



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151

WASHINGTON, TUESDAY, MAY 10, 2005

No. 60

Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable DAVID VITTER, a Senator from the State of Louisiana.

PRAYER

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

Let us pray.

Savior, lead us today as a shepherd. Guide our lives and inspire our hearts. May the talents gathered here on Capitol Hill help in the awesome task of bringing healing to our world.

Strengthen our lawmakers as they deal with unintended needs and unsolved problems. Make them eager to lift burdens and ready to respond in service to humanity.

Help each of us to feel a bit of the responsibility for the challenges that hang heavy over our land. In Your unfailing love, give us the wisdom to follow the leading of Your powerful providence.

Blessed be Your Name forever. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DAVID VITTER led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 10, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID VITTER, a Sen-

ator from the State of Louisiana, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, today we will have a 1-hour period of morning business with time equally divided between the majority and minority. Following that time, the Senate will proceed to the emergency supplemental appropriations conference report. Chairman COCHRAN will manage time on our side. We hope to reach shortly a consent to limit the time necessary on the conference report. We have not had many requests for time on our side. We hope to have a reasonable period of debate prior to the vote. It looks as if the vote will occur sometime this afternoon after the policy lunch recess. We will be recessing for the policy luncheons from 12:30 to 2:15 today.

Once we complete the supplemental appropriations, we will return to the highway bill. Chairman INHOFE has been encouraging Senators to offer their amendments. I join him in that statement. Senators should not delay in offering those amendments. Please come to the floor as soon as reasonable to offer those amendments. We want to finish the highway bill this week. Again, I advise Members that the clock is ticking on this bill.

I expect rollcall votes later today on amendments to the bill. As always, we will notify all Senators as the votes are scheduled.

MIDDLE EAST VISIT

Mr. FRIST. Mr. President, last week, I had the opportunity to travel throughout the Middle East. My stops included Israel, the West Bank, Jordan, Lebanon, and Egypt. It was a fascinating and illuminating trip for me.

We saw firsthand many of the challenges facing that region. I came away with a much greater appreciation for the remarkable developments we have witnessed in that part of the world in recent months: The elections in the Palestinian Authority, the Cedar revolution in Lebanon, and the significant reforms taking place in Egypt. Progress and democracy are on the march.

Our first stop was in Jerusalem where we had the chance to explore the rich history of the old city, the heart of three of the world's major religions. We visited the Church of the Holy Sepulcher, the Temple Mount, the Western Wall. We had the opportunity to witness the site that is familiar to anyone who travels to that wonderful city of faiths. People were practicing their beliefs side by side, ways that in many ways are very different. That gives real confidence for the future when you experience it. I was truly overwhelmed, once again, by the old city's holiness and sense of history.

We met with several Israeli political leaders. Senator LIEBERMAN and I met with Prime Minister Ariel Sharon. Much of our discussion focused on that roadmap. The Prime Minister discussed with us his courageous decision to withdraw from the Gaza Strip. We discussed all of the contentious issues, issues such as those surrounding settlements. We discussed the importance of coordinating the withdrawal from the Gaza Strip with the Palestinians in order to ensure stability in the Gaza Strip and to ensure security in the Gaza Strip after the withdrawal. A lot of attention was placed on the withdrawal out of the Gaza Strip wherever we moved throughout the Middle East.

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



Printed on recycled paper.

S4797

I believe the Prime Minister's Gaza disengagement plan is a bold step. It is a historic step.

The success of his plan, however, will ultimately depend on the Palestinians' ability to stop terrorist acts, to strengthen democratic institutions, to provide security and to deliver tangible benefits to the Palestinian people. The Palestinian people have great expectations. It will be up to their government to deliver tangible benefits to open their world to something that is concrete but more importantly, to hope for the future.

We also met with former Cabinet member Natan Sharansky; Knesset speaker Reuven Rivlin, and foreign affairs and defense committee chairman Yuval Steinitz. All three of these individuals were opposed to the withdrawal from the Gaza Strip. They are all gravely concerned about the militarization of the Sinai and weapons smuggling from the south up into Gaza. It was important to hear their views on these critical matters. I share their concern.

The withdrawal plan is understandably controversial and difficult for many families living in the Gaza Strip. I also believe withdrawal is a crucial step toward securing a lasting peace in that part of the world.

Our discussion confirmed my belief that the withdrawal must be coordinated with the Palestinian Authority so that the Palestinian Authority can prevent attacks against Israel and make tangible progress toward the roadmap.

Right now, there is an opening for huge progress. Both sides have the opportunity to build the trust that will be necessary for negotiations on what we all know will be the most controversial issues. Both sides have to fulfill their obligations.

To begin, Palestinians must dismantle the terrorist groups and stop all terrorist attacks against Israel. For the Israelis, it is critical to halt settlement activity and expansion. Much more will need to be done as we move along the roadmap.

In our conversation with Prime Minister Sharon, we also discussed our mutual concern about Iran's nuclear ambitions. We agree that a nuclear-armed Iran poses a threat to Israel, the region, to Europe, and to the United States. In my view, the United States must support the work of our European allies to end diplomatically Iran's nuclear ambitions. Failing that, we must take the issue directly to the United Nations Security Council for action.

A final meeting was with Finance Minister and former Prime Minister Benjamin Netanyahu. He is working hard to ease the tax burden in order to stimulate his country's economy. He has made remarkable progress. His plan is gaining success. The Israeli economy right now is growing. The economic output, in fact, is growing at a robust annual rate of 4 percent. If he is able to make further reforms, I be-

lieve we can expect continued and possibly even better growth in the future.

As a physician, at most of these stops I take a few hours off to go to a hospital or a clinic where I have a little picture or window of the realities of what is going on in the country. I meet with doctors, nurses, and patients and ask them questions very directly. I went to the Hadassah Hospital, where I had not been, in Jerusalem. It is a large tertiary care hospital supported by a number of individuals in the United States. We toured the trauma unit, unique anywhere in the world in that it has seen more suicide attack victims than any trauma unit. In fact, they were telling me that there have been 32 suicide attacks in the last 3 years. Each of these suicide attacks—really, never thought about a decade ago there at the hospital—involved on average about 80 injured people; each one, on average, killing about 10 individuals. From an observer's standpoint, it points to the reality of what has gone on in that part of the world over the last 4 years.

We also talked a lot about the potential for biological attack as well as chemical attack and their preparedness from the hospital facility standpoint.

All in all, my trip to Jerusalem confirmed my confidence in the strength of our very special relationship with Israel and the need for continued American support for this vital friend and ally. Israel stands for what America stands for. Ultimately, it is up to the Israelis and the Palestinians to meet face to face and make the difficult decisions that will lead to peace.

My meetings with Israel's leaders reinforce my belief they are willing to take the difficult steps. I will continue to do what I can to support them in their efforts.

In closing, tomorrow I will speak very briefly on my trip to the West Bank. I do believe peace can be achieved. I look forward to sharing with my colleagues some of the observations and the lessons I have learned in my interactions with the people in the Middle East.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

The Senator from Utah is recognized.

JUDICIAL NOMINATIONS

Mr. HATCH. Mr. President, yesterday marked the fourth anniversary of President Bush's first judicial nominations, a group of 11 highly qualified men and women nominated to the U.S. courts of appeals.

As I said in the East Room at the White House on May 9, 2001: I hope the Senate will at least treat these nominees fairly. Many of our Democratic colleagues instead chose to follow their minority leader's order issued days after President Bush took office, to use "whatever means necessary" to defeat judicial nominees the minority does not like.

While the previous 3 Presidents saw their first 11 appeals court nominees confirmed in an average of just 81 days, today, 1,461 days later, 3 of those original nominees have not even received a vote, let alone been confirmed. Three have withdrawn.

In 2003, the minority opened a new front in the confirmation conflict by using filibusters to defeat majority-supported judicial nominees. This morning I will briefly address the top 10 most ridiculous judicial filibuster defenses. Time permits only brief treatment, but it was difficult to limit the list to 10.

No. 10 is the claim that these filibusters are part of Senate tradition. Calling something a filibuster, even if you repeat it over and over, does not make it so. These filibusters block confirmation of majority-supported judicial nominations by defeating votes to invoke cloture or end debate. Either these filibusters happened before or they did not.

Let me take the evidence offered by filibuster proponents at face value. Let me refer to these two charts. These two charts list some representative examples of what Democrats repeatedly claim is filibuster precedence. The Senate confirmed each of these nominations. As ridiculous as it sounds, filibuster proponents claim, with a straight face, by the way, that confirming these past nominations justifies refusing to confirm nominations today.

Some examples are more ridiculous than others. Stephen Breyer is on the Democrats' list of filibusters, suggesting that the Senate treated his nomination the way Democrats are treating President Bush's nominations today. The two situations could not be more different. Even though President Carter nominated now-Justice Breyer but then attorney Breyer, law professor Breyer, in November 1980, after losing his bid for reelection—that is when he nominated him—and after Democrats lost control of the Senate, we voted to end debate and overwhelmingly confirmed Stephen Breyer just 26 days after his nomination. And I had a lot to do with that. The suggestion that confirming the Breyer nomination for the party losing its majority now justifies filibustering nominations for the party keeping its majority is, well, just plain ridiculous.

No. 9 on the list of the most ridiculous filibuster defenses is that they are necessary, they say, to prevent one-party rule from stacking the Federal bench. Now, if you win elections, you say the country has chosen its leadership. If you lose, you complain about one-party rule. When your party controls the White House, the President appoints judges. When the other party controls the White House, the President stacks the bench—at least that seems to be the attitude.

Our Democratic colleagues say we should be guided by how the Democratic Senate handled Franklin Roosevelt's attempt to pack the Supreme Court. It is true that FDR's legislative proposal to create new Supreme Court seats failed, and without a filibuster, I might add. But as it turned out, packing the Supreme Court required only filling the existing seats. President Roosevelt packed the Court all right, by appointing no less than eight Justices in 6 years—more than any President, except George Washington himself.

This chart is an answer to FDR's court packing without a filibuster. Now, let me just make some points. As the chart shows, during the 75th, 76th, and 77th Congresses, when President Roosevelt made those nominations, Democrats outnumbered Republicans by an average of 70 Democrats to 20 Republicans. Now, that is one-party rule. Yet the Senate confirmed those Supreme Court nominees in an average of just 13 days, one of them on the very day it was made and six of them without even a rollcall vote. That is not because filibustering judicial nominations was difficult. In fact, our cloture rule did not then apply to nominations. A single Member of that tiny, beleaguered Republican minority could have filibustered these nominations and attempted to stop President Roosevelt from packing the Supreme Court—just a single Member could have.

The most important number on this chart is the number right at the bottom: the number of filibusters against President Roosevelt's nominees—zero.

No. 8 on this list is the claim that without the filibuster the Senate would be a patsy, nothing but a rubberstamp for the President's judicial nominations. To paraphrase a great Supreme Court Justice: If simply stating this argument does not suffice to refute it, our debate about these issues has achieved terminal silliness. Being on the losing side does not make one a rubberstamp.

For all of these centuries of democratic government, have we seen only winners and rubberstamps? Was the famous tag line for ABC's *Wide World of Sports* "the thrill of victory and the agony of rubberstamping"? Democrats did not start filibustering judicial nominations until the 108th Congress. Imagine the history books describing the previous 107 Senates as the great rubberstamp Senates. Did Democrats rubberstamp the Supreme Court nomi-

nation of Clarence Thomas in 1991 since they did not use the filibuster? That conflict lasting several months and concluding with that 52-to-48 confirmation vote did not look like a rubberstamp to me.

Some modify this ridiculous argument by saying this applies when one party controls both the White House and the Senate. They make the stunning observation that Senators of the President's party are likely to vote for his nominees. The assistant minority leader, Senator DURBIN, recently said, for example, that Republican Senators are nothing but "lapdogs" for President Bush.

Pointing at others can be dangerous because you have a few fingers pointing back at yourself. Counting both unanimous consent or rollcall votes, more than 37,500 votes were cast here on the Senate floor on President Clinton's judicial nominations. Only 11 of them, just a teeny, tiny, three one-hundredths of 1 percent, were "no" votes from Democrats—only 11 of 37,500. Were they just rubberstamping lapdogs in supporting President Clinton?

The Constitution assigns the same roles to the President and the Senate no matter which party the American people put in charge of which end of Pennsylvania Avenue.

In the 1960s, the Democrats were in charge, yet Minority Leader Everett Dirksen refused to filibuster judicial nominees of Presidents Kennedy or Johnson. Was he just a rubberstamp?

In the 1970s, the Democrats were in charge, yet Minority Leader Howard Baker refused to filibuster President Carter's judicial nominees. Was he just a rubberstamp?

In the 1980s, the Republicans were in charge, yet Minority Leader Robert Byrd did not filibuster President Reagan's judicial nominees. Was he just a rubberstamp?

And a decade ago, the Democrats were again in charge, yet Minority Leader Bob Dole refused to filibuster President Clinton's judicial nominees. Was he a rubberstamp?

To avoid being a rubberstamp, one need only fight the good fight, win or lose.

No. 7 on the list of most ridiculous judicial filibuster defenses is that these filibusters are necessary to preserve our system of checks and balances. That is an argument we have heard from the other side.

Mr. President, any civics textbook explains that what we call "checks and balances" regulates the relationship between the branches of Government. The Senate's role of advice and consent checks the President's power to appoint judges, and we exercise that check when we vote on his judicial nominations.

The filibuster is about the relationship between the majority and minority in the Senate, not about the relationship between the Senate and the President. It actually interferes with being a check on the President's power

by preventing the Senate from exercising its role of advice and consent at all.

Former Majority Leader Mike Mansfield once explained that by filibustering judicial nominations, individual Senators presume what he called "great personal privilege at the expense of the responsibilities of the Senate as a whole, and at the expense of the constitutional structure of the federal government."

In September 1999, the Senator from Massachusetts, Mr. KENNEDY, expressed the same view when he said:

It is true that some Senators have voiced concerns about these nominations. But that should not prevent a roll call vote which gives every Senator the opportunity to vote "yes" or "no."

Those were the words of our colleague from Massachusetts, Senator KENNEDY: Give every Senator the opportunity to vote yes or no.

That was then; this is now.

In case anyone needs further clarification on this point, I ask unanimous consent that the definition of "checks and balances" from two sources, "congressforkids.net" and "socialstudieshelp.com," be printed in the RECORD.

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

Definition of checks and balances from www.congressforkids.org.

"By creating three branches of government, the delegates built a 'check and balance' system into the Constitution."

Definition of checks and balances from www.socialstudieshelp.com.

"In this system the government was to be divided into three branches of government, each branch having particular powers. Not only does each branch of the government have particular powers, each branch has certain powers of the other branches."

Mr. HATCH. No. 6 on the list is that these filibusters are necessary to prevent appointment of extremists.

What our Democratic colleagues call "extreme" the American Bar Association calls "qualified." In fact, all three of the appeals court nominees chosen 4 years ago who have been denied confirmation received the ABA's highest "well qualified" rating. Now, that was the gold standard under the Democrats when Clinton was President. The same Democrats who once called the ABA rating the gold standard for evaluating judicial nominees now disregard it and call these people extreme.

Did 76 percent of Californians vote to keep an extremist on their supreme court when they voted to retain Justice Janice Rogers Brown, an African-American woman, a sharecroppers' daughter, who fought her way all the way up to the Supreme Court of California?

Did 84 percent of all Texans and every major newspaper in the State support an extremist when they re-elected Justice Priscilla Owen to the Texas Supreme Court—84 percent?

The Associated Press reported last Friday that the minority leader reserves the right to filibuster what he

calls "extreme" Supreme Court nominees. Now, that is quite an escape hatch, if you will, since the minority already defines any nominee it does not like as "extreme." This is simply a repackaged status quo masquerading as reform.

If Senators want to dismiss as an extremist any judicial nominee who does not think exactly as they do, that certainly is their right. That is, however, a reason for voting against a confirmation, not for refusing to vote at all. As our former colleague, Tom Daschle, said:

I find it simply baffling that a Senator would vote against even voting on a judicial nominee.

No. 5 on this list of most ridiculous judicial filibuster defenses is the claim that these filibusters are about free speech and debate. If Senators cannot filibuster judicial nominations, some say, the Senate will cease to exist, and we will be literally unable to represent our constituents.

The same men who founded this Republic designed this Senate without the ability to filibuster anything at all. A simple majority could proceed to vote on something after sufficient debate. Among those first Senators were Oliver Ellsworth of Connecticut, who later served on the Supreme Court, as well as Charles Carroll of Maryland and Richard Henry Lee of Virginia, who had signed the Declaration of Independence. When they ran for office, did they know that they would be unable to represent their States because they would be unable to filibuster?

These filibusters are about defeating judicial nominations, not debating them. The minority rejects every proposal for debating and voting on nominations it targets for defeat.

In April 2003, my colleague from Utah, Senator BENNETT, asked him, the minority leader, how many hours Democrats would need to debate a particular nomination. Now, just take a look at chart 4. His response spoke volumes:

[T]here is not a number [of hours] in the universe that would be sufficient.

Let me just refer to chart 5.

Later that year, he said:

We would not agree to a time agreement . . . of any duration.

Let me go to chart 6. Just 2 weeks ago, the minority leader summed up what really has been the Democrats' position all along:

This has never been about the length of the debate.

He is right about that. This has always been about defeating nominations, not debating them. If our Democratic colleagues want to debate, then let us debate. The majority leader said we will give 100 hours for each of these nominees. Let's debate them. Let us do what Democrats once said was the purpose of debating judicial nominations. As my colleague from California, Senator BOXER, put it in January 1998:

[L]et these names come up, let us have debate, let us vote.

No. 4 on the list is that returning to Senate tradition regarding floor votes on judicial nominations would amount to breaking the rules to change the rules. As any consultant worth even a little salt will tell you, that is a catchy little phrase. The problem is that neither of its catchy little parts is true.

The constitutional option, which would change judicial confirmation procedure through the Senate voting to affirm a parliamentary ruling, would neither break nor change Senate rules. While the constitutional option has not been used to break our rules, it has been used to break filibusters.

On January 4, 1995, the Senator from West Virginia, the distinguished Senator, Mr. BYRD, described how, in 1977, when he was majority leader, he used this procedure to break a filibuster on a natural gas bill. Now, I have genuine affection and great respect for the Senator from West Virginia, and he knows that. But let me just refer to chart 7. Since I would not want to describe his repeated use of the constitutional option in a pejorative way, let me use his own words. Here is what he said back in 1995, the distinguished Senator from West Virginia:

I have seen filibusters. I have helped to break them. There are few Senators in this body who were here [in 1977] when I broke the filibuster on the natural gas bill. . . . I asked Mr. Mondale, the Vice President, to go please sit in the chair; I wanted to make some points of order and create some new precedents that would break these filibusters. And the filibuster was broken—back, neck, legs, and arms. . . . So I know something about filibusters. I helped to set a great many of the precedents that are on the books here.

Well, he certainly did. I was here. And using the constitutional option today to return to Senate tradition regarding judicial nominations would simply use the precedents the distinguished Senator from West Virginia put on the books.

