STATES ALTERNATE GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT, VICE ALAN PHILLIP LARSON.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NAOMI CHURCHILL EARP, OF VIRGINIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2010. (REAPPOINTMENT)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MARK HOFFLUND, OF IDAHO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 3, 2008, VICE JAMES MCBRIDE, RESIGNED.

DEPARTMENT OF VETERANS AFFAIRS

ROBERT JOSEPH HENKE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (MANAGEMENT), VICE WILLIAM H. CAMPBELL, RESIGNED.

WILLIAM F. TUERK, OF VIRGINIA, TO BE UNDER SECRETARY OF VETERANS AFFAIRS FOR MEMORIAL AFFAIRS, VICE JOHN W. NICHOLSON, RESIGNED.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE FOR PROMOTION WITHIN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER: ROBERT S. CONNAN, OF FLORIDA

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADES INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

To be captain

JOHN W. HUMPHREY, JR.
PHILIP R. KENNEDY
MARK P. ABLONDI
SCOTT E. KUESTER
TODD C. STILES
MICHELE G. BULLOCK

To be commander

MARK H. PICKETT

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. WILLIAM T. HOBBINS, 0000

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. JAMES R. JOSEPH, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate Friday, July 29, 2005:

ENVIRONMENTAL PROTECTION AGENCY

GRANTA Y. NAKAYAMA, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

DEPARTMENT OF ENERGY

JAMES A. RISPOLI, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENTAL MANAGEMENT).

DEPARTMENT OF STATE

HENRIETTA HOLSMAN FORE, OF NEVADA, TO BE AN UNDER SECRETARY OF STATE (MANAGEMENT).

JOSETTE SHEERAN SHINER, OF VIRGINIA, TO BE AN UNDER SECRETARY OF STATE (ECONOMIC, BUSINESS, AND AGRICULTURAL AFFAIRS).

KAREN P. HUGHES, OF TEXAS, TO BE UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY, WITH THE RANK OF AMBASSADOR.

KRISTEN SILVERBERG, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF STATE (INTERNATIONAL ORGANIZATION AFFAIRS).

JENDAYI ELIZABETH FRAZER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (AFRICAN AFFAIRS).

HENRY CRUMPTON, OF VIRGINIA, TO BE COORDINATOR FOR COUNTERTERRORISM, WITH THE RANK AND STATUS OF AMBASSADOR AT LARGE.

JAMES CAIN, OF NORTH CAROLINA, TO BE AMBASSADOR TO DENMARK.

ALAN W. EASTHAM, JR., OF ARKANSAS, TO BE AMBASSADOR TO THE REPUBLIC OF MALAWI.

KATHERINE HUBAY PETERSON, OF CALIFORNIA, TO BE AMBASSADOR TO REPUBLIC OF BOTSWANA.

MICHAEL RETZER, OF MISSISSIPPI, TO BE AMBASSADOR TO THE UNITED REPUBLIC OF TANZANIA.

GILLIAN ARLETTE MILOVANOVIC, OF PENNSYLVANIA, TO BE AMBASSADOR TO THE REPUBLIC OF MACEDONIA.

DEPARTMENT OF VETERANS AFFAIRS

JAMES PHILIP TERRY, OF VIRGINIA, TO BE CHAIRMAN OF THE BOARD OF VETERANS' APPEALS FOR A TERM OF SIX YEARS.

DEPARTMENT OF THE TREASURY

JOHN C. DUGAN, OF MARYLAND, TO BE COMPTROLLER OF THE CURRENCY FOR A TERM OF FIVE YEARS.

JOHN M. REICH, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION FOR A TERM OF FIVE YEARS.

SECURITIES AND EXCHANGE COMMISSION

CHRISTOPHER COX, OF CALIFORNIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE TERM EXPIRING JUNE 5, 2009.

ROEL C. CAMPOS, OF TEXAS, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR A TERM EXPIRING JUNE 5, 2010.

ANNETTE L. NAZARETH, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 5, 2007.

FEDERAL DEPOSIT INSURANCE CORPORATION

MARTIN J. GRUENBERG, OF MARYLAND, TO BE VICE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION.

MARTIN J. GRUENBERG, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 27, 2006.

MARTIN J. GRUENBERG, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM EXPIRING DECEMBER 27, 2012.

DEPARTMENT OF DEFENSE

PHILLIP JACKSON BELL, OF GEORGIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR LOGISTICS AND MATERIEL READINESS.

KEITH E. EASTIN, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

DEPARTMENT OF THE TREASURY

SANDRA L. PACK, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

TIMOTHY D. ADAMS, OF VIRGINIA, TO BE AN UNDER SECRETARY OF THE TREASURY.

RANDAL QUARLES, OF UTAH, TO BE AN UNDER SECRETARY OF THE TREASURY.

KEVIN I. FROMER, OF VIRGINIA, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY.

ROBERT M. KIMMITT, OF VIRGINIA, TO BE DEPUTY SECRETARY OF THE TREASURY.

UNITED STATES INTERNATIONAL TRADE COMMISSION

SHARA L. ARANOFF, OF MARYLAND, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR A TERM EXPIRING DECEMBER 16, 2012.

DEPARTMENT OF DEFENSE

RONALD M. SEGA, OF COLORADO, TO BE UNDER SECRETARY OF THE AIR FORCE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF LABOR

CHARLES S. CICCOLELLA, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.

DEPARTMENT OF STATE

WILLIAM ROBERT TIMKEN, JR., OF OHIO, TO BE AMBASSADOR TO THE FEDERAL REPUBLIC OF GERMANY.

WILLIAM J. BURNS, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR TO THE RUSSIAN FEDERATION.

RICHARD HENRY JONES, OF NEBRASKA, TO BE AMBASSADOR TO ISRAEL.

DEPARTMENT OF JUSTICE

MICHAEL J. GARCIA, OF NEW YORK, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS.

PETER MANSON SWAIM, OF INDIANA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF INDIANA FOR THE TERM OF FOUR YEARS.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. NORTON A. SCHWARTZ

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE CHIEF OF STAFF OF THE AIR FORCE, AND FOR APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 8034 AND 601:

To be general

LT. GEN. JOHN D. W. CORLEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. KEVIN P. CHILTON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DONALD J. HOFFMAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID A. DEPTULA

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE, TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601, AND TO BE THE SENIOR MEMBER OF THE MILITARY STAFF COMMITTEE OF THE UNITED NATIONS UNDER TITLE 10, U.S.C., SECTION 711:

To be lieutenant general

LT. GEN. VICTOR E. RENUART, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN L. HUDSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 8069:

To be major general

BRIG. GEN. MELISSA A. RANK

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL TED F. BOWLDS
BRIGADIER GENERAL DAVID E. CLARY
BRIGADIER GENERAL DAVID M. EDGINGTON
BRIGADIER GENERAL DELWYN R. EULBERG
BRIGADIER GENERAL DAVID S. GRAY
BRIGADIER GENERAL WENDELL L. GRIFFIN
BRIGADIER GENERAL IRVING L. HALTER, JR.
BRIGADIER GENERAL KEVIN J. KENNEDY
BRIGADIER GENERAL JOHN C. KOZIOL
BRIGADIER GENERAL WILLIAM T. LORD
BRIGADIER GENERAL ARTHUR B. MORRILL III
BRIGADIER GENERAL LARRY D. NEW
BRIGADIER GENERAL RICHARD Y. NEWTON III
BRIGADIER GENERAL ALLEN G. PECK
BRIGADIER GENERAL JEFFREY R. RIEMER
BRIGADIER GENERAL ERIC J. ROSBORG
BRIGADIER GENERAL DAVID J. SCOTT
BRIGADIER GENERAL MARK D. SHACKELFORD
BRIGADIER GENERAL JOHN T. SHERIDAN
BRIGADIER GENERAL GREGORY L. TREBON
BRIGADIER GENERAL ROY M. WORDEN