No. 3 on the list of most ridiculous judicial filibuster defenses is that the constitutional option is unprecedented, or should we call it the Byrd option. In 1977, 1979, and 1987, the then majority leader, Senator BYRD, secured a favorable parliamentary ruling through a point of order and a majority of Senators voted to affirm it. He did this even when the result he sought was inconsistent with the text of our written rules.

In 1980, he used a version of the same procedure to limit nomination-related filibusters. Majority Leader BYRD made a motion for the Senate to vote to go into executive session and proceed to consider a specific nomination. At the time, the first step was not debatable but the second step was debatable. A majority of Senators voted to overturn a parliamentary ruling disallowing the procedural change Majority Leader BYRD wanted.

Let me refer to chart 8. Seven of these Senators serve with us today, and their names appear on this chart. They can explain for themselves how voting

against restricting nomination-related filibusters today is consistent with voting to restrict them in 1980. As you can see, they are illustrious colleagues.

No. 2 on the list is that preventing judicial filibusters will doom legislative filibusters. As you know, there are two calendars in the Senate. One is the legislative calendar. I would fight to my death to keep the filibuster alive on the legislative calendar to protect the minority. But then there is the executive calendar, which is partly the President's in the sense that he has the power of appointment and nomination and sends these people up here and expects advice and consent from the Senate. Advice we give. Consent we have not given in the case of these nominees who have been filibustered, or so-called filibustered.

No. 2 on the list is that preventing judicial filibusters, they claim, will doom legislative filibusters. That's pure bunk. Our own Senate history shows how ridiculous this argument really is. Filibusters became possible by dropping the rule allowing a simple majority to proceed to a vote. The legislative filibuster developed, the judicial filibuster did not. What we must today limit by rule or ruling we once limited by principle or self-restraint—for 214 years, that is. The filibuster is an inappropriate obstacle to the President's judicial appointment power but an appropriate tool for exercising our own legislative power. I cannot fathom how returning to our tradition regarding judicial nominations will somehow threaten our tradition regarding legislation. The only threat to the legislative filibuster and the only votes to abolish have come from the other side of the aisle. In 1995, 19 Senators, all Democrats, voted against tabling an amendment to our cloture rule that would prohibit all filibusters of legislation as well as nominations. As this chart shows, nine of those Senators still serve with us and their names are right here on this chart.

I voted then against the Democrats' proposal to eliminate the legislative filibuster, and I oppose eliminating it today. The majority leader, Senator FRIST, also voted against the Democrats' proposal to eliminate the legislative filibuster. In fact, that was his first vote as a new Member of this body. I joined him in recommitting ourselves to protecting the legislative filibuster. I urge my friends on the other side, the Democrats, to follow the example of our colleague from California, Senator BOXER, who recently said that she has changed her position, that she no longer wants to eliminate the legislative filibuster.

In 1995, USA Today condemned the filibuster as "a pedestrian tool of partisans and gridlock meisters."

The New York Times said the filibuster is "the tool of the sore loser." I hope these papers will reconsider their position and support the legislative filibuster.

The No. 1 most ridiculous judicial filibuster defense is that those wanting

to filibuster Republican nominees today opposed filibustering Democratic nominees only a few years ago. In a letter dated February 4, 1998, for example, the leftwing urged confirmation of Margaret Morrow to the U.S. District Court for the Central District of California. They urged us to "bring the nomination to the Senate, ensure that it received prompt, full and fair consideration, and that a final vote on her nomination is scheduled as soon as possible." Groups signing this letter included the Alliance for Justice, Leadership Conference on Civil Rights, and People for the American Way. As we all know, these leftwing groups today lead the grassroots campaign behind these filibusters that would deny this same treatment to President Bush's nominees. Their position has changed as the party controlling the White House has changed.

Let me make it easy for the "hypocrite patrol" to check out my position on the Morrow nomination. In the February 11, 1998, CONGRESSIONAL RECORD, on page S640, three pages before that letter from the leftwing groups appears, I opened the debate on the Morrow nomination by strongly urging my fellow Senators to support it. We did, and she is, today, a sitting Federal judge, as I believe she should be. The same Democrats who today call for filibusters called for up-or-down votes when a Democrat was in the White House.

Let me refer to chart 10 here. I will just give some illustrations. In 1999, my dear friend from California, Senator FEINSTEIN, a person I have great love and respect for, a Member of the Senate Judiciary Committee, said of the Senate:

It is our job to confirm these judges. If we don't like them, we can vote against them.

She said:

A nominee is entitled to a vote. Vote them up, vote them down.

Let me go to chart 11. Another committee member, Senator SCHUMER, properly said in March 2000:

The President nominates and we are charged with voting on the nominees.

He was right.

Let me refer to chart 12. I have already quoted the Senator from California, Senator BOXER once, but in 2000 she said that filibustering judicial nominees:

... would be such a twisting of what cloture really means in these cases. It has never been done before for a judge, as far as we know—ever.

I appreciate what another member of the Judiciary Committee, Senator KOHL, said in 1997:

Let's breathe life back into the confirmation process. Let's vote on the nominees who have already been approved by the Judiciary Committee.

Well, let me go to chart 14. The Senator from Iowa, Senator HARKIN, who fought so strongly against the legislative filibuster in 1995, said, 5 years later, about the judicial filibuster:

If they want to vote against them, let them vote against them. But at least have a vote.

The same view comes from three former Judiciary Committee chairmen, members of the Democratic leadership. Let me refer to chart No. 15. A former committee chairman, Senator BIDEN, said in 1977 that every judicial nominee is entitled:

To have a shot to be heard on the floor and have a vote on the floor.

Former chairman, Senator EDWARD KENNEDY, said in 1998:

If Senators don't like them, vote against them. But give them a vote.

And my immediate predecessor as chairman, Senator LEAHY, said a year later, judicial nominees are: entitled to a vote, aye or nay.

Now, the assistant minority leader, Senator DURBIN, had urged the same thing in September 1998:

Vote the person up or down.

Vote the person up or down.

Finally, Mr. President, the minority leader, Senator REID, expressed in March 2000 the standard that I hope we can reestablish:

Once they get out of committee, bring them down here and vote up or down on them.

The majority leader, Senator FRIST, recently proposed a plan to accomplish precisely this result. But the minority leader dismissed it as—I want to quote this accurately now—

A big fat wet kiss to the far right.

I never thought voting on judicial nominations was a far-right thing to do.

These statements speak for themselves. Do you see a pattern here? The message at one time seems to be let us debate and let us vote. That should be the standard, no matter which party controls the White House or the Senate.

Mr. President, as I close, let me summarize these 10 top most ridiculous judicial filibusters in this way. Blocking confirmation of majority-supported judicial nominations by defeating cloture votes is unprecedented. In the words of the current Judiciary Committee chairman, Senator SPECTER:

What Democrats are doing here is really seeking a constitutional revolution.

We must turn back that revolution. No matter which party controls the White House or Senate, we should return to our tradition of giving judicial nominations reaching the Senate floor an up-or-down vote. Full, fair, and vigorous debate is one of the hallmarks of this body, and it should drive how we evaluate a President's judicial nominations.

Honoring the Constitution's separation of power, however, requires that our check on the President's appointment power not hijack that power altogether. This means debate must be a means to an end rather than an end in itself. Senators are free to vote against the nominees they feel ex-

treme, but they should not be free to prevent other Senators from expressing a contrary view or advising and consenting. In this body, we govern ourselves with parliamentary rulings as well as by unwritten rules. The procedure of a majority of Senators voting to sustain a parliamentary ruling has been used repeatedly to change Senate procedure without changing Senate rules, even to limit nomination-related filibusters.

I have tried to deal with the substance of our filibuster proponents' arguments, albeit with some humor and maybe a touch of sarcasm. A few days ago, as the Salt Lake Tribune reported, the minority leader was in my State:

... stopping just short of calling Utah Senator ORRIN HATCH a hypocrite.

That is at least how the newspaper described it. That is not what I consider to be a substantive argument. Perhaps those who dismiss their opponents as liars, losers, or lap dogs have nothing else to offer in this debate. Yet debate we must, and then we must vote.

Mr. President, how much remaining time do I have?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. HATCH. Let me just make this point. We confirmed, in 6 years of Republican control of the Senate, 377 judges for President Clinton. That was five less than the all-time confirmation champion Ronald Reagan. All of these people who are up have well-qualified ratings from the ABA, all had a bipartisan majority to support them. What is wrong with giving them an up-or-down vote and retaining 214 years of Senate tradition? What is wrong with that? I think it is wrong to try and blow up that tradition the way it is being done.

With that, I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SCHUMER. Will the Chair advise as to how much time remains on this side?

The ACTING PRESIDENT pro tempore. One-half hour remains on the Senator's side.

RULES OF THE SENATE

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

As the Senate convenes this week, we stand on the edge of dramatic change. Change is usually a good thing, but the change that the other side is trying to invoke is not a good thing. We all know it. Most Americans know it. Most Democrats know it. Most Republicans

know it. Even most Senators on the other side know it. Yet they are torn because of a small group way out of the mainstream. The same people who believe their message, which may come from the heavens, dictates to them what is right for everybody else seem to be in control. It is a crucial time for America. The age-old checks and balances that are at the center of this Republic, at the center of our Constitution, are hanging at the precipice.

It is the Senate where the Founding Fathers established a repository of checks and balances. It is not like the House of Representatives where the majority leader or the Speaker can snap his fingers and get what he wants. Here we work many times by unanimous consent where you need all 100 Senators to go along. In some instances, we work where 67 votes are needed, in some with 60, and in most with 51. But the reason we don't always work by majority rule is very simple. On important issues, the Founding Fathers wanted—and they were correct in my judgment—that the slimmest majority should not always govern. When it comes to vital issues, that is what they wanted.

The Senate is not a majoritarian body. My good friend from Utah spoke. He represents about two million people in Utah. I represent 19 million in New York State. We have the same vote. You could have 51 votes for a judge on this floor that represents 21 percent of the American people. So the bottom line is very simple. This has not always been a 50.1 to 49.9 body. It has been a body that has had to work by its rules and by the Founding Fathers' intent. Even when you are in the majority, you have to reach out and meet not all, not most, but some of the concerns of the minority.

I understand why my colleague from Utah would get up and make such ridiculous arguments. He is torn. He knows this is wrong. Most of the Members on the other side of the aisle know it is wrong. Some have had the guts—a handful—to say no. Some have had the strength to resist the calls of that extreme group or groups. Some are true believers. But some, and my guess is my friend from Utah is one of those, know it is wrong but decide: I am going along anyway.

When my friend from Utah lists the 10 most ridiculous arguments against keeping the filibuster and says checks and balances is a ridiculous argument, please. I care a great deal about my friend from Utah. He is a fine man. We are friends. We have worked together on many things. But he has more respect for the Constitution than to say checks and balances is a ridiculous argument. He knows darn well that a 51-to-49 vote does away with certain kinds of checks and balances.

When my friend from Utah talks about no extremists, it seems to me the very same people who are calling the shots are the people who said that judges are worse than terrorists. That

seems pretty extreme to me. That is the type of person importuning my friend from Utah.

Another one said: Judges, in their black robes, are like the Ku Klux Klan in their white robes. These are officials of the American Government, most of whom now are Republicans. Sixty percent of the court of appeals are Republican appointees. Seven of the nine Supreme Court members are Republican appointees.

When my friend from Utah doesn't think those statements are extreme and listens to the solution that people who make those statements prescribe, what else can one conclude than that he is sort of tying himself in a pretzel to try and make an argument that he must know in his heart is wrong.

Unprecedented? Well, it was my good friend from Utah who played a leading role in blocking a large number of the Clinton judges. He will say it wasn't by filibuster. The American people are a lot smarter than that. Whether it is by not bringing them up for a vote in committee or by requiring that they get 60 votes to choke off debate on the floor, the effect is the same. The President, the incumbent, is denied his choice. By the way, that is how our Senate has functioned.

The President, when he gets 51.5 percent, as George Bush did, or even when he gets over 65 percent, as Franklin Roosevelt did in 1936, shouldn't always get his way with every single judge.

He says that this will not doom the legislative filibuster, that that is an absurd argument. A year ago, if we would have heard that the Republican majority was considering having the Vice President sit in the chair and rule by fiat his own interpretation of the Constitution, coming out of nowhere because the Constitution doesn't mention any of this, certainly a narrow reading wouldn't allow us to address this issue from the Constitution, and he says that we will rule by fiat from the Chair and there should be no more filibusters of judges, even though that has been allowed for 200 years, even though it was done in 2000 by our colleagues on the Republican side of the aisle for Ms. Berzon and Mr. Paez, and then he is saying, well, it is absurd that we do it for other things. I say this: Allow them to do it for judges today, they will do it for Social Security tomorrow. The same exact procedure could be used to block filibusters of legislation and of every single other thing that comes before this body. There is no difference. The Constitution doesn't mention the word "filibuster."

I don't know where it is divined in the heads of some of my colleagues from the other side of the aisle: It says it is for judges, but not for legislation. That is an activist reading of the Constitution if you ever heard one.

The bottom line is simple: We are appealing to those Members of the other side of the aisle who, unlike my friend from Utah, have thus far resisted the

entreaties of the hard, hard, hard right, who have resisted the entreaties of the narrow few who are way out there and say to them: Have strength, have courage.

The basic makeup of our Senate is at stake. The checks and balances that Americans prize are at stake. The idea of bipartisanship, where you have to come together and can't just ram everything through because you have a narrow majority, is at stake. The very things we treasure and love about this grand Republic are at stake.

I, for one, am saddened by what is happening. I, for one, am surprised at what is happening. I, for one, hope and pray that it will not come to this. But I assure my colleagues, at least speaking for this Senator from New York, I will do everything I can to prevent the nuclear option from being invoked not for the sake of myself or my party but for the sake of this great Republic and its traditions.

I yield the remaining time to my colleague from Illinois, our great whip.

Mr. DURBIN. Mr. President, how much time remains in morning business?

The ACTING PRESIDENT pro tempore. There is 19 minutes 30 seconds.

Mr. DURBIN. If I might make an inquiry of my colleague from New Jersey, if he is going to seek recognition, I want to be sure and leave enough time for him to speak.

Mr. CORZINE. Mr. President, I believe 10 minutes, maybe a little bit less.

Mr. DURBIN. If the Chair would advise me when there are 10 minutes remaining, I will yield the remaining time to the Senator from New Jersey.

Let me first thank my colleague from New York for his excellent statement. Senator SCHUMER and I serve on the Senate Judiciary Committee. It is a committee where judges are initially considered. It is a tough assignment. When I came to the Senate from the House, I knew I would be voting on legislation, but more so in the Senate, you vote on people. That is a tougher call because it isn't in black and white. It isn't a matter of compromising, taking half of this and a quarter of the other. It is a question of making a judgment about a person. I find that a little more difficult—a lot more difficult, to be honest—and when it comes to judges, even more complicated because you aren't just putting a person in a temporary position. You are saying: Based on your life to this point, we are prepared to put you on the Federal bench for the rest of your natural life and trust your judgment that you will do the right thing by the Constitution and the American people.

Overwhelmingly, we find whether the President is a Democrat or Republican, the Senate says: Fine, we approve. The nominee is a good person. We will go forward.

What has happened here is interesting. We have, so far with President Bush in the White House, considered on

the floor of the Senate 218 nominees by President Bush for the Federal judiciary. The President has that power. The Senate has the power to advise—that is, review and consider—and consent, if it chooses. Out of the 218 names sent by President Bush to the floor of the Senate, we have approved 208 of those names. So we are at a point now where we have 10 out of those 218 who have not been approved. More than 95 percent of the President's nominees have been approved.

You would say to yourself: This President is doing well. Whether he sends us conservatives of one stripe or the other, the Senate has approved them. We have sent them to the bench to lifetime appointments.

The President, after his reelection, comes to the Congress and says: That is not good enough. I want them all. I want every single one of them. I don't believe I should be held to the standard that every other President has been held to.

What is that standard? It is not just a simple majority vote. The Senate is a different place. It was created by the Constitution as a different institution. States large and small have the same number of Senators. States large and small send Senators to the Chamber, men and women who have the authority under our rules to demand an extraordinary vote.

People on the outside say: When I go to the city council meeting, it is a majority vote. When I go to the garden club, it is a majority vote. Why isn't it a majority vote in the Senate?

Because the Senate is a different place. When the Founding Fathers wrote the Constitution, they said the Senate, more than any institution in the Government of America, will be a place that respects and recognizes the rights of a minority.

For those who follow classic movies, Jimmy Stewart in "Mr. Smith Goes to Washington," one Senator, idealistic and determined, took to the floor of the Senate and started a speech and, frankly, finally crumbled because he was so tired and had to end his speech. But he demonstrated the reality of the Senate, that one Senator, regardless of where they are from, a State large or small, regardless if they are the only Senator who holds that point of view, can stand up and argue that point of view. That was built into our Constitution, certainly into the tradition of the Senate. That is why 10 of President Bush's nominees have not been approved because, in this situation, they couldn't find 60 Senators who would stand up and say: Stop the debate, vote on that nominee. That is the rule of the Senate.

President Bush has said: I want to change it, to change the rules of the Senate in the middle of the game. I want to go after this whole concept of the power of the Senate, the power of checks and balances, I want more power in the White House, I want more power in the Presidency. That is not

new. Presidents throughout history have always said they wanted more power than they had. Usually, the Congress stood up to them and said no.

The Constitution is more important than any single President. Thomas Jefferson, when he was elected to his second term, came to the Senate and said: I want the power to remove those Federalist judges from the Supreme Court; They disagree with my political philosophy; I want to get rid of them.

His own party said: No, President Jefferson. As important as you are, as much as we agree with you, the Constitution and traditions of the Senate are more important. And they voted him down.

President Roosevelt, one of our greatest Presidents, in the beginning of his second term, with the power of the national mandate behind him, said to the Senate: Do something about that damnable Supreme Court that won't approve my New Deal. Allow me to put more Justices on the Court until I can have my way politically.

His political body in this Senate said: Mr. President, we are Democrats, we respect you, we voted for you, we are for the New Deal, but you are wrong. You cannot come to us and ask for more Presidential power at the expense of the Constitution, at the expense of Senate traditions and values. They turned him down.

Look what happens today. President Bush, fresh from a victory of 51.5 percent in this election, comes to this body and says: I want more power in the Presidency.

What does he hear from his own party in the Senate? Sadly, it is: Whatever you want, Mr. President.

Mickey Edwards, a former Congressman from Oklahoma, who was quoted in the Washington Post this morning, gets it right. He said what amazes him about this debate is that Congress isn't standing up for its own constitutional responsibilities and rights. Congress is acquiescing in this effort by the President to take on more power so that he cannot be questioned and challenged when he puts people on the Federal bench for a lifetime.

Mr. President, I will submit for the RECORD a list of over 50 newspapers that have endorsed President Bush in 2000, 2004, or both, and have said that the President is wrong when it comes to this effort to increase Presidential power in the White House.

I ask unanimous consent to have that printed in the RECORD.

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

Albuquerque Journal [NM], The Albuquerque Tribune [NM], The Arizona Republic [Phoenix], Arkansas Democrat & Gazette, Austin American-Statesman [TX], Bangor Daily News [ME], Birmingham Post Herald [AL], Chicago Tribune, The Cincinnati Enquirer [OH], and The Cincinnati Post [OH].

The Clarion-Ledger [Jackson, MS], Columbia Daily Tribune [MO], The Commercial Appeal [Memphis, TN], Contra Costa Times

[CA], Corpus Christi Caller-Times [TX], Courier-Post [Camden, NJ], The Daily Camera [CO], The Dallas Morning News [TX], and The Day [New London, CT].

The Denver Post, Easton Star-Democrat [MD], Fort Worth Star Telegram [TX], The Grand Island Independent [NE], The Hartford Courant [CT], The Herald [Bradenton, FL], Houston Chronicle [TX], The Idaho Statesman, The Indianapolis Star [IN], and Journal Star [Peoria, IL].

Kalamazoo Gazette [MI], The Knoxville News-Sentinel [TN], La Crosse Tribune [WI], Lincoln Journal Star [NE], Loveland Daily-Reporter Herald [CO], The Morning Call [Allentown, PA], The Muskegon Chronicle [MI], Muskogee Daily Phoenix & Times-Democrat [OK], New Haven Register [CT], and The News Leader [Staunton, VA].

The Omaha World-Herald [NE], The Oregonian, Orlando Sentinel [FL], The Oshkosh Northwestern [WI], The Palladium-Item [IN], The Plain Dealer [Cleveland, OH], Poughkeepsie Journal [NY], Quad City Times [Davenport, IA], The Record [Troy, NY], and Salt Lake Tribune.

San Antonio Express-News [TX], Savannah Morning News [GA], Seattle Times [WA], San Diego Union Tribune, The State [Columbia, SC], The Tri-City Herald [WA], Ventura County Star [CA], The Wichita Eagle [KS], Winston-Salem Journal [NC], and York Daily Record [PA].

Mr. DURBIN. Mr. President, let me tell you, I listen to the talk shows, and I hear people say that until these judicial nominees were challenged with extended debate or filibuster, it never happened before. I will also submit for the RECORD, for the third time, this chart which shows on 11 or 12 different occasions when a filibuster was invoked on judicial nominees throughout history, including Supreme Court Justices. This is not new, not novel. It is certainly not earth shattering. It has happened before.

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:

HISTORY OF FILIBUSTERS AND JUDGES

Prior to the start of the George W. Bush administration in 2001, the following 11 judicial nominations needed 60 (or more) votes—cloture—in order to end a filibuster:

1881: Stanley Matthew to be a Supreme Court Justice

1968: Abe Fortas to be Chief Justice of the Supreme Court (cloture required 2/3 of those voting)

1971: William Rehnquist to be a Supreme Court Justice (cloture required 2/3 of those voting)

1980: Stephen Breyer to be a Judge on the First Circuit Court of Appeals

1984: J. Harvie Wilkinson to be a Judge on the Fourth Circuit Court of Appeals

1986: Sidney Fitzwater to be a Judge for the Northern District of Texas

1986: William Rehnquist to be Chief Justice of the Supreme Court

1992: Edward Earl Carnes, Jr. to be a Judge on the Eleventh Circuit Court of Appeals

1994: H. Lee Sarokin to be a Judge on the Third Circuit Court of Appeals

1999: Brian Theodore Stewart to be a Judge for the District of Utah

2000: Richard Paez to be a Judge on the Ninth Circuit Court of Appeals

2000: Marsha Berzon to be a Judge on the Ninth Circuit Court of Appeals

Because of a filibuster, cloture was filed on the following two judicial nominations, but was later withdrawn:

1986: Daniel Manion to be a Judge on the Seventh Circuit Court of Appeals Senator Biden told then Majority Leader Bob Dole that "he was ready to call off an expected filibuster and vote immediately on Manion's nomination."—Congressional Quarterly Almanac, 1986.

1994: Rosemary Barket to be a Judge on the Eleventh Circuit Court of Appeals "... lacking the votes to sustain a filibuster, Republicans agreed to proceed to a confirmation vote after Democrats agreed to a day-long debate on the nomination."—Congressional Quarterly Almanac, 1994.

Following are comments by Republicans during the filibuster on the Paez and Berzon nominations in 2000, confirming that there was, in fact, a filibuster:

"... it is no secret that I have been the person who has filibustered these two nominations, Judge Berzon and Judge Paez."—Senator Bob Smith, March 9, 2000

"So don't tell me we haven't filibustered judges and that we don't have the right to filibuster judges on the floor of the Senate. Of course we do. That is our constitutional role."—Senator Bob Smith, March 7, 2000

"Indeed, I must confess to being somewhat baffled that, after a filibuster is cut off by cloture, the Senate could still delay a final vote on the nomination."—Senator Orrin Hatch, March 9, 2000, when a Senator offered a motion to indefinitely postpone the Paez nomination after cloture had been invoked

In 2000, during consideration of the Paez nomination, the following Senator was among those who voted to continue the filibuster:

Senator Bill Frist—Vote #37, 106th Congress, Second Session, March 8, 2000.

Mr. DURBIN. Mr. President, let me tell you something else that troubles me. How much time do I have?

The ACTING PRESIDENT pro tempore. Almost 12 minutes.

Mr. DURBIN. So I will be notified in 2 minutes.

There is something more at stake here that is even more important than the power of the President and the tradition of the Senate, and that is the independence of the judiciary. You cannot turn on the television or radio without hearing from some special interest group criticizing the Federal judiciary. I have been critical of individual decisions. I can point to some, including one that was made in the State of Florida in 2000. But to come to the floor and say let's get rid of the people making the decisions, take the power of Congress and control the judiciary, that is a mistake. An independent, fair, and balanced judiciary is critical for America.

When I hear Members of Congress and special interest groups saying they want to use this nuclear option, the power of Congress, to take control of the Federal judiciary, I am concerned. That is a power grab far beyond violating the traditions and rules of the Senate. It says they are going to try to show control and exert authority over a branch of the Government which has always been independent.

I will submit a transcript of a program on May 1 from "This Week With George Stephanopoulos." It is an interview with Pat Robertson.

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:

[ABC News Transcripts, May 1, 2005]

THIS WEEK WITH GEORGE STEPHANOPOULOS
PAT ROBERTSON INTERVIEW

President George W. Bush, United States: "Role of religion in our society, I view religion as a personal matter. I think a person ought to be judged on how he or she lives his life, lives her life, and that's how I've tried to live my life through example. Faith plays an important part in my life individually, but I don't ascribe a person's opposing my nominations to an issue of faith."

George Stephanopoulos, ABC News: (Off Camera) That was President Bush in his prime time press conference Thursday night talking about religion and public life and now for more on this I'm joined from Virginia Beach by reverend Pat Robertson. Good morning reverend Robertson.

Pat Robertson, Chairman, Christian Broadcasting Network: Good morning, George.

George Stephanopoulos: (Off Camera) You know, the president seemed to be putting some distance between himself and people like you, allies like you who have cast this battle over judges in more religious terms. Do you now accept the president's belief that those who want to preserve the filibuster for judges are not fighting against people of faith?

Pat Robertson: George, I've never said that. I've said some things about the judges, but I think this filibuster thing strictly is an attempt to please the People for the American Way and the ultra left. I think the Democrats are catering to them, but, you know, in the entire history of the United States of America, there has never been a judge who has been refused a vote when there was a majority of Senators willing to vote for his confirmation, never in history. This filibuster in the last two years is unprecedented in our history.

George Stephanopoulos: (Off Camera) But, sir, you have described this in pretty, this whole battle in pretty apocalyptic terms. You've said that Liberals are engaged in an all-out assault on Christianity, that Democrats will appoint judges who don't share our Christian values and will dismantle Christian culture, and that the out-of-control judiciary, and this was in your last book "Courting Disaster" is the most serious threat America has faced in nearly 400 years of history, more serious than al Qaeda, more serious than Nazi Germany and Japan, more serious than the Civil War?

Pat Robertson: George, I really believe that. I think they are destroying the fabric that hold our nation together. There is an assault on marriage. There's an assault on human sexuality, as Judge Scalia said, they've taken sides in the culture war and on top of that if we have a democracy, the democratic processes should be that we can elect representatives who will share our point of view and vote those things into law.

George Stephanopoulos: (Off Camera) But, sir, let me just stop you there. How can you say that these judges are a more serious threat than Islamic terrorists who slammed into the World Trade Center?

Pat Robertson: It depends on how you look at culture. If you look over the course of a hundred years, I think the gradual erosion of the consensus that's held our country together is probably more serious than a few bearded terrorists who fly into buildings. I think we're going to control al Qaeda. I think we're going to get Osama bin Laden. We won in Afghanistan. We won in Iraq, and we can contain that. But if there's an erosion at home, you know, Thomas Jefferson

warned about a tyranny of an oligarchy and if we surrender our democracy to the tyranny of an oligarchy, we've made a terrible mistake.

George Stephanopoulos: (Off Camera) You know, President Bush at that press conference also said that he believes you're equally American whether you're Christian, Muslim, or Jew, and I wonder if you fully accept that, because in the past, you've said that you believe that only Christians and Jews are qualified to serve in the government. Is that still your belief?

Pat Robertson: Well, you know, Thomas Jefferson, who was the author of the Declaration of Independence said he wouldn't have any atheists in his cabinet because atheists wouldn't swear an oath to God. That was Jefferson and we have never had any Muslims in the cabinet. I didn't say serve in government. I said in my cabinet if I were elected president, and I think a president has a right to take people who share his point of view, and I would think that would be...

George Stephanopoulos: (Off Camera) Well, wait a second. Let me just stop you there. 'Cause in your book "The New World Order" you wrote, "How dare you maintain that those who believe in the Judeo-Christian values are better qualified to govern America than Hindus or Muslims." My simple answer is, 'yes, they are.' Does that mean no Hindu and Muslim judges?

Pat Robertson: Right now, I think people who feel that there should be a jihad against America, read what the Islamic people say. They divide the world into two spheres, Dar al Islam Dar al Harb. The Dar al Islam are those who've submitted to Islam, Dar al Harb are those who are in the land of war and they have said in the Koran there's a war against all the infidels. So do you want somebody like that sitting as a judge? I wouldn't.

George Stephanopoulos: (Off Camera) So I take it then the answer to the question is that you believe that only Christians and Jews are qualified to serve in the Federal judiciary?

Pat Robertson: Um, I'm not sure I'd make such a broad, sweeping statement, but I just feel that those who share the philosophy of the founders of this nation, who assent to the principles of the Declaration of Independence, who assent to the principles that underlie the constitution, such people are the ones that should be judges, and the thing that I'm opposed to about judges is the thought that this is a living document that can be manipulated at the will of five out of nine judge, unelected judges. It's the tyranny of an oligarchy that I'm concerned about.

George Stephanopoulos: (Off Camera) You said also that you believe Democrats appoint judges who "don't share our Christian values" and will "dismantle Christian culture." So do you believe that Justice Breyer and Justice Ginsburg, who were appointed by President Clinton, are trying to dismantle Christian culture?

Pat Robertson: Justice Ginsburg served as a general counsel for the American Civil Liberties Union, ACLU. That was founded, as you probably know, by about three members of the Communist Internationale. Their leader, Baldwin, said that he wanted to be a Communist and wanted to make this...

George Stephanopoulos: (Off Camera) So she's a Communist?

Pat Robertson: He was. He said, it's in my book. I mean, he said it. He made a declaration. He said I want to make America a workers' state, breed Communists.

George Stephanopoulos: (Off Camera) But I was asking about Justice Ginsburg. And you now seem to be trying to equate her with these Communists.

Pat Robertson: Well, she was the general counsel for this organization whose purpose right now is to rid religion from the public square. That's they are announced. We've had Nadine Strasser down here to our university in a debate. She's a very pleasant lady but that's what she said was her avowed goal, to take all religion from the public square. That's their initiative and Justice Ginsburg served as their general counsel, so . . .

George Stephanopoulos: (Off Camera) Let's turn to some broader issues. You spoke at the beginning of the year on "The 700 Club" and said that you had been praying and God had given you some predictions about President Bush's second term. Let me show you that.

Pat Robertson: What I heard was that Bush is now positioned to have victory after victory. He'll have Social Security reform passed, that he'll have tax reform passed, that he'll have conservative judges on the courts.

George Stephanopoulos: (Off Camera) So that's what you heard on January 3rd. Do you think you might have misinterpreted?

Pat Robertson: No, I think he's got a winning hand on Social Security, George, despite what Nancy Pelosi says. The Social Security, as you know is going into deficit in 2018. It's not 2042 or '52. What they've been doing is taking a surplus of the money that we all pay into Social Security and they've used it to fund the Federal deficit and there is no trust fund. That's an illusion and it's going into deficit. There won't be any more excess for the Federal Government in 2018. We're hitting into a crisis mode and I think the president as far as younger workers concerned, he has a winning hand, and I think the Democrats are holding on to something that Franklin Delano Roosevelt did in the '30s and they look like a bunch of mossbacks. It is time they, they, they, they get some new ideas. You said it right when you were interviewing her.

George Stephanopoulos: (Off Camera) You know reverend Robertson, the God you describe is taking a very active direct role in our lives. One of the earlier clips we showed, said, you had Him saying I am removing justices from the supreme court and I'm just wondering why does a God who is so involved in our daily life, so directly involved allow something like a tsunami to kill several hundred thousand people in Asia?

Pat Robertson: I don't think He reverses the laws of nature. The reason for that tsunami was the shifting of tectonic plates in the Indian Ocean. I don't think He changes the magma in volcanoes and I don't think He changes the wind currents to bring about hurricanes, so I don't attribute that to God or His lack or otherwise but in terms of human affairs I do think he answers prayer and I think there have been literally millions of people praying for a change in the supreme court. The people of faith in this country feel they're on a tyranny and they see their liberties taken away from them and they've been beseeching God, fasting and praying for years, so I think he hears and answers their prayers.

George Stephanopoulos: (Off Camera) You know, let's look ahead to 2008. The jockeying has already begun and of all the candidates looking for the nomination on the Republican side, which one do you believe is best positioned to get the support of religious conservatives like you?

Pat Robertson: You know, it's really hard to pick a winner right now. There's an outstanding Senator from Kansas who I think would be looking for it. He certainly represents the . . .

George Stephanopoulos: (Off Camera) Sam Brownback?

Pat Robertson: Brownback, he's a super guy. I think George Allen from Virginia was a distinguished governor, he's a distinguished senator and head of the senatorial campaign committee and won some significant victories. He is a very attractive guy and would make a tremendous president. So there are a couple. I don't know who else is out there jockeying, I'm sure Karl Rove has a candidate that he hasn't told us about.

George Stephanopoulos: (Off Camera) You didn't mention Bill Frist. I'm surprised about that.

Pat Robertson: Uh, Bill is a wonderfully compassionate human being. He is a humanitarian. He goes on medical missions. He is a delightful person. I just don't see him as a future president. And I think he said he didn't want to run for president. Maybe I'm putting words in his mouth.

George Stephanopoulos: (Off Camera) I think he's looking at it. Let me ask you one other question on that and then I'll let you go.

Pat Robertson: Okay.

George Stephanopoulos: (Off Camera) If the party chooses a moderate like John McCain or Rudy Giuliani, do you think religious conservatives will split off and form a third party movement?

Pat Robertson: I don't think so. Rudy is a very good friend of mine and I think he did a super job running the City of New York and I think he'd make a good president. I like him a lot, although he doesn't share all of my particular points of view on social issues. He's a very dedicated Catholic and he is a great guy. McCain I'd vote against under any circumstance.

George Stephanopoulos: (Off Camera) Reverend Robertson, thank you very much.

Pat Robertson: Okay, thank you.

George Stephanopoulos: (Off Camera) The roundtable is next. George will, Terry Moran, and Linda Douglass weigh in on the president's first 100 days, and in "The Funnies" it's Laura's turn.

Laura Bush, First Lady: I was a librarian who spent 12 hours a day in the library, yet somehow I met George.

Mr. DURBIN. Mr. President, this is a strident voice among some in this country who came out and said he believed that the real threat to America was not terrorism but men and women wearing judicial robes. He thought that was a much greater threat. That gives you an idea of the extreme rhetoric. We cannot let this happen. Whether the Democrats are in control or out of control, whether Republicans control today or tomorrow is secondary. We all swear to uphold the Constitution.

I will yield the floor to my colleague from New Jersey at this point. I hope those following this debate will consider the constitutional issues at stake.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized.

Mr. CORZINE. Mr. President, I also believe we must defend the independence of the judiciary, and I think the comments of both the Senator from Illinois and the Senator from New York regarding this subject are ones that need to be understood and need to be brought forward on the floor as we consider the potential for what I believe is changing the basic nature of how our courts are put together and their independence.

GENOCIDE IN DARFUR

Mr. CORZINE. Mr. President, this morning I rise to speak about the tragedy and human crisis—yes, the genocide—in Darfur, Sudan, and the failure of our Nation to do everything we can do to stop the killing and save the lives of the well over 2 million people who are displaced in Darfur. Just a few weeks ago on the Senate floor, we passed the Darfur Accountability Act offered by Senator BROWNBACK and myself, an amendment to the supplemental appropriations bill which we will be voting on, and I will be supporting today, or in the next several days as it comes out of conference.

The Darfur Accountability Act provided the tools and sets out the policies needed to confront this grave humanitarian crisis that exists in the Sudan. It also had broad bipartisan support and 30 cosponsors from both sides of the aisle.

It passed by unanimous consent on the floor of the Senate. Yet, inexplicably, the amendment was stripped from the bill in conference—all of it, including support for African Union forces, the call for a military no-fly zone, the extension of the arms embargo to the Government of Sudan, and the authority to freeze the assets and deny visas to those responsible for genocide and crimes against humanity. Even the Senate's statement that the atrocities in Sudan are genocide was removed.

Mr. President, I find it hard to comprehend how these policies, which hold the possibility of saving thousands, if not hundreds of thousands of lives, could be opposed by the House, the administration, or whoever. Sadly, the people of Darfur will be paying for the indifference and, in turn, we will be ignoring the values of the American people who hold us accountable for calling genocide what it is and pushing to stop it.

The contrast between our words and deeds seems to grow almost by the hour. Just today, in Georgia, President Bush stated:

We are living in historic times when freedom is advancing, from the Black Sea to the Caspian, and to the Persian Gulf and beyond.

I guess that is not happening in the Sudan. At the same time we are challenging autocrats around the world, it seems we are seeking accommodation with what I consider a barbarous government in Sudan.

At the same time we are saying we are standing with those who stand for freedom, we are turning our backs on the human rights of the people of Darfur. It is not enough to say that because the Sudanese Government shows some signs of cooperation on some fronts, this justifies our turning our backs on that Government's criminal attacks on their own people. It sounds almost like a speech I heard over the weekend. How can we ignore our own values when it comes to Africa? Is not every human life of equal worth?

One of this generation's great moral voices, Elie Wiesel, understood that

our values are universal. Speaking on Darfur last year, he asked:

How can a citizen of a free country not pay attention? How can anyone, anywhere, not feel outraged? How can a person, whether religious or secular, not be moved by compassion? And above all, how can anyone who remembers remain silent?

Mr. President, I just returned from the region. Unfortunately, the Government of Sudan denied me the visa that I needed to visit the camps inside Sudan. Instead, I went to Chad, where there are about 200,000 displaced refugees from Darfur.