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL CHARLES W. COLLIER, JR.
BRIGADIER GENERAL SCOTT A. HAMMOND
BRIGADIER GENERAL HENRY C. MORROW
BRIGADIER GENERAL ROGER C. NAFZIGER
BRIGADIER GENERAL GARY L. SAYLER
BRIGADIER GENERAL DARRYLL D.M. WONG

To be brigadier general

COLONEL MICHAEL D. AKEY
COLONEL FRANCES M. AUCLAIR
COLONEL KATHLEEN F. BERG
COLONEL STANLEY E. CLARKE III
COLONEL JAMES F. DAWSON, JR.
COLONEL MICHAEL D. GULLIHUR
COLONEL TONY A. HART
COLONEL MARTIN K. HOLLAND
COLONEL MARY J. KIGHT
COLONEL JAMES W. KWIATKOWSKI
COLONEL ULAY W. LITTLETON, JR.
COLONEL PATRICK J. MOISIO
COLONEL LODA R. MOORE
COLONEL THOMAS A. PERARO
COLONEL WILLIAM M. SCHUESSLER
COLONEL ROBERT M. STONESTREET
COLONEL JANNETTE YOUNG

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. WILLIAM E. WARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. ROBERT W. WAGNER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. KEITH B. ALEXANDER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RONALD L. BURGESS, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. DAVID H. PETRAEUS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MARTIN E. DEMPSEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM E. MORTENSEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. CLAUDE V. CHRISTIANSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE POSITIONS AND GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 3037:

To be major general and the judge advocate general of the United States Army

MAJ. GEN. SCOTT C. BLACK

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE POSITIONS AND GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 3037:

To be major general and the assistant judge advocate general of the United States Army

MAJ. GEN. DANIEL V. WRIGHT

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL JAY W. HOOD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. DOUGLAS L. CARVER

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS ASSISTANT COMMANDANT OF THE MARINE CORPS, AND FOR APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 5044 AND 601:

To be general

LT. GEN. ROBERT MAGNUS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant feneral

MAJ. GEN. JOHN G. CASTELLAW

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. EMERSON N. GARDNER, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOSEPH F. WEBER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD S. KRAMLICH

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN F. GOODMAN

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. ANN E. RONDEAU

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. DAVID C. NICHOLS, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be rear admiral

REAR ADM. (LH) HENRY BALAM TOMLIN III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) BEN F. GAUMER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) RAYMOND K. ALEXANDER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) DAVID O. ANDERSON
REAR ADM. (LH) HUGO G. BLACKWOOD
REAR ADM. (LH) DIRK J. DEBBINK

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) THOMAS K. BURKHARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) DONNA L. CRISP

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) MICHAEL S. ROESNER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. DONALD R. GINTZIG

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. RICHARD R. JEFFRIES
CAPT. DAVID J. SMITH

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. MARK F. HEINRICH
CAPT. CHARLES M. LILLI

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. MICHAEL D. HARDEE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. TIMOTHY V. FLYNN III
CAPT. CHARLES H. GODDARD
CAPT. JOHN C. ORZALLI

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. TONY L. COTHRON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. MOIRA N. FLANDERS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. MICHAEL A. BROWN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. JULIUS S. CAESER
CAPT. WILLIAM P. LOEFFLER
CAPT. LEE J. METCALF
CAPT. GARLAND P. WRIGHT, JR.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH THOMAS L. BLASE AND ENDING WITH GREGORY L. TATE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 14, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH DAVID J. LUTHER AND ENDING WITH MERIDITH A. WARNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 19, 2005.

IN THE ARMY

ARMY NOMINATIONS BEGINNING WITH JOHN M. BALAS, JR. AND ENDING WITH PAUL J. WARDEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 15, 2005.

ARMY NOMINATIONS BEGINNING WITH EDWARD D. ARRINGTON AND ENDING WITH CLIFTON E. YU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 4, 2005.

ARMY NOMINATIONS BEGINNING WITH BARRY D. BOWDEN AND ENDING WITH CRAIG N. WILEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 14, 2005.

ARMY NOMINATIONS BEGINNING WITH WILLIAM P. ADELMAN AND ENDING WITH JOSEPH J. ZUBAK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 9, 2005.