What do the Sudanese have to hide? Why would they prevent a U.S. Senator from visiting. In the camp I visited in Chad, I received reports of continued attacks on civilians, as well as a growing fear of an imminent humanitarian crisis afflicting the 2 million displaced Darfurians. But it is when monitors are denied access, when there are no reports, that the atrocities are always the most grave and can continue.

We need transparency. This is not about one Senator. The Sudanese have obstructed access by African Union monitors. Human rights advocates and journalists have been denied entry. Humanitarian organizations have been harassed and, when they actually get there, some have actually been killed.

We need to shine a light on this problem. I visited some of the victims last week in eastern Chad. Here is a picture of some of the folks in one of the camps. Hundreds of these men and women desperately want to go home. They were in Chad because of the brutal violence in their own country, brought on by the Sudanese Government. They were chased from their villages. None of them felt safe to return. None of them would return.

This sentiment matches what we hear in Darfur, where we were last fall. Hundreds of thousands of civilians were in these IDP camps, approaching 2 million. Meanwhile, the Darfur refugees in Chad are barely getting by. I can tell you that the conditions are difficult. U.N. agencies and humanitarian organizations are doing everything they can, a heroic job of getting assistance to these camps. But I have to tell you, there is a serious shortfall between a quality of life that is just sustainable and reality. The terrain in eastern Chad is dry, infertile and, frankly, the environment is bleak. It barely supports the Chadians who live in the area. There is not enough water and certainly limited amounts of food. It needs to change.

That is why we need to speak out and we have to be forceful. That is why one of the provisions in the Darfur Accountability Act I think is most important, and that is the appointment of a special envoy.

Mr. President, stopping genocide is a moral challenge that requires courage and resources. But it also requires attention every day—real diplomatic engagement to make sure we are moving the ball forward in this process. In

Chad, I met with President Deby and also with members of the joint commission—Chadians engaged in diplomatic negotiations between the Government of Sudan and the Darfur rebels. We met with the rebels themselves. People want peace. We met with people in the African Union in Addis Ababa, Ethiopia.

Bringing these players together—not to mention the parties in the north-south agreement in Sudan, the EU, NATO, and U.N. Security Council members—is a full time job. It needs the attention of an individual to make sure that those negotiations don't go adrift. We need that attention now. It is critical. The Darfur Accountability Act asked for this, encouraged this, and it is not happening. It is not sufficient enough to have a one-time trip by the Deputy Secretary of State to Sudan to think that we are paying enough attention or putting on enough pressure. In fact, we don't have an ambassador in the Sudan. We don't have an official representative to the African Union. We need to be paying attention. That is why Senator BROWNBACK and myself offered the amendment to the supplemental. That is why we have asked for additional funding, some of which was included in the supplemental, and I am grateful for the fact that Senators DEWINE and BROWNBACK, DURBIN, LEAHY, and OBAMA were able to provide \$50 million more for the African Union. But some of the humanitarian assistance was pulled back for reasons allocated to other difficult places that also demand need.

It is essential if we are going to stop this killing, stop the genocide, that we react now, that we pay attention, that we do the things that will allow the African Union's deployment to be successful—only 2,200 people in an area the size of France. We need to have a minimum of 6,000, maybe as many as 10,000. That mission needs to be financed. The supplemental was where we could do much of this. Some of that we stepped back from.

Our values as a nation and our national security require us to speak up and confront these problems.

The ACTING PRESIDENT pro tempore. All time in morning business has now expired.

Mr. CORZINE. I thank the Presiding Officer. I hope my colleagues will consider this legislation when we bring it back to the floor. It needs to be fought for.

I thank the Chair. I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE, THE GLOBAL WAR ON TERROR, AND TSUNAMI RELIEF ACT, 2005—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 1268, which the clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1268), making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of conferees on the part of both Houses.

The ACTING PRESIDENT pro tempore. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of May 3, 2005.)

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, the Senate now has under consideration the conference report to accompany H.R. 1268, the fiscal year 2005 emergency supplemental appropriations bill. This bill was requested by the President to carry forward the spending and accounts of the Department of Defense, the Department of State, and other agencies and departments of the Government through the remainder of this fiscal year which will end on September 30.

The bill was passed in the Senate on April 21, and we began conference discussions with our colleagues from the other body on April 27. A bipartisan majority of the conferees reconciled differences between the two bills and reached agreement on the provisions of a conference report on Tuesday, May 3.

The House approved the conference report on May 5 by a rollcall vote of 368 to 58. The conference agreement provides a total of \$82.041 billion, slightly less than the President's request of \$82.042 billion. Almost \$76 billion in emergency supplemental appropriations is provided to the Department of Defense to cover the costs of continuing the operations in Iraq and Afghanistan.

Title II of the conference agreement provides \$4.128 billion for international programs and assistance for reconstruction and the war on terror. Title III provides \$1.184 billion for domestic programs in the war on terror. And title IV provides \$907 million in relief for the Indian Ocean tsunami disaster.

Finally, division B of the conference agreement carries the House-passed REAL ID Act and other provisions relating to immigration issues.

This conference agreement embodies a genuine compromise between the two bodies on legislation that is of utmost importance to our troops who are deployed in the war on terror and for our allies around the world. It is supported by the administration, and I hope the bill, as reflected in the conference report, will receive bipartisan support in the Senate.

We are pleased to have the benefit of comments by other members of the committee or Senate to explain specific provisions of this conference agreement. We are prepared to try to respond to any questions that any Senators may have about the provisions of the conference report, and we will be hopeful, however, that the Senate will proceed with some dispatch to the approval of the conference report because it is an urgent supplemental appropriations conference report. The funds provided in this conference report are urgently needed by our forces in the field and by our State Department for accounts that have been depleted in connection with programs administered by that Department.

The administration is urging that we act quickly, and I hope we will not unnecessarily prolong consideration of the conference agreement in the Senate but respond enthusiastically with the challenge from the administration to act with dispatch on this conference report.

Mr. President, before I yield the floor, if I may have one more moment of indulgence from the Senator from California, on behalf of the majority leader, I ask unanimous consent that there be 3 hours and 15 minutes of debate under the control of the ranking member and 1½ hours of debate under the control of the chairman; provided further 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?

Mrs. FEINSTEIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, the distinguished chairman of the Appropriations Committee had indicated that I would be able to speak as in morning business, that he would not object. My concern is, with the time, if I will, in fact, have the time to complete my remarks.

Mr. COCHRAN. Mr. President, I have no objection to the Senator speaking as in morning business.

Mrs. FEINSTEIN. For such time as I may consume.

Mr. COCHRAN. I do not want her to talk forever.

Mrs. FEINSTEIN. No, it will not be forever.

Mr. COCHRAN. How long does the Senator expect to talk?

Mrs. FEINSTEIN. Probably a half hour.

Mr. COCHRAN. I have no objection, and I have no objection with that being done in spite of the agreement we have reached on the time for debate of the supplemental.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi? Without objection, it is so ordered.

The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the chairman of the Appropriations Committee for his graciousness. I am pleased to serve on that committee. He has been nothing but fair always. That is very much appreciated. I would like to indicate my support for the supplemental appropriations. I do have concerns about the inclusion of the REAL ID Act in this bill, largely because it is the Judiciary Committee that is the committee of jurisdiction, and this very complicated act has not had the opportunity of a hearing or discussions or markup by members of that committee. That having been said, it is my intent to vote for the emergency supplemental.

I wish to speak during the remainder of my time on the so-called nuclear option and the majority leader's intention to remove the ability of the minority party to filibuster judicial nominations.

JUDICIAL NOMINATIONS

Mr. President, I speak today as a member of the Judiciary Committee for the past 12 years. In this capacity, I have worked with Members from both sides of the aisle and on nominations from both Democratic and Republican Presidents. In all, I voted to confirm 573 judges and have voted no on the Senate floor on 5 and voted against cloture on 11.

I evaluate each candidate on a case-by-case basis and thoroughly examine their writings, opinions, statements, temperament, and character. The fact that Federal judges are lifetime appointments weighs heavily. They do not come and go with an administration, as do Cabinet appointments. Rather, they cannot be removed from the bench except in extremely rare circumstances. In fact, in our Government's over 200-year history, only 11 Federal judges have been impeached, and of those, only 2 since 1936.

Over the years, we have had heated debates and strong disagreements over judicial nominees; however, that debate is what ensures the Senate confirms the best qualified candidates.

I am deeply troubled when our legitimate differences over an individual's qualifications to be given a lifetime appointment to the Federal bench become reduced to inflammatory rhetoric. I am even more concerned when rhetoric turns into open discussion about breaking Senate rules and turning the Senate into a body where might makes right.

I am here today because some Members on the other side of the aisle have decided that despite a constitution that is renowned worldwide and used as a model for emergent democracies, despite a confirmation rate of 95 percent of President Bush's judicial nominees, and despite the other pressing priorities that the American people want us to address, that the time has come to unravel our Government's fundamental principle of checks and balances. The majority has decided the time has come to unravel the Senate's traditional role of debate and that the time has come to break the rules and discard Senate precedent.

I am very concerned about this strategy. It is important to remember that once done, once broken, it will be hard to limit and hard to reverse. In fact, just last month, Senator COLEMAN stated on CNN:

The President has a right to make appointments. They are not to be filibustered. They deserve an up-or-down vote. That's true for any kind of appointee, whether it's Under Secretary of State or a judge.

And this is exactly my point. First, the rules would be broken with regard to judicial nominees, then it is executive branch nominees, then it is legislative branch nominees, then it is legislation, and then the Senate has no rules at all and simply becomes a replication of the House of Representatives.

Every Thursday morning, I have a constituent breakfast, and at that breakfast I describe the difference between the House and the Senate based on something George Washington once said, that the House moves rapidly, is controlled totally by the party in power, and is akin to a cup of coffee. You drink your coffee out of the cup, but if it is too hot, you pour it into the saucer to cool it. And that is the Senate, the greatest so-called deliberative body on Earth, a place that fosters debate, often unlimited, and is basically based on the fact that no legislation is better than bad legislation. So the Senate by design was created to be a very different house than is the House of Representatives.

The strategy of a nuclear option will turn the Senate into a body that could have its rules broken or changed at any time by a majority of Senators unhappy with any position taken by the minority. As I said, this is not the Senate envisioned by our Founding Fathers, and it is not the Senate in which I have been proud to serve for the past 12 years.

I think it is important to take a look at history, as others have done, to understand the context of where this debate is rooted. The Founding Fathers and our early Pilgrims were escaping a tyrannical government where the average man, the common man, often did not have a voice and was often left without any say in its laws that governed him and his family. In response, these men specifically embedded language in the Constitution to provide checks and balances so that inherent in

our Government's design would be conflict and compromise, and it is precisely these checks and balances that have served to guarantee our freedoms for over 200 years.

When you read the Federalist Papers, discussions at the Constitutional Convention, and about the experience of America's first President, it is clear the Senate was never intended to be a rubberstamp. While it is often difficult to discern the original intent of a constitutional provision, the records of the Convention address the role of the Senate in the selection of Federal judges with unusual clarity.

Both the text of the appointments clause of the Constitution and the debates over its adoption strongly suggest that the Senate was expected to play an active and independent role in determining who should sit on the Nation's judiciary.

Throughout its deliberations, the Convention contemplated that the National Legislature in some form or another would play a substantial role in the selection of Federal judges. As a matter of fact, on May 29, 1787, the Convention began its work on the Constitution by taking up the Virginia plan, which provided:

That a National Judiciary be established . . . to be chosen by the National Legislature.

Under this plan, the President was to have no role at all. One week later, James Madison modified the proposal so that the power of appointing judges would be given exclusively to the Senate rather than to the legislature as a whole. This motion was adopted without any objection. So the Senate had the entire authority.

Then less than 2 weeks before the Convention's work was done, for the first time the committee's draft provided that the President should have a role in the selection of judges.

However, giving the President the power to nominate judges was not seen as ousting the Senate from a central role. Governor Morris of Pennsylvania paraphrased the new provision as one giving the Senate the power to appoint judges nominated to them by the President. In other words, it was considered the Senate was the nomination body and the President simply recommended judges to the Senate.

The Convention, having repeatedly and decisively rejected the idea that the President should have the exclusive power to select judges, could not possibly have intended to reduce the Senate to a rubber stamp, but rather it created a strong Senate role to protect the independence of the judiciary. In fact, Alexander Hamilton, considered the strongest defender of Presidential power, emphasized that the President would be required to have his choice for the bench submitted to an independent body for debate, a decision, and a vote, not simply an affirmation. He clarified the necessary involvement of the Senate in Federalist No. 77 by writing:

. . . if by influencing the President be meant restraining him, this is precisely what must have been intended.

Here is the emergence of a check, a balance, a leveling impact on the power of appointment, which is not to be unbridled.

In 1776, John Adams also wrote on the specific need for an independent judiciary and checks and balances. He said:

The dignity and stability of government in all its branches, the morals of the people and every blessing of society, depends so much upon an upright and skillful administration of justice, that the judicial power ought to be distinct from both the legislative and executive, and independent upon both, that so it may be a check upon both, as both should be checked upon that . . . [The judges'] minds should not be distracted with jarring interests; they should not be dependent upon any man or body of men.

So it is clear, when examining the creation of our Constitution, that the Federal judiciary was specifically designed to be an independent, non-partisan third branch, and the Senate was meant to play an active role in the selection process.

In addition, the experience of President Washington in appointing judges illustrates that from the outset the Senate took an active role in evaluating judicial nominees. In 1795, President George Washington nominated John Rutledge to be Chief Justice. Soon after his nomination, Rutledge assailed the newly negotiated and popular Jay Treaty with Britain. Even as Rutledge functioned as Acting Chief Justice, the Senate debated his nomination for 5 months, and in December 1795 the body rejected him 14 to 10, illustrating from the first administration that the Senate has always enjoyed a strong prerogative to confirm or reject nominees.

Now, use of procedural delays throughout history has prevented nominees from receiving an up-or-down vote. The claim that it is unprecedented to filibuster judicial nominations is simply untrue. In 1881, Republicans held a majority of seats in the Senate but were unable to end a filibuster to preclude a floor vote on President Rutherford B. Hayes's nomination of Senator Stanley Matthews to the Supreme Court. Matthews was re-nominated by incoming President James Garfield, and after a bitter debate in the Senate, was confirmed by a vote of 24 to 23. This has been described as the first recorded instance in which the filibuster was clearly and unambiguously deployed to defeat a judicial nomination.

Then, as has been stated on the Senate floor, there was the 1968 GOP-led filibuster against President Lyndon B. Johnson's nomination of Abe Fortas to be Chief Justice of the United States. At the time, a page 1 Washington Post story declared: "Fortas Debate Opens With a Filibuster."

The article read:

A full-dress Republican-led filibuster broke out in the Senate yesterday against a mo-

tion to call up the nomination of Justice Abe Fortas for Chief Justice.

So here are two specific examples of Republican-led filibusters against judicial appointments.

Last Congress, the Congressional Research Service reported that filibusters and cloture votes have been required to end debate on numerous judicial appointments. CRS reported that since 1980, cloture motions have been filed on 14 court of appeals and district court nominations. We all know a cloture vote is another kind of filibuster. It is the kind of filibuster where one does not have to stand up on the floor, but it takes the same 60 votes to close off debate. Moreover, cloture petitions were necessary in 2000 to obtain votes on the nominations of both Richard Paez and Marsha Berzon to the Ninth Circuit after Republican opponents repeatedly delayed action on them, for over 4 years in the case of Paez.

In fact, at the time, Republican Senator Bob Smith openly declared he was leading a filibuster against Richard Paez and he described Senator SESSIONS as a member of his filibuster coalition.

In addition to using the filibuster and other procedural delays, Republicans have publicly pronounced the importance of these rules and their own desire to delay or block the confirmation of judges. As recently as 1996, Senator LOTT stated:

The reason for the lack of action on the backlog of Clinton nominations was his steadily ringing office phone saying "No more Clinton Federal judges."

In 1996, Senator CRAIG said:

There is a general feeling . . . that no more nominations should move. I think you'll see a progressive shutdown.

In 1994, Senator HATCH stated that the filibuster is "one of the few tools that the minority has to protect itself and those the minority represents."

How soon they forget. Recent Republican practices using anonymous holds allowing a single Senator, not 41, to prevent a hearing or a vote on a judicial nominee, in effect, has created a filibuster of one. All told, during the last administration, more than 60 judicial nominees suffered this fate. This practice was recently commented on in the Chicago Tribune which said:

In addition, there are lots of congressional practices that defy majority rule. Under President Clinton, when Republicans controlled the Senate, they didn't have to use the filibuster to bottle up judicial nominations. The Judiciary Committee simply refused to send them to the floor for a vote.

That is true. I know. I was there. Remembering this history is important, not to point fingers or justify a tit-for-tat policy; instead, it is important to recall that Senate rules have been used throughout our history by both parties to implement a strong Senate role and ensure that Presidents do not attempt to weaken the independence of the judiciary.

The history is not new, and these examples have been cited by my colleagues in other contexts, and therefore, those on the other side have responded to the history. I believe it is important to address the differences that the other side is trying to draw.

Some have argued that the nomination by President Hayes of Senator Matthews of Ohio was not a filibuster because there was no cloture vote. This is true, however, a procedural delay denying a nominee confirmation to a court still has the result blocking a nomination. Trying to make a distinction about the procedures used to deny a nominee confirmation is a distinction without a difference.

As for the nomination of Abe Fortas—colleagues on the other side of the aisle have made various arguments including: that's only one isolated example; it was a Supreme Court, not a Circuit Court nominee; or Fortas' nomination was withdrawn after a failed cloture vote showed he did not have majority support and therefore its not the same situation.

Miguel Estrada and Carolyn Kuhl both withdrew their nominations after failed cloture votes, however both were used as examples of filibusters by Democrats.

Our colleagues have argued that the delays to the nominations of Richard Paez and Marsha Bershon do not count because in the end they were confirmed. This ignores that it took over four years to confirm both nominees. In addition, if a party attempts to filibuster a nomination, or legislation, and it is eventually passed that does not mean it is not a filibuster. It simply means that the filibuster or refusal to grant cloture cannot be sustained. That has happened to both parties in a variety of situations. However, failure does not undo the effort.

Finally, as to the other Clinton Administration nominees—the response given is that their nominations weren't defeated by a cloture vote on the floor. In essence the argument is because different procedural rules were used to defeat a nomination, it doesn't count. On its face, this argument doesn't hold water. To the nominee whether their confirmation failed because of a "hold" in Committee, or a failed cloture vote, the result is the same—they are not sitting on the bench.

Dozens of Clinton's nominees were "pocket filibustered" by as little as one Senator who, in secret, prevented the nominees from receiving a hearing in Committee, or a mark-up, or a floor vote. One Senator without debate or reason has stopped many Clinton nominees.

The question I have is whether the public interest is better served by one hidden filibuster without explanation, or 41 Senators debating publicly and refusing publicly to confirm the nominee. Clearly, it is the later.

I would like to go over a few nominees from the last administration who have been filibustered by Republicans,

and filibustered successfully on many occasions by as little a number as one Republican; filibustered in a way that it was secret; filibustered in a way that the individual never received a hearing or a markup in Judiciary or a vote on the Senate floor. Then I would like an answer to the question, which is better, a filibuster by 40 Members on the floor openly declared, publicly debating, discussing an individual's past speeches, an individual's temperament, character, opinions, or a filibuster in secret when one does not know who or why?

I begin with Clarence Sundram. Clarence Sundram was the chairman of the New York Commission for the Mentally Disabled. He was nominated on September 29, 1995. He had hearings on July 31, 1996, and June 25, 1997. There was no committee vote. There was no floor vote. His nomination was simply killed in committee by a filibuster of one or two, or the chairman's decision not to bring the nomination to the floor. He was supported by both home State Senators Moynihan and D'Amato. On seven occasions, Senator LEAHY spoke on the Senate floor urging that a vote be taken on Sundram, but no vote was ever taken.

James A. Beaty, Jr., was nominated to the U.S. Court of Appeals for the Fourth Circuit on December 22, 1995, and renominated on January 7, 1997. He did not receive a hearing and was not voted on in committee. His nomination languished for more than 1,000 days, almost 3 years without any action being taken. He was nominated by President Clinton to be a judge on the U.S. District Court for the Middle District of North Carolina. He was finally confirmed by the Senate in 1994.

Before that, he spent 13 years as a judge in the North Carolina Superior Court. He was blocked by Senator Helms. On November 21, 1998, National Journal reported that Senator Helms wanted President Clinton to name to the Fourth Circuit one of the Senator's proteges, Terrence W. Boyle, whose nomination to that bench was killed when the Democrats ruled the Senate and George Bush was President, but the Clinton White House refused and Senator Helms made it clear that President Clinton would not get Beaty confirmed until he nominated Boyle.

Then Senator Helms supported Beaty when he was nominated for his current position as a U.S. district court judge. But this shows how things worked, where one person could deny a nomination.

Then there is Helene White from the State of Michigan. She was nominated to the U.S. Court of Appeals for the Sixth Circuit on January 7, 1997, and renominated on January 26, 1999, and renominated for a third time on January 3, 2001. She did not receive a hearing or a committee vote during the pendency of her nomination. She had waited for a Senate Judiciary Committee hearing for 4 years, longer than any other judicial nominee in history, according to the Associated Press. She

had been a judge on the Michigan Court of Appeals. She served as a Wayne County circuit judge for nearly 10 years. She sat on the Common Pleas Court for the city of Detroit and served on the board of directors of the Michigan legal services. President Clinton thanked her for hanging in there through an ordeal that no one should have to endure. It is my understanding Senator LEVIN, one of the Michigan Senators, supported her. Senator Abraham waited 2 years before turning in his blue slip, and after turning in the blue slip did not endorse Ms. White. That, again, is how things worked. One person—not 41 people on the floor debating but 1 person—in secret holding up a nominee. That is just as much a filibuster, and even more effective a filibuster.

Jorge Rangel was nominated to the U.S. Court of Appeals for the Fifth Circuit on July 24, 1997. He did not receive a hearing or a vote in committee. He was a partner in Rangel & Chriss, a Corpus Christi law firm, and specialized in personal injury, libel, and general media litigation. He was presiding judge of the 347th District Court in Nueces County from October of 1983 to June of 1985, and a former assistant professor of law at the University of Houston. He was originally recommended to the White House by Senator Bob Krueger, but removed his name from consideration because, according to a July 25, 1997 Dallas Morning News article, he was then a member of the American Bar Association Panel that reviews federal court nominees, which made him ineligible. He was subsequently nominated after he was no longer on the ABA panel, at which time, Texas Monthly has reported, he was blocked by his two home state Senators. So, two persons there.

Barry Goode was nominated to the U.S. Court of Appeals for the Ninth Circuit in 1998, renominated January 26, 1999, and renominated a third time on January 3, 2001, just before President Clinton left office—three tries. He waited for 2½ years without a hearing or a vote in committee. He was a partner at the time at the San Francisco law firm of McCutchen, Doyle, Brown & Enersen. He had practiced law since 1974. He was an adjunct professor of environmental law at the University of San Francisco and served 2 years as special assistant to Senator Adlai E. Stevenson III. The ABA rated him as qualified. He was supported by both myself and Senator BOXER. The reason for the block was an anonymous Republican who, to this day, is not known. Senator LEAHY spoke at least eight times on the Senate floor, urging that Goode's nomination be considered, but a filibuster of one, hidden, in secret, nobody knowing who it was, essentially killed this nomination.

Legrome Davis was nominated to the U.S. District Court for the Eastern District of Pennsylvania on July 30, 1998, and renominated on January 26, 1999. He did not receive a hearing or a vote

from the Judiciary Committee during the nearly 2½ years his nomination was pending. President Bush renominated Davis to the same court at Senator SPECTER's request on January 23, 2002, and he was finally confirmed by a unanimous vote of the Senate on April 18, 2002. But the point was he was stopped for nearly 2½ years by an unknown individual.

Lynnette Norton was nominated to the U.S. District Court for the Western District of Pennsylvania on April 29, 1998, and renominated on January 26, 1999. She did not receive a hearing or a vote in committee during the more than 2½ years her nomination was pending. She died suddenly in March 2002 of a cerebral aneurysm. It is my understanding Senator SPECTER supported Norton. Senator SANTORUM, I believe, did not return the blue slip. According to a November 18, 1999 article in the *Philadelphia Inquirer*, a hold was placed on Ms. Norton's nomination.

H. Alston Johnson was nominated to the U.S. Court of Appeals for the Fifth Circuit on April 22, 1999, and renominated on January 4, 2001. Despite waiting over a year and a half, he did not receive a hearing or a vote in committee. His nomination was withdrawn by President Bush on March 19, 2001. He was supported by both home State Senators, Senators Breaux and LANDRIEU. According to articles in the *Baton Rouge Advocate* on July 10, 2000, and January 8, 2001, it is my understanding an individual Senator blocked his nomination from proceeding, even though both Republicans and Democrats appeared willing to confirm him.

James E. Duffy, Jr. was nominated to the U.S. Court of Appeals for the Ninth Circuit on June 17, 1999, and renominated on January 3, 2001. He did not receive a hearing or vote in committee. He is from Honolulu, had been a litigator for his entire legal career, been a partner in the Honolulu law firm of Fujiyama, Duffy, and Fujiyama since 1975. He was former president of both the Hawaii State Bar and the Hawaii Trial Lawyers Association. He would have been the first active Hawaii member of the Ninth Circuit Court of Appeals in 15 years, despite rules that at least 1 judge must sit in each of the States within the Ninth Circuit. He was unanimously rated as well qualified. He was supported by both Hawaii Senators. There has been no explanation forthcoming of who blocked his progress. Again, a secret hold, one person. Two home State Senators supporting this individual and the individual does not go forward. That is as much a filibuster as anything going on on the floor at this time.

Elena Kagan was nominated to the U.S. District Court of Appeals for the District of Columbia on June 17, 1999. She did not receive a vote or a hearing in committee. She is currently the dean of Harvard Law School. She was a visiting professor at Harvard Law School, former domestic adviser to

President Bill Clinton when she was nominated. She was special counsel to the Senate Judiciary Committee during the confirmation hearings of Ruth Bader Ginsburg. She served as Associate Counsel to the President from 1995 to 1996, and Deputy Assistant to the President for Domestic Policy, and Deputy Director of the Domestic Policy Council from 1997 to 1999. Prior to that she was professor of law at the University of Chicago, tenured. She worked at the Washington, DC, law firm of Williams and Connolly, and she clerked for U.S. Supreme Court Justice Thurgood Marshall. A substantial majority of the ABA rated her qualified. A minority rated her well qualified. It is my understanding three Senators argued that the DC Circuit did not need any more judges, an argument that had been used to delay the confirmation of Judge Merrick Garland between 1995 and 1997.

See, this was another thing that was happening during that time. Let me just say it like it was. Vacancies on the DC Circuit—a critical and important circuit because it reviews all of the administrative appeals—were purposely kept open, preventing President Clinton from filling that circuit, to have more openings for the next President. Here three Senators kept this very qualified and very distinguished nominee from receiving a vote or a hearing on the committee. Again, a secret, hidden filibuster.

And, nevertheless, Senate Republicans supported the nomination by President Bush of Miguel Estrada to the same circuit court in 2002.

James Wynn was nominated to the U.S. Court of Appeals for the Fourth Circuit on August 5, 1999, and renominated on January 3, 2001. As you can see, President Clinton made one last try before he left office. He did not receive a hearing or a vote in committee. President Bush withdrew Judge Wynn's nomination on March 19, 2001. He was a judge on the North Carolina Court of Appeals and had previously served on the North Carolina Supreme Court. When nominated, he was a Navy reservist in the JAG corps of the U.S. Navy with the rank of captain. He served as the ABA's first African-American chair of the Appellate Judges Conference whose membership includes over 600 Federal and State appellate judges. He was on the board of governors of the American Judicature Society and was a vice president of the North Carolina Bar Association. He was an executive board member of the Uniform State Laws Commission and a drafter of the Revised Uniform Arbitration Act, Uniform Tort Apportionment Act, and proposed Genetic Discrimination Act. He was rated qualified by the ABA screening committee. Senator Edwards supported him. The Associated Press, on December 29, 2000, reported that Senator Helms blocked Judge Wynn. One person blocks a distinguished jurist, a filibuster of one, and not a word said.

Kathleen McCree-Lewis was nominated to the U.S. Court of Appeals for the Sixth Circuit Court on September 16, 1999, and renominated on January 3, 2001. She did not receive a hearing or a vote in committee during the more than a year her nomination was pending. She was a distinguished appellate attorney with Dykema Gossett, one of the largest law firms in Michigan. She had been active in the Michigan bar from 1996 to 1999. She chaired the rules advisory committee of the U.S. Court of Appeals for the Sixth Circuit. From 1992 to 1995, she cochaired the appellate practice committee of the ABA section of litigation. From 1987 to 1998, she was editor of the Sixth Circuit section of the *Appellate Practice Journal* and is a life member of the Sixth Circuit Judicial Conference. She was president of the American Academy of Appellate Lawyers. She would have been the first African-American woman to serve on the Sixth U.S. Circuit Court of Appeals. She was rated by the ABA as well qualified. On March 21, 2001, the *Detroit Free Press* reported that she was blocked by one of her home State Senators, namely Senator Abraham. Let me quote the *Detroit Free Press*. McCree-Lewis never "got a hearing in the Senate, thanks to Abraham's epic obstructionism."

Now on January 8, 2001, the *Detroit Free Press* reported:

The Senate has been obscenely obstructionist in blocking President Bill Clinton's judicial nominations. Former Senator Spencer Abraham did nothing to help shepherd Michigan Court of Appeals Judge Helene White and Detroit attorney Kathleen McCree Lewis through the system.

Again, filibuster of one, in secret, with no floor debate.

Enrique Moreno was nominated to the U.S. District Court of Appeals for the Fifth Circuit on September 16, 1999, and renominated January 3, 2001.

He did not receive a hearing or a vote in committee. At the time of his nomination, Moreno had a longstanding and diverse legal practice in El Paso, working on both civil and criminal law. In the civil area, he represented both plaintiffs and defendants, representing both large business clients and also individuals, advocating their civil rights. In a survey of State judges, he was rated as one of the top trial attorneys in El Paso. A native of Chihuahua, he came to El Paso as a small child, son of a retired carpenter and a seamstress.

The ABA committee unanimously rated him as well qualified.

In November of 2000, *Texas Monthly* reported that he was blocked by both home State Senators, again without a hearing or a vote in the Judiciary Committee.

Allen Snyder was nominated to the U.S. Court of Appeals for the DC Circuit on September 22, 1999. He did receive a committee hearing on May 10, 2000. His nomination, though, was not voted on by the committee.

At the time of his nomination, he was a longtime partner and chairman

of litigation practice at the DC law firm Hogan & Hartson. At Hogan & Hartson, he represented Netscape Communications Corporation in the landmark Microsoft antitrust case.

He was a former law clerk to Chief Justice William Rehnquist. The ABA unanimously rated him well qualified. He served as chair of the Committee on Admissions and Grievances of the U.S. Court of Appeals for the District of Columbia, as secretary and executive committee member of the Board of Governors of the District of Columbia Bar, and on the board of the Washington Council of Lawyers. It is my understanding his nomination was blocked by two Judiciary Committee Senators. No reason was given.

Kent Markus was nominated to the U.S. Court of Appeals for the Sixth Circuit on February 9, 2000. He did not receive a hearing or a vote in committee. He was the director of the Dave Thomas Center for Adoption Law and visiting professor at Capital University Law School at the time of his nomination. He served in numerous high-level legal positions within the Department of Justice, including counselor to the Attorney General, Deputy Chief of Staff for the Office of the Attorney General, and Acting Assistant Attorney General for the Office of Legislative Affairs.

He also served as first assistant attorney general and chief of staff for the Ohio Attorney General's Office.

His nomination was supported by 14 past presidents of the Ohio State Bar Association, including Democrats, Republicans, and Independents; more than 80 Ohio law school deans; prominent Ohio Republicans; the National District Attorneys Association; and the National Fraternal Order of Police.

The ABA unanimously rated him as qualified.

Both Senators DEWINE and VOINOVICH returned blue slips. He was blocked by one Senator—a filibuster of one, all hidden, all quiet.

Bonnie Campbell was nominated to the U.S. Court of Appeals for the Eighth Circuit on March 2, 2000, and renominated on January 3, 2001. Her hearing was on May 25, 2000. The nomination was never voted on by the Judiciary Committee.

She served for 4 years as Iowa's Attorney General. She is the only woman to have held that office in her State, and she wrote what became a model statute on antistalking for States around the country.

She was selected by President Clinton in 1995 to head the Justice Department's newly created Violence Against Women Office. She emerged as a national leader for her work to bring victims' rights reforms to the country's criminal justice system.

In 1997, *Time* magazine named her one of the 25 most influential people in America. Praising her for bringing "rock-solid credibility" to her job, *Time* called Campbell the "force behind a grass-roots shift in the way

Americans view the victims—and perhaps more important, the perpetrators—of crimes against women."

She oversaw a \$1.6 billion program to provide resources to communities for training judges, prosecutors, and police. She was chosen to serve on the President's Interagency Council on Women, chaired by former First Lady HILLARY RODHAM CLINTON. She also headed the Justice Department's Working Group on Trafficking.

According to a statement given by Senator LEAHY to the Judiciary Committee on January 22, 2004, she was blocked by a secret Republican hold from ever getting committee or Senate consideration. Apparently, just one Senator. She had a hearing, as I said, but she never had a vote.

Roger Gregory was nominated to the U.S. Court of Appeals for the Fourth Circuit on June 30, 2000, and was renominated on January 3, 2001. He was a recess appointee of President Clinton at the end of the 106th Congress. He did not receive a hearing or a vote.

On March 19, 2001, President Bush withdrew his nomination. He was subsequently renominated by President Bush on May 9, 2001, and confirmed July 20, 2001, by a 93-to-1 vote.

According to former Senator Chuck Robb, on October 3, 2000:

Despite the well-documented need for another judge on this court, and despite Mr. Gregory's stellar qualifications, the Judiciary Committee has stubbornly refused to even grant Mr. Gregory the courtesy of a hearing.

I know Senator WARNER supported this judge.

Again, this just goes to show that we are having a major flap because 41 people feel strongly, are willing to come to the floor, and willing to debate a nominee, and all of a sudden the world is going to come to an end, when for years and years and years one or two or three Members of the Senate could prevent a hearing or a markup in the Judiciary Committee or an individual even being brought to the floor.

Which would the public prefer? I would hope it would be a discussion on the floor of the Senate. I would hope it would be laying out the case against the individual, as has been done with every one of the ten—only ten; in all of President Bush's terms, only ten—when in President Clinton's term there were 60, and one or two, in secret, kept that individual from being brought to the floor of the Senate and voted on.

Well, let me continue. John Binger was nominated to the U.S. District Court for the Western District of Pennsylvania on July 21, 1995, and renominated on July 31, 1997. He did not receive a hearing or a vote either time he was nominated.

After waiting more than 2 years without any action on his nomination, he withdrew on February 12, 1998.

Since 1971, he has practiced law with the Pittsburgh firm of Thorp, Reed & Armstrong. He served for 6 years as chair of the firm's litigation department.

From 1970 to 1971, he was the public safety director for the city of Pittsburgh. He served for 3 years as an assistant U.S. attorney in Pittsburgh where he prosecuted Federal criminal cases, and for 2 years he was an attorney for the Civil Rights Division of the Department of Justice. He served a 3-year tour of duty in the U.S. Navy. He was rated unanimously as well qualified by the ABA.

On October 16, 1997, the Pittsburgh-Post Gazette reported that one of the two home State Senators held up his nomination for 2 years, allowing neither a hearing nor a vote, and I do not believe it was the chairman of the committee.

Bruce Greer was nominated to the U.S. District Court for the Southern District of Florida on August 1, 1995. He did not receive a hearing and he was never voted on by the committee. His nomination was withdrawn on May 13, 1996. At the time of his nomination, he was the president of the Miami law firm of Greer, Homer & Bonner, where he has a civil litigation practice.

Senator Bob Graham supported him. Senator Connie Mack's position is not known. It is my understanding the Wall Street Journal published a lengthy editorial on July 17, 1996, that made no direct allegations against Greer, but made a case for guilt by association implying that, because Mr. Greer represented unsavory defendants, he was soft on crime.

The Columbia Journalism Review reported that the day after the editorial appeared, the chairman came to the floor to denounce judges who are soft on crime and, shortly afterward, Mr. Greer received word that he would not be receiving a hearing. So Bruce Greer was denied even a hearing to see if the allegations were true.

That is what has happened, ladies and gentlemen.

Leland Shurin was nominated to the U.S. District Court for the Western District of Missouri on April 4, 1995. He did not receive a hearing and was never voted on in committee. His nomination was withdrawn at his request, because of inaction, on September 5, 1995.

He was an executive committee member and partner at the law firm of McDowell, Rice & Smith, in Kansas City, where he maintained a general practice doing plaintiff and defense litigation. He was very active in the community.

He was rated as qualified by the ABA committee. He told the Kansas City Star:

I had the sense that my confirmation is being delayed. No one could give me a clear date when anything could be done. I've sat around for two years. I can't keep doing it.

One has to come to grips with whether this was a fair process, whether this was even as fair as what is happening today. I believe no way, no how was this a fair process. I have been one who has believed that the blue slip should be done away with, that there should be no anonymous holds, and that every

appointee should be given a hearing and a vote in the committee. That does not mean that we should change the rules of the Senate to prevent, in extreme cases, the ability of the minority to register a strong point of view, when the minority of one has historically been allowed to register a strong point of view secretly and, in fact, kill a nominee.

Sue Ellen Myerscough was nominated to the U.S. District Court for the Central District of Illinois on October 11, 1995. She did not receive a hearing or a vote in committee. She was an Illinois State circuit court judge. She was an associate circuit court judge. She worked in law firms in Springfield. She formerly clerked for U.S. District Judge Harold Baker. A substantial majority of the ABA committee rated her as well qualified, while a minority rated her as qualified.

She was supported by both Senator Paul Simon and Senator Carol Moseley-Braun at the time. In 1997, Senator DICK DURBIN stated in the *State Journal-Register* that he believed "Judge Myerscough was caught up in a Federal stall."