ARMY NOMINATIONS BEGINNING WITH TERRY W. AUSTIN AND ENDING WITH PAUL J. YACOVONE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 9, 2005.

ARMY NOMINATIONS BEGINNING WITH SCOTT W. BURGAN AND ENDING WITH JULIE A. SMITH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 9, 2005.

ARMY NOMINATIONS BEGINNING WITH MONROE N. FARMER, JR. AND ENDING WITH WENDY C. SPRIGGS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

ARMY NOMINATIONS BEGINNING WITH JERRY R. ACTON, JR. AND ENDING WITH STEVEN R. MOUNT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

ARMY NOMINATIONS BEGINNING WITH MARIA E. BOVILL AND ENDING WITH MICHAEL J. WALKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

ARMY NOMINATIONS BEGINNING WITH THELDA J. ATKIN AND ENDING WITH TAMI ZALEWSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

ARMY NOMINATIONS BEGINNING WITH CHRISTOPHER AMAKER AND ENDING WITH STEPHEN C. WOOLDRIDGE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

ARMY NOMINATIONS BEGINNING WITH DENISE D. ADAMSMANN AND ENDING WITH ROBIN A. VILLIARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

ARMY NOMINATIONS BEGINNING WITH THOMAS H. AARSEN AND ENDING WITH X3541, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF DANIEL J. PETERLICK TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATIONS BEGINNING WITH DANNY A. HURD AND ENDING WITH GEORGE C. MCLAIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 8, 2005.

IN THE NAVY

NAVY NOMINATIONS BEGINNING WITH JAMES W. CALDWELL, JR. AND ENDING WITH RICHARD J. PAPESCA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH DAVID K. CHAPMAN AND ENDING WITH WILLIAM V. WEINMAN, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATION OF ROBERT W. WORRINGER TO BE CAPTAIN.

NAVY NOMINATION OF MELISSA J. MACKAY TO BE CAPTAIN.