On September 27, 1996, the *State Journal-Register* reported that Senator Simon said he believed the reason was a matter of partisanship, not because of any controversy or problems with her qualifications. Senator Simon said he escorted Myerscough for individual meetings with Senator HATCH and other members of the panel but had "not had a single member of the committee tell me he or she couldn't vote for her."

This is what has happened. So I have a hard time understanding why we are where we are today.

Charles Stack was nominated to the U.S. Court of Appeals for the Eleventh Circuit on October 27, 1995. He received a hearing before the committee on February 28, 1996, but did not receive a vote in committee.

According to the May 11, 1996, *Miami Herald*, he came under intense attack from then-Presidential candidate Bob Dole, and he withdrew his nomination on May 13, 1996.

Cheryl Wattlely, nominated to the U.S. District Court for the Northern District of Texas on December 12, 1995, did not receive a hearing or vote in committee. The *Dallas Morning News* reported in 1996 that she was supported by both home State Senators. Again, no reason—probably filibustered because one or two or three didn't like her for one reason or another.

Michael Schattman, nominated to the U.S. District Court for the Northern District of Texas, December 19, 1995, and renominated on March 21, 1997, did not receive a hearing, was not voted on in committee. His nomination at his request was withdrawn on July 1998 after 2½ years of inaction by the committee. This man was a Texas State district court judge in Fort Worth. He had previously been a county court judge. And to add insult to in-

jury, because of the lengthy delay in the nomination process, the February 11, 1998 edition of the *NewsHour* with Jim Lehrer reported that he lost his State court judgeship. He was unanimously rated as qualified. Again, this is the hidden filibuster of this body.

J. Rich Leonard, was nominated to the U.S. Court of Appeals for the Fourth Circuit, on December 22, 1995, did not receive a hearing or a vote in committee. Subsequently, he was nominated to the District Court for the Eastern District of North Carolina on March 24, 1999. Again, he did not receive a hearing or a vote. In total, this gentleman waited over 2.5 years before the committee for the two nominations without ever receiving a hearing or a vote. He was a judge on the U.S. Bankruptcy Court for the Eastern District of North Carolina at the time of his nomination by President Clinton. He was rated as well qualified. Again, my information is that one Senator blocked both of his nominations.

I see there are others waiting. I will be brief. But let me list some of the others.

Robert Freedberg was nominated to the U.S. District Court for the Eastern District of Pennsylvania, April 23, 1998. He never received a hearing. He was a judge on Northampton County's Court of Common Pleas. He is a former prosecutor. The January 28, 1999 *Allentown Morning Call* reported that he was blocked by one Senator.

Robert Raymar, nominated to the U.S. Court of Appeals for the Third Circuit, did not receive a hearing. His nomination expired at the end of the session. Former deputy attorney general for the State of New Jersey, member of the New Jersey Executive Commission on Ethical Standards. He was rated as qualified. He was supported by both State Senators. One person filibustered this individual in committee. He didn't receive a hearing or a vote.

James Lyons, nominated to the U.S. Court of Appeals for the Tenth Circuit, did not receive a hearing or a vote, and withdrew after it became clear he would not receive a hearing or a vote. He was a longtime senior trial partner at the Denver law firm of Rothberger, Johnson & Lyons, special advisor to the President of the United States and the Secretary of State for economic initiatives in Ireland and Northern Ireland. He couldn't get a hearing. He was adjudged well qualified by the ABA.

I don't see where anybody is concerned about these injustices, and that is what they were—real injustices.

John Snodgrass was nominated to the U.S. District Court, Northern District of Alabama, September 22, 1994, renominated January 11, 1995. He did not receive a hearing or a committee vote. His nomination was withdrawn on September 5, 1995.

Anabelle Rodriguez was nominated to the U.S. District Court for the District of Puerto Rico, January 26, 1996, renominated March 21, 1997. A committee hearing was held on October 1 of 1998,

but a vote was never held on her nomination during the nearly 3 years her nomination was pending. What were the reasons for this block? On October 8, 1998, the *Associated Press* reported that her supporters said she was opposed by Puerto Rico's prostatehood Governor and congressional representative because she is a backer of the island's current status as a U.S. commonwealth, and there was apparently some overwhelming bipartisan opposition.

Why not vote? If what is being said now has been true and par for the course, why not vote?

Lynne Lasry was nominated for the Southern District of California but did not receive a hearing or a vote. After one year of inaction, the nomination was withdrawn in 1998.

James Klein was nominated to the U.S. District Court for the District of Columbia, January 27, 1998, renominated March 25, 1999, and did not receive a hearing or committee vote during the 3 years that he was pending.

Patricia Coan was nominated to the U.S. District Court for the District of Colorado, May 27, 1999. She did not receive a hearing or committee vote in the year and a half that her nomination was pending. The May 21, 2000 *Denver Post* reported that one Senator blocked her nomination.

Dolly Gee was nominated to the District Court for the Central District of California, May 22, 1999. She did not receive a hearing or committee vote in the year and a half that her nomination was pending.

Fred Woocher was nominated to the U.S. District Court for the Central District of California, received a hearing on November 10, 1999, but was not voted on by the committee despite waiting for a year after his hearing.

Steven Bell was nominated to the U.S. District Court for the Northern District of Ohio but did not receive a hearing or vote in committee for more than a year that his nomination was pending.

Rhonda Fields was nominated to District Court for the District of Columbia on November 17, 1999, no hearing, no vote.

Robert Cindrich was nominated to the U.S. Court of Appeals, Third Circuit, February 9, 2000, no hearing, no vote.

David Fineman was nominated to the U.S. District for the Eastern District of Pennsylvania on March 9, 2000, no hearing, no vote.

Linda Riegle was nominated to the U.S. District for the District of Nevada on April 25, 2000, no hearing, no vote in committee.

Ricardo Morado was nominated to the U.S. District for the Southern District of Texas on May 11, 2000, no hearing, no vote.

Stephen Orlofsky was nominated to the U.S. Court of Appeals, Third Circuit, May 25, 2000, no hearing, no vote.

Gary Sebelius was nominated to the U.S. District for the District of Kansas on June 6, 2000, no hearing, no vote.

Kenneth Simon was nominated to the U.S. District for the Northern District of Alabama on June 6, 2000, no hearing, no vote.

John S.W. Lim was nominated to the U.S. District for the District of Hawaii on June 8, 2000, no hearing, no vote.

And there are those, you might say, that came under the Thurmond rule. There is sort of an informal practice that in the last few months of a President's tenure, the hearings do not go forward. Again, that is not a rule; it is a practice.

Christine Arguello, nominated to the U.S. Court of Appeals, Tenth Circuit, on July 27, 2000.

Andre Davis, nominated to the U.S. Court of Appeals, Fourth Circuit, on October 6, 2000.

Elizabeth Gibson, nominated to the U.S. Court of Appeals, Fourth Circuit, on October 26, 2000.

David Cercone, nominated to the U.S. District Court for the Western District of Pennsylvania on July 27, 2000.

Harry Litman, nominated to the U.S. District Court for the Western District of Pennsylvania on July 27, 2000.

Valerie Couch, nominated to the U.S. District Court for the Western District of Oklahoma on September 7, 2000.

Marian Johnston, nominated to the U.S. District Court for the Eastern District of California on September 7, 2000.

Steve Achelpohl, nominated to the U.S. District Court for the District of Nebraska on September 12, 2000.

Richard Anderson nominated to the U.S. District Court for the District of Montana on September 13, 2000.

Stephen Lieberman, nominated to the U.S. District Court for the Eastern District of Pennsylvania on September 14, 2000.

And, Melvin Hall, nominated to the U.S. District Court for the Western District of Oklahoma on October 3, 2000.

What I have tried to show today is that there is a certain amount of hypocrisy in what is going on today. The opposition cannot have any concern about one Clinton nominee or dozens of Clinton nominees who received no hearing, no markup, no floor vote, but suddenly they are upset because 41 of us in public, eight of us in committee, vote no and believe that our views are strong enough and substantive enough to warrant a debate on the floor of the Senate in the true tradition of the Senate. And bingo, we are going to have a change in the rules to prevent that from happening. Nobody is talking about changing the rules so one person can't filibuster; one person can't, on a pique or because they don't like the individual, condemn that individual.

I can tell you, because I have been on this committee for 12 years, I have had people call me and say: Look, I have three children. I have to know what is going to happen to me. I try to get information, can't get that information.

I ask the majority of this body, is that fair? Do you not feel aggrieved? Or is that OK because it was a different

President of a different party? I don't think so. I think what is sauce for the goose is sauce for the gander. I pointed out two uses of filibusters for judicial appointments by Republicans, one in 1881 and one in 1968.

Mr. COCHRAN. Mr. President, will the Senator yield for a question?

Mrs. FEINSTEIN. I certainly will.

Mr. COCHRAN. Mr. President, I am curious to know when the Senator plans to complete her remarks. At the beginning of her remarks, she assured the Senate that she would take about 30 minutes. We are on the conference report on the supplemental appropriations bill which is an urgent supplemental bill. We have about 4 hours divided among Senators on both sides to complete debate. I don't want to push the Senate into the evening hours, if we are going to have a prolonged discussion of this issue when we thought it was going to be 30 minutes. It is almost an hour now.

Mrs. FEINSTEIN. I appreciate the Senator's forbearance. He is a true gentleman. Out of respect for him and for the institution, I will conclude my remarks.

During the reorganization of the Senate in 2000, Senators Daschle and LEAHY worked to make the nominations process more fair and public. This refining forced Senators opposed to a nomination to be held accountable for their positions. They could not hide behind a cloak of secrecy. This step also wiped out many of the procedural hurdles that have been used to defeat nominations. So many of the tools used by Republicans in the past, and referred to as a way to draw distinctions with a public cloture vote are no longer available. This historical record is important, yet it is too often lost in our debates.

I also believe it is useful to examine the current state of judicial nominations, and what has actually occurred in this body during President Bush's tenure: 208 judges confirmed out of 218; 95 percent of President Bush's judges have been confirmed; the Senate has confirmed 35 circuit court nominees; recently, the Judiciary Committee reported out 2 District Court and 1 Circuit Court nominees; today, there are only 4 judicial nominations on the Senate calendar waiting for a vote; and there are only 45 total vacancies, both district and circuit courts, and 29 do not have nominations submitted.

What do these numbers mean? There are more judges today sitting on the federal bench than in any previous presidency. The Senate has confirmed more judges for President Bush than in President Reagan's first term, his father's only term, or President Clinton's second term.

The Senate confirmed more circuit court judicial nominees than in Reagan's or Clinton's first term. When Democrats were in the majority in 2001, there were 110 vacancies and by the end of the 108th Congress and President Bush's first term, the num-

ber had plummeted to 27—the lowest level of vacancies since the Reagan era.

Of the 8 nominees reported out of committee this year, four have already been confirmed. One, Thomas Griffith, is waiting a vote, and the remaining three are controversial nominees who were defeated last Congress: William Myers, Priscilla Owen, and Janice Rogers Brown.

In addition, President Bush has sent the Senate but one new judicial nomination this year. Brian Sandoval of Nevada is the only new judicial nomination sent to the Senate in the first five months of this year. He has bipartisan support from his home State Senators and appears to be a consensus nominee.

Again, what do these numbers mean? They mean there is no crisis on the federal bench that justifies the so-called nuclear option as some of my Republican colleagues contend.

To me, the record I just described and the reasons for opposing these limited number of nominees doesn't lead to the conclusion that the Senate should be discussing breaking our own institutional rules and unraveling the checks and balances established by our Constitution.

Some have described this debate as a strategy to change the rules. Changing the rules is not only unacceptable, but in this case it is inaccurate as well. The nuclear option is a strategy to break the rules. This isn't just my assessment; it's the conclusion drawn by the Senate Parliamentarian and the Congressional Research Service.

Last week, press reports reiterated that Senator REID had been assured by the Parliamentarian that if the Republicans go through with this strategy they would "have to overrule him, because what they are doing is wrong."

The Congressional Research Service concluded in a recent report that to employ these tactics the Senate would have to "overturn previous precedent." "Proceedings of this kind, it is argued, would both break old precedent and establish new Senate precedents. Eventually such a plan might even result in changes in Senate rules, while circumventing the procedures prescribed by Senate rules."

So, shortly, the Senate will likely be faced with a preemptive strike to break the rules. The term preemptive strike seems appropriate when there are only three controversial judges waiting for a vote—judges who were previously defeated last Congress and have drawn strong opposition.

This is a move to wipe out 200 years of precedent when this Senate has only been in session for just over 4 months, when this President has had over 200 judges confirmed, and when the Judiciary Committee reported favorably a controversial circuit court judge who was not voted on last Congress, but was renominated. This appears to me to be an escalation that is unwarranted in the reality of what has actually occurred and is happening in this session.

I find it ironic that while our country fights abroad to establish democracy,

to promote checks and balances, and institute wide representation of all people in government; here at home our leadership is attempting to erode those very protections in our own government. What kind of message are we sending? "Do as I say, not as I do"?

This debate over judicial nominees is a debate about privacy, women's rights, civil rights, clean environment, access to healthcare and education; retirement security—we may not all agree, but the beauty of our country is the freedom to disagree, to debate, and to require compromise because no one party has the corner on the market of good ideas and solutions—and no party has the corner on the market of political power.

Democrats held the House majority for over 50 years, and now Republicans have been in the majority for over a decade. Democrats held the White House for eight years, now the Republicans will have occupied the White House for eight years. Neither party will always be right when it comes to the best policies for our country, and neither party will always be in power.

There are many urgent problems the Senate needs to be focused on and Americans' want us to focus on: the war in Iraq; protecting our homeland; addressing the high cost of prescription drugs; alleviating rising gas prices; ensuring our social security system is stable and working; and reducing the federal deficit.

I am troubled that instead today we are spending much of our time on political posturing gone too far—on a strategy to unravel our constitutional checks and balances.

Cold War commentator Walter Lippman once said, "In making the great experiment of governing people by consent rather than by coercion, it is not sufficient that the party in power should have a majority. It is just as necessary that the party in power should never outrage the minority." And today, we are outraged.

I would hope that the majority would not choose to unravel that foundation over a small handful of nominees. I would hope we would continue to honor the tradition of our democracy. I would hope the President will urge others in his party to walk away from this nuclear strategy. And I know if the shoe was on the other foot, I would not advocate breaking Senate rules and precedent.

Regardless of how this debate continues to unfold, I remain committed to evaluating each candidate on a case by case basis, and I will continue to ensure that judicial nominees are treated fairly and even-handedly, but I will not fail to raise concerns or objections when there are legitimate issues that need to be discussed.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, before I make my remarks on the supplemental appropriations conference report, I commend my friend and col-

league from California. As we have come to expect, her presentation was thorough, comprehensive, factually and historically accurate. Much in the debate that has occurred around the so-called nuclear option has been heated. It has been rhetorical. It has been filled with opinion. It has been, unfortunately, often devoid of either historical or factual content. I personally appreciate greatly the Senator from California putting into the RECORD these very carefully created remarks based on facts. I hope no matter what happens with this debate—and obviously, I hope the Senate comes to its senses and realizes that we owe an obligation to the Constitution and the country—historians will be able to look back and read the very impressive statement of the Senator from California and know what the facts were. I personally express my appreciation to her.

Mr. DORGAN. Will the Senator from New York yield for a question?

Mrs. CLINTON. Yes.

Mr. DORGAN. Mr. President, I ask unanimous consent that I be recognized at 2:15 for 15 minutes to discuss the supplemental. Senator BYRD is the ranking member on the Appropriations Committee. If he is here and wishes to speak at that time, I will yield the floor to him. In the absence of that, I ask consent.

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

The Senator from New York.

Mrs. CLINTON. Mr. President, I rise to address the emergency supplemental appropriations conference report. When the vote occurs, it is likely to be, if not unanimous, very close to being unanimous. And why? Because this conference report contains the funding that is needed by our brave troops in Iraq and Afghanistan. It contains funding to provide necessary resources to equip our troops and to do the military construction that is necessary. I will vote for this conference report. But I want to record some serious reservations about this process. First, the emergency supplemental appropriations process is destined to be just that. It is a way to fund unforeseen emergencies outside of the usual budgetary process.

Unfortunately, once again, we are funding the cost of the military in Iraq, Afghanistan, and elsewhere, as well as a legitimate emergency, such as the tsunami relief provisions in the bill, through an emergency. I am privileged to sit on the Senate Armed Services Committee, which is responsible for presenting the authorization for the budget for the Department of Defense, and during several of our hearings over the last several months, I, among a number of my colleagues on both sides of the aisle, have asked our civilian and military leadership from the Department of Defense how they explain the fact that once again the costs for Iraq and Afghanistan are not in the budget; they are in the emergency supplemental.

Many of these costs perhaps were genuine emergencies, but many others are not. I would not argue with many of the decisions made because I am well aware of the importance of recapitalizing our equipment, building back up our stores of arms that have been decreased through necessary action. But a good budgeting process would take all of that into account. Having this supplemental, unfortunately, with the big title "emergency" over it appears to be an effort to rush things through to avoid congressional oversight and scrutiny. Obviously, a bill that is going to provide funding for the young men and women wearing the uniform of our country, in harm's way every single hour of every day, is going to command broad bipartisan and public support, as it should. But that doesn't, in my opinion, in any way mitigate against what should be the necessity of an orderly process, an appropriations process subject to the give and take of opinion and fact, and argument and reason and evidence, and then the presentation of a budget that includes the expenses that are necessary for our military.

I regret deeply that we are, once again, seeing an emergency bill being pushed through the Senate, as it was pushed through the House last week, when instead we should be having an orderly process looking at these matters within the budget and making decisions based on that process.

During the Armed Services Committee hearing on this supplemental request, a number of my colleagues asked why projects that ordinarily are included in the regular Department of Defense budget were being shifted to the supplemental. I really was quite taken aback when the military leadership said they didn't know, that they were just told they should put it out for the supplemental. The civilian leadership present at the hearing could not offer a much better explanation. So it is regrettable that we are making these important, literally life-and-death decisions once again in an emergency supplemental as opposed to the regular budget.

Also, it is regrettable that the administration is not providing a proper accounting of how funds are being spent in Iraq. According to recent reports, Government auditors found that American officials rushed to start small building projects in a large area of Iraq during 2003 and 2004. They did not keep the required records that would tell us how they spent \$89.4 million in cash. They cannot account for at least \$7.2 million more. This is a very serious question. If we are appropriating this money and we are sending it for both military and reconstruction purposes to Iraq, we have a right to expect that records will be kept so we can determine whether it is being spent in the appropriate manner.

We have also heard that millions of dollars of Iraqi reconstruction funds that have been appropriated have also

not been spent. A large reason for that is security. But why come back for more money when we cannot spend the money we have already appropriated? It is heartbreaking to me that there is so little oversight from this Congress with respect to this administration. There are no rigorous hearings being held to determine whether we are spending money correctly, how it is being spent, where all of the cash is going. The first time I flew into Iraq, I flew from Kuwait to Baghdad on a C-130. The back of it was loaded with cash—dollars. They were being taken into Baghdad to be spent for God knows what, and there is no accountability.

It is remarkable that this Congress, at this important moment in American history, is not exercising its constitutional oversight responsibilities. During the Second World War, Harry Truman, a Democratic President, with a Democratic Congress, held hearings about where money was going in World War II. In the 1960s, Senator Fulbright, with a Democratic President and a Democratic Congress, held hearings about our policies and actions in Vietnam. We have a Republican President, a Republican Congress—hear no evil, see no evil, speak to evil; we don't want to know. Questions are not asked—at least publicly. People have no idea where this money is going, who is getting it, and how it is being spent. These emergency supplementals have even less oversight than the typical budget, which in this Congress is practically nothing.

So while we continue to spend billions and billions of American taxpayer dollars, we don't see the requisite accountability occurring in this body to determine whether we are spending them appropriately.

I am also deeply concerned that on an emergency supplemental to fund our troops and fund the relief disaster in southeast Asia because of the tsunami, we are being asked to vote on something called "REAL ID." It is a provision meant to, in the supporters' argument, make our country safer. How do we know? We haven't had hearings about it in the Senate. We have not even had debate about it in the Senate. I joined with Senator FEINSTEIN to try to prevent immigration proposals from being tacked onto the supplemental. But we all know why that happened—because the administration backed up the House Republican leadership to give them an opportunity to put the so-called REAL ID on a must-pass piece of legislation; namely, legislation to fund our troops. So without debate, without committee hearings, without process, we have the so-called REAL ID in this emergency supplemental.

I am outraged that the Republican leadership, first in the House and now, unfortunately, in the Senate, would put this seriously flawed act into this emergency supplemental bill for our troops in Afghanistan and Iraq. Emergency legislation designed to provide

our troops the resources they need to fight terrorism on the front lines is not the place for broad, sweeping immigration reform. That is what REAL ID is. There may be parts of it that we could agree on if we ever had a chance to debate it. Other parts go too far and don't fulfill the purpose of making our country more secure.

I am in total agreement with those who argue that we need to address our immigration challenges, and we are still not doing what we should to fulfill the demands of homeland security. I think they go hand-in-hand. If we cannot secure our borders, we cannot secure our homeland. Everybody knows we are not securing our borders. Who are we kidding? We need a much tougher, smarter look at these issues. But instead we are taking a piece of legislation passed by the House, jammed into supplemental emergency appropriations for our troops, and we are going to up-end the way we do driver's licenses throughout our country, and we are going to claim we have now made America safer.

I think that is a false claim. I regret deeply that we are rushing to pass this emergency bill with this so-called REAL ID in it. We need to reform our immigration laws. We need to make our borders more secure. But we need a debate about how we are going to do that. Isn't it somewhat interesting to everyone in this Chamber that the richest, smartest country with the best technology in the world cannot secure its borders? Why would that be? Well, part of the reason is because there are many people, particularly to our south, who are desperate for a better chance. They literally risk their lives to come here. Part of it is because we have a lot of employers who want to employ them. So they know if they get here, they will have a job. We are not having a public national debate about this because, if we were, we would have to point fingers at these employers who pick up illegal immigrants every single day on street corners throughout America, or who sign them up to work in dangerous factories with very little health and safety regulation.

So come on, let's not kid ourselves. We have a serious security and immigration problem. But we are not addressing it by jamming this provision about driver's licenses into our emergency appropriations. We need to make our borders more secure. I have introduced legislation 3 years in a row to have a northern border coordinator. I met with both Secretary Ridge and Secretary Chertoff. We don't know who is in charge of the northern border. Trying to figure out who is responsible for the northern border is like playing "Where is Waldo." We cannot figure that out. We are not taking simple steps to rationalize our bureaucracy in Washington, to find out what our holes are and how they can be plugged, what policies would work if we were actually serious about improving security.

The REAL ID Act also gives total control to the Secretary of Homeland

Security to waive legal requirements that stand in the way of constructing barriers and roads along the border. The only check is limited judicial review. This is quite a tremendous grant of authority to one person in our Government. I am sure there are some reasons why we would want to expedite a process to try to have better security along our borders. But to give this unchecked responsibility to the Secretary, with limited judicial review—that is a slippery slope, my friends. We are sliding further and further toward absolute power and the removal of our checks and balances.

We also have to figure out how we are going to deal with the changes in asylum rules that are in REAL ID. I am very proud of the fact that our country has always welcomed asylum-seekers and refugees. There is a city in New York, Utica, which is known as one of the most welcoming places for refugees in the entire country. I am so proud of the people of Utica. They have taken in Bosnians, Kosovars, Somalians, all kinds of refugees—people who could not stay in their home country and were desperate for some place of refuge. Under these new rules, we will see whether America remains the place of welcome, whether we fulfill our obligations to our fellow men and women.

I hope that the failure of having a process with respect to REAL ID, the continuing use of the supplemental appropriations route for funding our troops, which avoids the budget process, will at some point come to an end because the majority will no longer tolerate it. This is not good for any of us—to have these kinds of processes that really turn our constitutional system upside down.

In the meantime, we need to send a message that we are able to have national debates about sensitive issues, to debate judicial nominations on the floor, using the rules that have really stood the test of time and been good for the Senate and our country. We don't always win, but the Senate was devised to protect minority rights. I represent a State of 19 million people. The Presiding Officer represents a much smaller State. He and I are equal. That is the whole idea behind the setup of the Senate.

Finally, let's be sure that we do not piecemeal reform immigration—I use the word "reform" advisedly—that we have the kind of debate and comprehensive reform that is so needed. I bet every one of the offices of my colleagues is faced with what my office confronts every single day. We do lots of casework. There are a lot of people who came here legally. They cannot get their relatives into this country. They cannot reunite their families. I want to have a reform that really provides benefits for legal immigrants.

Mr. President, I hope we can deal with these issues in a better way that really reflects the best of the Senate going forward.

The PRESIDING OFFICER. The Senator from Mississippi.

UNANIMOUS CONSENT REQUEST—COMMITTEE MEETINGS

Mr. COCHRAN. Mr. President, before the Chair announces the recess for the policy luncheons, I have eight unanimous consent requests for committees to meet during today's session of the Senate. They have the approval of the majority and minority leaders. I ask unanimous consent that these requests be agreed to and the requests be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE, THE GLOBAL WAR ON TERROR, AND TSUNAMI RELIEF ACT, 2005—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I believe, by unanimous consent, I am to be recognized at 2:15 for 15 minutes.

I allocate 2½ minutes of that time to the Senator from Wisconsin, Mr. KOHL.

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

The Senator from Wisconsin.

Mr. KOHL. Mr. President, although I will vote for this conference report, I feel obliged to alert my colleagues to a serious flaw. This bill does not provide enough international food aid. And if emerging reports are correct, I fear we are about to enter a spring and summer of agony in some of the poorest parts of the world.

This situation troubles me a great deal. Here we are, the strongest nation on Earth, and we are rightfully appropriating funds to maintain that strength. But with enormous strength comes a moral obligation to respond appropriately to pain and suffering. This bill fails to respond appropriately.

When the supplemental was first considered in this body, Senator DEWINE and I and others offered an amendment to provide a total of \$470 million for PL-480 food aid. That may sound like a lot to some, but it totaled merely six-tenths of 1 percent of the total spending in the bill.

Mr. President, \$346 million of our amendment was intended to meet the U.S. share of world-wide food emergency needs as already identified by the U.S. Government. Another \$12 million was slated to restore Food for

Peace resources diverted to address the tsunami. Finally, \$112 million was intended to restore food aid development projects that the United States has already pledged to other countries this year.

It troubles me, and it should trouble everyone here, that we may not be able to deliver on those pledges. What a disturbing message that sends to the rest of the world. It says that while we may talk a good game on food aid, you cannot be too sure just where we stand when the going gets tough.

The numbers in our amendment were not pulled out of thin air. They were the result of close analysis of the world situation. In light of new reports from Ethiopia, I worry that even the amounts included in our original amendment may have been, in fact, too conservative.

Sadly, the conference reduced the food aid total to \$240 million, a level that is well below a split with the level proposed by the administration and adopted by the House.

I ask unanimous consent that an alert I received from several faith-based organizations about the situation in Ethiopia be printed into the RECORD.

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

FLASH ALERT FROM JRP MEMBERS

ADDIS ABABA, ETHIOPIA—APRIL 2005

The three Churches and two Church-related agencies (Ethiopian Orthodox Church, Ethiopian Catholic Church, Ethiopian Evangelical Church Mekane Yesus, Catholic Relief Services and Lutheran World Federation) who make up the ecumenical Joint Relief Partnership feel compelled to bring to the public's attention a situation that if not immediately addressed in a forceful manner will bring about widespread disaster resulting in untold suffering and death for a number of people—a number that is rapidly approaching the 8-10 million mark of Ethiopian people at risk in 2005.

This humanitarian situation has thus far received little international attention for a variety of reasons, which in addition to the reluctance of the Ethiopian Government to advertise it are the following: Severe drought conditions. The late start-up of the Ethiopian government's national Productive Safety Net Program (PSNP) which is meant to provide multi-year support to over 5 million chronically food insecure people. The lack of adequate resources to provide food and non-food assistance to 3.1 million acute food insecure people.

Drought Conditions: The current reality is that the early belg rains (February/March) have failed in many areas, including East and West Hararghe and Arsi zones of Oromiya, parts of Southern Nations Nationalities and Peoples (SNNP) and parts of Tigray. The situation is severe, with many pocket areas showing high levels of global acute and severe acute malnutrition in children under 5. As an example, reports from the Disaster Prevention and Preparedness Commission (DPPC) indicate that large numbers of severely malnourished children are entering one hospital in East Hararghe from three woredas seriously affected by malnutrition.

There are rising and alarming levels of distress migration in certain areas, water is particularly scarce in some areas and cereal prices are high.

Delays in Productive Safety Net Program (PSNP): This is a program designed to overcome people's dependence on food assistance. While this is an important step, continued robust response to emergency conditions is critical to ensure the success of more developmentally oriented programs. Unfortunately, this program, which was meant to begin in January 2005, didn't start until late March in most areas of the country and, in some areas, still has not begun. Without going into details of why this foul-up occurred, the fact is that people targeted under the PSNP have, in most cases, not yet received the planned assistance and there are now deteriorating health conditions, especially in women and children. Many of the chronically food insecure now face acute conditions, themselves.

Poor Resourcing of 2005 Appeal: Current figures indicate that 66% of food needs are pledged and only 10% of non-food needs. It must be noted, however, that this includes an un-guaranteed WFP pledge. With the number of people requiring assistance continually increasing, the level of resources required is certain to increase significantly. While 66% sounds promising, it should be noted that, using current assessments going on, this figure may not adequately represent the real need.

Among the reasons for the low level of resources are: Donor attention being focused on other emergencies (Darfur and tsunami), greater emphasis being placed within the country on PSNP rather than ongoing emergency needs, pressure to demonstrate that the country is moving away from annual Emergency Appeals, misleading recent WFP/FAO crop assessment suggesting a 25% increase in yield over last year, and traditional food donors having their own constraints.

Unless commitments of food and non-food items are made immediately, the JRP will not be able to pre-position food in the most severely affected areas prior to the rainy season which starts in June because of poor road conditions at that time. This will lead to further setbacks and great loss of life.

It is with the above in mind, that the JRP is appealing to its traditional Partners to bring this situation to the world's attention and to act as promptly as possible.

With every best wish, we remain, the JRP Members:

ETHIOPIAN ORTHODOX
CHURCH,
ETHIOPIAN CATHOLIC
CHURCH,
ETHIOPIAN EVANGELICAL
CHURCH MEKANE YESUS,
CATHOLIC RELIEF SERVICES,
LUTHERAN WORLD
FEDERATION.

Mr. KOHL. This situation is not going to go away. I have grave fears that images coming out of places such as Ethiopia in the coming months may reveal a tragedy unfolding before our very eyes. And what is most troubling is that this may be a tragedy that we could have helped avoid.

I will soon be sending a letter to the President encouraging him to consider other emergency authorities to address this dire situation. Specifically, we will ask him to utilize the Bill Emerson Humanitarian Trust to address this pain and suffering. I urge all my colleagues to join us in sending this message to the President.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I commend my colleague from Wisconsin. I

agree with all he has described. I think this is a really important issue and increased food aid is critically important. So I appreciate him being here.

I will speak for a moment about this \$82 billion supplemental bill. Most of it is to restore accounts in the U.S. Army and other military installations or military organizations because that money was not in the budget. We had asked last year that it be put in the appropriations process so that it could be considered. We know that we are going to spend money in Iraq and Afghanistan, but the administration, year after year, does not put any money in for these accounts and then comes back with an emergency request later.

It is a fiction that is being created. We know this is costing money every single month. I guess the reason to do it on an emergency basis is so that nobody has to pay for it. This is \$82 billion not paid for, just emergency, stack it on top of the debt and say to the troops: Go to Iraq, serve your country, do your duty and, by the way, when you come back we will have the debt waiting for you, so you have served in Iraq and you can also come back and pay for the cost of that. That does not make any sense to me.

We had a small provision on the issue of government spending when this bill was before the Senate, and I want to talk about it for a moment. It dealt with the appointment of an independent counsel in 1995 that was to investigate the allegation that a Cabinet official lied about payments he had made to his mistress. So an independent counsel was formed 10 years ago. That independent counsel was to investigate Mr. Cisneros, a man who I may have met in 1993 or 1994 and have not seen since. In any event, an independent counsel was appointed to investigate whether he lied about payments he had made to a mistress. Ten years ago, that independent counsel started working and spending money. In 1999, Mr. Cisneros, the subject of the investigation, pleaded guilty to a misdemeanor. In 2001, 2 years later, the President pardoned him. So 10 years ago the independent counsel was formed, 6 years ago the subject of the investigation pleaded guilty, and 4 years ago the subject of the investigation was pardoned by the President.

This independent counsel is still in business and still spending money. In the last 6 months, the independent counsel has spent nearly \$1.3 million. I offered an amendment, that the Senate passed, which says, tell them to finish by June and shut down. In fact, 2 years ago, the three-judge panel which supervises this independent counsel told him to wrap it up, and get it done. This independent counsel has now spent \$21 million over 10 years, and so we offered an amendment that said, shut it down.

The Senate accepted it. It went to conference and it was pulled out. So the independent counsel still spends money.

The Wall Street Journal wrote an editorial saying this was some nefar-

ious amendment designed to try and protect some information that exists deep in the bowels about some scandal with the Internal Revenue Service—typical political sludge coming from the editorial page of the Wall Street Journal. Then we have the same sludge offered by Mr. Novak in his column, I believe it was last Thursday, suggesting there is something else going on here.

Well, let me just say this: If we have enough money to have independent counsels continuing to be paid 6 years after the subject of their investigation pled guilty, and 4 years after they were pardoned, it is a high-water mark for bad judgment. It is unbelievable. All it describes to me, with respect to Mr. Novak and the folks who believe we should keep spending this money, is that even waste has a constituency, in some cases a very aggressive constituency.

We really need to save the taxpayers' money, and this is an unbelievable waste of the taxpayers' money.

Let me ask how much time I have remaining.

The PRESIDING OFFICER. Eleven minutes.

JUDICIAL NOMINATIONS

Mr. DORGAN. Robert Fulghum wrote a book entitled simply, "All I Really Need to Know I Learned in Kindergarten." Many have read that book. Some of it is, of course, wash your hands, share, be nice to others. One, of course, is to tell the truth. That simple kindergarten lesson is lost in some cases and particularly in the media wars that go on over significant issues.

I brought to the floor today some advertisements that are being run across the country in support of those who in this Senate Chamber are prepared to exercise what is called a self-described "nuclear option" by the majority. What is their nuclear option? Well, they are in kind of a snit. They do not get all of the judges approved—just over 95 percent of the judges sent to us by the President. Now, because not every single judge has been approved by the Senate, the majority party is out of sorts, cranky, upset, and sufficiently so that they and the groups from outside this Chamber have decided what they ought to do is violate the rules of the Senate in order to change the rules of the Senate.

Let me just point out what is happening as they lead up to this so-called nuclear option where they violate the rules of the Senate. They are creating their own fiction. The President, by the Constitution, has the right to nominate Federal judges who will sit for a lifetime on the Federal bench. We have a separate responsibility to advise and consent. The President sends a name down, and we say yes or no.

This President, George W. Bush, has sent 218 names of people he wants to serve for a lifetime on the Federal bench. We have approved 208 of them. Because they have not gotten approval for all of them, they have decided they

want to violate the rules of the Senate in order to change the rules of the Senate.

Let me give an example of one of the 10, Janice Rogers Brown. Here is what she says, and I am quoting her directly:

Senior citizens blithely cannibalize their grandchildren because they have a right to get as much free stuff as the political system will permit them to extract.

One does not have to be a rocket scientist to understand what this means. This is somebody whose philosophy believes that there is something inherently wrong with Social Security and Medicare. It is the old folks living off the rest of the country.

I do not know, maybe it is a person who does not know senior citizens, has not visited a nursing home, does not understand what it is like to work without very much money, without resources, and wonder what their retirement is going to be like.

Do I want this person sitting on the Federal bench? No. Am I pleased that I participated in saying, no, this person should not sit on the Federal bench? One can bet their life I am.

There are groups that are advertising in our States, and they are saying this is an attack on people of faith if we do not support these judges, or it is an attack on a minority.

Here is a religious organization that is running ads in States:

... Never before has the political minority hijacked democracy in this way. . . .

This religious organization says, in paid political advertising:

... Senate Democrats have abused the rules . . .

Another religious organization states:

... Never before in history have judges with majority support been denied a vote by the misuse of the filibuster rule. . . .

Well, there are Ten Commandments and they can be found in the 20th chapter of Exodus. I suggest to those who throw around this issue of faith, those organizations that call themselves religious organizations and want to buy political ads and then not tell the truth in the ads, that they refer to the 20th chapter of Exodus and the ninth commandment, thou shalt not bear false witness. There are Ten Commandments, not nine. Do not skip the ninth when getting involved in this discussion.

The least that is owed to the American people is the truth, and it is simply not true that the minority in the Senate has abused the rules, or has hijacked democracy. That is simply not true.

The facts are that we have supported 208 of 218 nominees sent to us by this President. The facts are that the 60-vote requirement to get cloture in this Chamber is a requirement that has existed for a long time, and it is a requirement that is healthy for this Chamber. It is protective of the minority, whether it be Republican or Democrat. It is what requires compromise. Compromise is a good thing.

There are some in this Chamber who think that no one should ever compromise. If one party runs the White House, the Senate and the House, they ought to have it their way all the time, and if they do not get it their way, they have a right to be angry and to change the rules of the Senate even if they violate the rules to do it.

There is a way to change the rules of the Senate. It takes 67 votes. I hope the 67 votes is not in dispute.

The majority has concocted a scheme by which with 51 votes they will change or attempt to change the rules of the Senate with something they mislabel as the nuclear option.

This is something that disserves the interests of the Senate and the American people. We have very serious problems with health care costs. We have problems with the cost of prescription drugs. We have jobs moving overseas in unlimited quantity. We have trade deficits, the largest in the history of this country. We have serious energy problems, and guess what, we have a majority that has their nose bent out of shape because there are 10 judges out of 218 who somehow did not make it, and that is an affront to a majority that insists that they have it their way all the time. I didn't take Latin because I was in a high school senior class of nine, but I think the term "totus porcus" might just best describe what the majority party believes it is due on these issues. They want it all—the whole hog—right now. If they do not get it, they are prepared to go to the ultimate length that they describe as the nuclear option.