NAVY NOMINATIONS BEGINNING WITH THOMAS J. CUFF AND ENDING WITH CARVEN A. SCOTT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH STEVEN F. MOMANO AND ENDING WITH AGUSTIN L. OTERO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH LARRY THOMAS AND ENDING WITH DAVID J. WRAY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH KERI A. BUCK AND ENDING WITH WILLIAM J. WILSON III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH NICHOLAS A. FILIPPONE AND ENDING WITH NANCY S. VEGEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH EDWARD Y. ANDRUS AND ENDING WITH THOMAS E. STOWELL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH REBEKAH R. BARRISH AND ENDING WITH SAMUEL G. SUMWALT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH CHARLES E. ADAMS AND ENDING WITH KATHERINE A. WALTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH WALTER J. ADELMANN, JR. AND ENDING WITH CLAYTON G. TETTELBACH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH RUSSELL E. ALLEN AND ENDING WITH STEPHEN E. ZINI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH ANTHONY COOPER AND ENDING WITH WILLIAM S. GURECK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH ANNIE B. ANDREWS AND ENDING WITH SUSAN L. SHERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH ROBERT G. BERGMAN AND ENDING WITH PHILIP G. STROZZO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH SCOTT D. KATZ AND ENDING WITH PAUL C. STEWART, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH WILLIAM T. AINSWORTH AND ENDING WITH GEORGE D. SEATON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH KATHERINE M. DONOVAN AND ENDING WITH MARTHA M. WARNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH TERRY W. AUBERRY AND ENDING WITH DAVID B. WILKIE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH NICHOLAS V. BUCK AND ENDING WITH MATHIAS W. WINTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH MICHAEL E. DEVINE AND ENDING WITH ALVIN C. WILSON III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH RAYMOND M. ALFARO AND ENDING WITH JOSEPH YUSICIAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH ALAN J. ABRAMSON AND ENDING WITH DOUGLAS E. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH CARL J. CWIKLINSKI AND ENDING WITH ROBERT P. MCCLANAHAN, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH JOSEPH A. CLEMENTS AND ENDING WITH GAROLD G. ULMER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH JEFFREY T. BOROWY AND ENDING WITH JULIUS C. WASHINGTON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH DIANNE A. ARCHER AND ENDING WITH JEFFERY S. WOLFE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH ROBERT B. BLAZEWICK AND ENDING WITH ERIC C. PRICE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH WILLIAM J. ADAMS, JR. AND ENDING WITH STEVEN J. WINTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH GREGORY S. BLASCHKE AND ENDING WITH DAVID G. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH IOANA BETTIOS AND ENDING WITH MICHAEL J. WOLFGANG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH LINNEA M. AXMAN AND ENDING WITH LAURIE L. WILLIAMSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH JOHN G. DILLENDER AND ENDING WITH DIANE L. SNYDER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH JANE D. BINGHAM AND ENDING WITH STEVEN R. MORGAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH GREGORY F. BECHT AND ENDING WITH MICHAEL L. ZABEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH DEANA L. ABERNATHEY AND ENDING WITH LINDA J. TIEASKIE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH MAUREEN E. CARROLL AND ENDING WITH JACOB R. WALKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH THOMAS L. AMERSON AND ENDING WITH KENNETH E. WAVELL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH BRIAN D. HODGSON AND ENDING WITH POMAY TSOI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH GREGORY L. BELCHER AND ENDING WITH WAYNE M. WEISS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH RICHARD W. HAUPT AND ENDING WITH ALVIN A. PLEXICO, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH RONALD M. BISHOP, JR. AND ENDING WITH ANTHONY S. VIVONA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH CHERYL J. COTTON AND ENDING WITH TRACY D. WHITELEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH ALBERT R. COSTA AND ENDING WITH CHRISTOPHER S. WIRTH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH DAVID J. BYERS AND ENDING WITH MARC T. STEINER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH JASON W. CARTER AND ENDING WITH LAURA G. YAMBRICK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH CLIFFORD W. BEAN III AND ENDING WITH DONNA M. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH THOMAS J. ANDERSON AND ENDING WITH MICHAEL ZIV, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH JASON L. ANSLEY AND ENDING WITH TRACY A. VINCENT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH DANIEL A. ABRAMS AND ENDING WITH JOHN W. WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH JOHN C. ABSETZ AND ENDING WITH JOHN J. ZERR II, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH JAMES R. MARTIN AND ENDING WITH GLEN WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

NAVY NOMINATIONS BEGINNING WITH MARJORIE ALEXANDER AND ENDING WITH MARIA A. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

NAVY NOMINATIONS BEGINNING WITH ERIC M. AABY AND ENDING WITH CHARLES S. WILLMORE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

NAVY NOMINATIONS BEGINNING WITH WILLIAM D. BRYAN AND ENDING WITH BILLY W. SLOAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 14, 2005.

NAVY NOMINATIONS BEGINNING WITH BRUCE H. BOYLE AND ENDING WITH BRADLEY E. TELLEEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 14, 2005.

NAVY NOMINATIONS BEGINNING WITH JEFFREY G. ANT AND ENDING WITH BENJAMIN W. YOUNG, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 14, 2005.

NAVY NOMINATIONS BEGINNING WITH SYED N. AHMAD AND ENDING WITH BARBARA H. ZELIFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 14, 2005.

NAVY NOMINATIONS BEGINNING WITH ANTHONY A. ARITA AND ENDING WITH LINDA D. YOUBERG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 14, 2005.

NAVY NOMINATIONS BEGINNING WITH JAMES T. ALBRITTON AND ENDING WITH TODD E. YANIK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 14, 2005.

NAVY NOMINATIONS BEGINNING WITH THOMAS C. ALEWINE AND ENDING WITH TARA J. ZIEBER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 14, 2005.

WITHDRAWAL

Executive Message transmitted by the President to the Senate on July 29, 2005 withdrawing from further Senate consideration the following nomination:

ALBERT HENRY KONETZNI, JR., OF NEW YORK, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR THE TERM OF FIVE YEARS EXPIRING JUNE 30, 2009, WHICH WAS SENT TO THE SENATE ON JANUARY 4, 2005.