My hope is that in the coming days, heads will clear, and they will rethink this approach. Both parties will be in the minority at some point. Both parties have been and will be in the future at some point. I believe any majority party, whether it be a Democratic Party or a Republican Party, that decides to break the rules to change the rules will rue the day that happens.

I came here because I want to work in a constructive way on public policy. I hope we can continue to do that. But I read the Constitution again and again and understand what it says. It says this Government of ours works when we work together. The 60-vote majority in the Senate I know is nettlesome. I know it gets under people's skin. But it is what has always distinguished this Senate from other bodies. It is what requires compromise. It says to a President—any President, Republican or Democratic President—when you send a name down here for a lifetime appointment to the bench, it ought to be a name that reflects some semblance of compromise; and we have approved 208 of them. One of them I regret we approved. I voted against that one, by the way, a candidate for a lifetime appointment on the court who has written that he believes women are subservient to men. I do not think that person belongs on the bench, but the person made it through here. The fact is, 208

of them are now serving for a lifetime on the Federal bench, which I think is extraordinary cooperation. I believe we have the lowest vacancy rate on the Federal bench that we have had for 15 years or more.

It is profoundly disappointing to see what is going on around the country with a massive amount of money going to the television and radio stations, some by religious organizations, neck deep in politics, saying you know what the minority party is doing in the Senate is hijacking democracy and engaging in mischief, abusing the rules and so on and so forth. I again say to them that is, in my judgment, bearing false witness. They ought to know it.

Let's have a real debate—a thoughtful debate, not a thoughtless debate—about how we proceed to address the major issues affecting America. Yes, the major issues: health care, trade, jobs, energy—the sort of things that determine what kind of life our kids and grandkids are going to have, what kind of opportunity they are going to have.

When they sit around the supper table at night as a family, what are the things people talk about? They talk about, Do I have a good job? Does it pay well? Does it have benefits? Can I care for my family with this income? Do Grandpa and Grandma have access to decent health care? Do we live in a safe neighborhood? Do we breathe air that is quality air and drink healthy water that is not going to injure our health? These are the kinds of things that are important to people. Do we send our kids to schools we are proud of? Yet, are we debating that on the floor of the Senate? No. No, regrettably not. That is not the central set of issues we are debating.

We are now debating this so-called nuclear option. Why? Because out of 218 names sent to us by the President asking for a lifetime appointment to the Federal courts, we have approved only 208. We have approved only over 95 percent, and that is a problem for the majority.

A majority will not long remain a majority if it does not understand the requirement that all of us have to work together: to compromise, to tell the truth, and to do what is best for this country.

Mr. President, let me ask how much time I have remaining.

The PRESIDING OFFICER. Three seconds.

Mr. DORGAN. Mr. President, let me go much longer. I am sorry, for 3 seconds let me thank my colleagues.

This is the time to be controlled on our side by consent, if I might read it into the record? My guess is it will go back and forth: Senator BYRD, 20 minutes; Senator REID, 15 minutes; Senator SALAZAR, 15 minutes; Senator CORZINE, 10 minutes; Senator OBAMA, 10 minutes; Senator LIEBERMAN, 10 minutes; Senator LEAHY, 15 minutes; Senator DURBIN, 1 hour, 10 minutes of that to go to Senator MURRAY; and Senator FEINGOLD, 10 minutes.

Let me ask by consent to understand that is the progress on our side, understanding it would be interspersed with Republican speakers.

Mr. COCHRAN. Reserving the right to object, let me ask the Senator, if I may, does the total of that amount of time exceed the amount under the order that your side of the aisle has been granted, or is it less than that?

Mr. DORGAN. Mr. President, I am told this is within the time that has been granted.

Mr. COCHRAN. I have no objection.

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

The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I am here to talk about the supplemental appropriations bill. While the Senator from North Dakota is here—he is one of the best speakers in the Senate. He can take a story, tell it, and be clear about what he is saying. He has spoken eloquently about the need for a compromise. I will suggest one to him. I suggested it 2 years ago when I came to the Senate and heard the debate about Judge Estrada. I said at that time that, even if a Democratic President were elected, that I would never vote to filibuster his nomination. In other words, I would always vote to give a President of the United States a fair up-or-down vote on the floor of the Senate on his or her nominee.

I have repeated my pledge to do that on this floor several different times, and, I would say to my friend from North Dakota, if he would get 8 or 10 Democrats to make the same pledge, there would not be any filibuster. There would be no need for a rules change. We could talk about gas prices, we could talk about schools, and we could talk about the war in Iraq. So that spirit of compromise is there.

I was not here during whatever went on before, and, whatever it was, I wish it had not gone on. What I can remember, going back to 1967, which is when I came to this body as a legislative aide even before the President pro tempore was a Senator, is that all during that time this tactic was not used to deny a President an up-or-down vote on his judicial nominees. The only possible argument during that time was the case of Abe Fortas in 1968, and that was a little different.

But put all that to the side, the "who shot John" or "who didn't shoot John." If several on that side and several on this side would simply say, as a way of avoiding this train wreck, that we would pledge right now, during our time here, always to vote to give a President an up-or-down vote on his or her judicial nominees, then there would be no need for a rules change, and we could go on to our other business.

Mr. DORGAN. Will the Senator yield?

Mr. ALEXANDER. I will be happy to.

Mr. DORGAN. Let me just observe, because the Senator mentioned me, my

point of supporting the 60-vote threshold is that is what requires compromise. The very presence of the filibuster is what requires compromise. Otherwise you do not have any incentive to compromise, be it the executive branch relative to the legislative branch. That was not my point. It wasn't that we should find a way to allow the nuclear option to exist without changing the rules of the Senate.

Mr. ALEXANDER. Mr. President, I appreciate my friend's point. May I make my remarks now?

The PRESIDING OFFICER. The Senator is recognized.

Mr. ALEXANDER. Mr. President, the supplemental appropriations bill is going to come up. We are going to vote on it. I commend the chairman of the committee for accomplishing what is a difficult job—getting a body that operates by unanimous consent to agree on something and moving it through.

The purpose of the bill is to support the men and women who are fighting in Iraq and Afghanistan. I was there about a month ago. There are so many Tennesseans in Kuwait and Afghanistan and Iraq that it seemed like a Tennessee homecoming. There are literally thousands there—the postmasters of Winfield and Rob Camp. The President of the Rotary Club in Lexington, a physician, just came home. The editor of the newspaper in Dyersburg, two deputy sheriffs from my home county, the superintendent of schools from Athens—these are people in the Reserves or in the National Guard with mortgages and families and jobs, with money and insurance issues at home. They are fighting for us. Some are dying, and they are risking their lives every day. Of course I want to vote to spend every penny we need to spend to support them and to keep them safe.

Once we set forward on a mission, on a military mission, we should have the stomach to see it all the way through to the end in a success strategy, not an exit strategy, and to support the American men and women whom we ask to go.

That does not stop me from objecting and expressing my disappointment to two provisions in the bill. One is the so-called REAL ID Act. Actually, unlike a lot of legislation we pass here, this is well named. This really is a national identification card for the United States of America for the first time in our history. We have never done this before, and we should not be doing it without a full debate. This REAL ID provision turns 190 million driver's licenses, which are now ineffective ID cards, into more effective national identification cards. To add insult to injury, we have also slapped State governments with the bill for them.

I strongly object to this. When I was Governor of Tennessee, I vetoed our State ID card twice because I thought it was an infringement on civil liberties. I thought that driver's licenses

are for driving. If we need an ID card, we should have an ID card. The legislature overruled me. I actually had to get one of those cards myself in order to get into the White House, so I lost that battle. So I am very reluctant for this country to have a national ID card. But I reluctantly concluded that, after 9/11, we have to have one and that we ought to be thinking about what would be the best kind of ID card.

I believe the right way to consider that is when we are dealing with comprehensive legislation on immigration, which I hope we do this year, and tackle that problem and the best way to do it. Is the best way to do it to turn the driver's licenses examiners in all the States of the country issuing 190 million driver's licenses into CIA agents? I don't know what it is like in Ohio or other States, but in Tennessee the driver's licenses examiners by and large are there for the purpose of figuring out whether you can parallel park and to take your picture. They are not trained to tell whether you are an al-Qaida terrorist. They are not trained in order to review four different documents and then look at 10,000, maybe 20,000 different databases around the country.

I wonder whether it is even the right approach, in terms of having a national ID card, to rely on driver's licenses. Maybe we should be relying on passports. That has been an efficient system in this country. Or maybe even better, and I suspect this would be better, we should turn the Social Security card—which is directly related to work, which is the subject of the discussion and most of the concern about immigration—into a more definite kind of identification.

But no; instead, without one single hearing in the Senate about a national ID card—which we might not, under our Constitution, even be able to require to be presented to a law enforcement officer—we just pass one, and then we send the bill to the States.

Here we are, a Republican Congress who got elected in 1994 promising to end unfunded mandates—and the Senator in the chair was one of the leaders in doing that—and what do we do, we come up with this big idea, pass it, hold a press conference, and send the bill to the Governors. We do that time after time after time, and we should not be doing that. That is not the way our system works.

It is possible that some Governor may look at this and say: Wait a minute, who are these people in Washington telling us what to do with our driver's licenses and making us pay for them, too? We will just use our own licenses for certifying drivers, and Congress can create its own ID card for people who want to fly and do other Federal things. And if Congress doesn't do that, then we will give out the home telephone numbers of all the Congressmen and let the people—of California, say—call everybody up here and say, "why did you keep me off the airplane when I needed to get somewhere?"

That is what we have done. We have just assumed that every single State will want to ante up, turn its driver's licenses examiners into CIA agents, and pay hundreds of millions of dollars to do an almost impossible task over the next 3 years.

We did that without any recognition in this legislation that we are not the State government, we are the Federal Government, and, if we want a national ID card, we should be creating a Federal ID card. If we want the States to create one, we should talk to them about it, and then we should pay for it.

So in the end, the States will pay the costs. In the end, the States will listen to the complaints from citizens who are going to be standing in long lines while they search for four kinds of identification; the driver's license examiner tries to connect with thousands of databases, which they have no capacity to do today. The States will take the blame when somebody uses a driver's license inappropriately.

The REAL ID Act has been structured in such a way that it is not technically an unfunded mandate, but anybody listening to this debate knows it violates the spirit of our promises in 1994 and 1995 not to do this anymore.

So I intend to offer an amendment at the appropriate time that will have two main points, but the overall point is to have the Federal Government pay for the cost of this new requirement that the States have no choice but to accept. It will allow States to submit documentation to the Department of Homeland Security of what the costs are, and it will establish a process to pay the annual increase in those costs.

I wish we had done this in a different way. I think we should have honestly faced the fact that we now need some sort of national identification card. I say that reluctantly because, as I said, I vetoed even a State card. But times have changed. But to do this without a hearing and without our tradition of respect for civil liberties and our respect for federalism, I think is wrong.

Mr. President, if I may take 2 more minutes, I would like to express my disappointment with one other provision. This conference report says we do not trust President Bush in dealing with the Palestinian Territory. Here we are, a Republican Congress, at least by a majority, with a Republican President who is leading a lot of the world to freedom, who is just returning from a triumphant visit to Georgia—a great beacon—who has taken the courageous step of trying to help solve the Middle East problems, and we are saying: Mr. President, we are going to appropriate money to help with the emerging democracy in the Palestinian Territory, but we do not trust you to spend the money.

That is what this provision does. The Senate did not vote that way. The Senate voted another way. The Senate voted to give the President the right to waive the authority, giving the President the right to decide, in effect, who got the money.

The reason I think the provision makes so little sense is because we are going to turn around and say in a few weeks, as the Israelis pull out of the Gaza Strip, Who is responsible for security there? We are going to expect the Palestinian Authority to be responsible for security there. Who is responsible for feeding some of the poorest people in the world? We are going to expect the Palestinian Authority to be responsible for that.

If we are going to hold the Palestinian Authority responsible, the President might want to give them the money. Arafat is dead. There is a new finance minister there who has impressed all of us on a bipartisan basis.

He was born in Palestine, lived here, and got his degree at the University of Texas. He is doing things in a way that is open. He has earned the confidence of people all over the Middle East. He is taking control of the money. And if he stopped doing that, the President could stop giving him the money.

But why in the world would the Congress show such a lack of respect to the President of the United States, in the middle of a peace process, by saying: "No, Mr. President, we do not trust you to make a decision about what to do with the money that we appropriate for the Palestinian Authority or to help the Palestinian Territory emerge as a democracy"?

So I am very disappointed by that as well. And there is other money that has been authorized this year that does give the President that authority. I hope in future conferences and in future debates and discussions we recognize that Arafat is dead, there is hopefully a democracy emerging, and there is a finance minister there who is making public accounting of all the money. He is direct depositing money for the troops. He is publicly advertising it through bids. He has impressed his neighbors, and he has impressed all of us who have visited with him on a bipartisan basis. I hope we keep that in mind as we consider this issue.

Thank you, Mr. President, for the time.

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

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. Twenty minutes.

Mr. BYRD. Twenty minutes. Mr. President, I yield myself such time as I may consume within that 20-minute limitation.

I again thank Chairman THAD COCHRAN for his patience in the processing of this supplemental appropriations bill when it came before the Senate. He was especially patient during the Senate consideration in seeing that all who wanted to offer amendments were afforded the opportunity to be heard.

The members of the Appropriations Committee have had a longstanding sense of cooperation, comity, and civility. There is always give and take, live

and let live, on both sides of the aisle. And that was the same with regard to the Senate processing of this supplemental. Everybody did not get everything he or she wanted in this supplemental, but Members were treated fairly in a bipartisan manner.

However, when it came to processing the supplemental in conference, several members were severely disappointed that the conference was recessed subject to the call of the Chair. As a result, several Senators were precluded from offering their motions and their amendments.

A number of Members on this side of the aisle have expressed disappointment that the conference did not have any open debate on the immigration provisions, including the REAL ID legislation, that found their way into the bill, and that neither the majority nor the minority of the Senate Appropriations Committee participated in the formulation of the REAL ID immigration provisions.

These REAL ID provisions were formulated behind closed doors by the House and Senate Republican leadership. After the conference had recessed subject to the call of the Chair, a 55-page modified version of the REAL ID authorizing legislation was laid into the conference report.

It was simply grafted onto the emergency supplemental appropriations bill that provides funding for our military operations and our troops, without debate or participation by the conferees. I do not fault the chairman of the Appropriations Committee. This was not his doing. This was done by the House and Senate Republican leadership.

The bill totals approximately \$82 billion, which comes in at about \$1 million below the request. Virtually the entire bill is designated as an emergency, thus increasing the deficit.

Department of Defense totals \$75.9 billion, \$0.9 billion above the request.

International assistance totals \$4.1 billion, which is \$1.5 billion below the request, but it grew in conference to levels \$866 million more than the House and \$42 million more than the Senate.

Border security funding totals \$450 million of new emergency spending. This compares to my conference motion to include \$665 million for border security. In order to increase the size of the border security effort, staff identified \$100 million of low priority homeland security funds to use as offsets, bringing the total package to \$550 million.

Despite having taken credit for improving security on our borders when he signed the Intelligence Reform Act in December, the President requested no actual funding for border security. My initiative, with the support of Homeland Security Subcommittee Chairman JUDD GREGG and Senator LARRY CRAIG, will result in 500 more Border Patrol agents, 218 new immigration investigators and detention officers, 1,950 more detention beds, 170 support personnel, and funds for training and housing the new personnel.

Many of the President's requests for expanded flexibilities were substantially reduced in the Senate bill and sustained in conference.

The President's request for \$5 billion transfer authority for Defense Department funds contained in the supplemental bill was reduced to \$3 billion.

In combination, under the conference report, the Secretary of Defense has transfer authority in fiscal year 2005 of \$10.7 billion, down from a total of \$14.7 billion requested.

The President's request for authority to spend contributions to the Defense Cooperation Account in fiscal year 2005, without subsequent approval by the Congress, was rejected as it should have been.

The President's request for a \$200 million slush fund, entitled the Global War on Terrorism, GWOT, Fund, under the control of Secretary of State Condoleezza Rice, was rejected as it should have been.

The President's request for a \$200 million "Solidarity Fund" for the Secretary of State, under Peacekeeping Operations, to reimburse coalition partners—such as, Poland, Ukraine, Lithuania, Hungary, and Bulgaria—for defense costs, was approved at a level of \$230 million, of which \$30 million can be used for GWOT-type activities. However, the act requires consultation and notification of the Congress prior to using the money.

The conference report includes language that I authored prohibiting executive branch agencies from creating prepackaged news stories unless the agency clearly identifies that the story was created and funded by an executive agency. It troubles me greatly that there has been a proliferation of executive branch agencies creating so-called news stories and then distributing them without identifying the story as having been produced with the taxpayer's money. We trust the media to provide us with independent sources of information, not biased news stories produced by executive branch agencies, at whose expense, taxpayer expense.

On February 17, 2005, the Government Accountability Office issued a legal opinion to the executive agencies stating that such prepackaged news stories violated the law. Regrettably, on March 11, 2005, the Office of Management and Budget issued a memorandum to agency heads specifically contradicting the opinion of the Government Accountability Office.

This conference report "confirms the opinion of the Government Accountability Office dated February 17, 2005." I am pleased that the conferees and now the Congress have agreed to this clear message that taxpayer dollars should not be used to create prepackaged news stories unless the story includes a clear message that the story was created by a Federal agency and paid for by taxpayer dollars.

I was also pleased that the conferees agreed to my sense of the Senate language on budgeting for the war in Iraq.

The conference report says that the President should submit a budget amendment for fiscal year 2006 by September 1, 2005, and should include funds in his fiscal year 2007 budget for the war when it is transmitted in February.

Congress has now appropriated over \$210 billion. That is \$210 for every minute since Jesus Christ was born. Think of that. Congress has now appropriated over \$210 billion in four different emergency supplementals for the war in Iraq. That is a lot of money, and it is your money, \$210 billion. It is your money, Mr. and Mrs. Taxpayer, your money. Two hundred ten billion dollars for the war in Iraq, and there is no end in sight.

We should not continue to fund the war through ad hoc emergency supplemental bills that are funneled through the Congress quickly when our troops are running out of funding.

The conference report also includes my proposed 3-month extension of the Abandoned Mines Land Program. Last fall, I offered, and the Congress approved, a 9-month extension of the program in order to give the authorizing committees time to act. Unfortunately, since last fall, the authorizers have held no hearings and considered no bills on the matter. So once again I urge the authorizing committees to approve this legislation that is important to West Virginia and important to all other coal-producing States.

Finally, I thank the staff on both sides of the aisle. On the majority side, I thank Keith Kennedy, Clayton Heil, Les Spivey, Sid Ashworth, Paul Grove, Rebecca Davies, and all of the others. On my own side, the minority side, I thank that man from Notre Dame, our minority staff director, Terry Sauvain. I thank his very able deputy, Charles "Chuck" Kieffer. These are two the likes of which you will never see again. I also thank Charlie Houy, Tim Rieser, B.G. Wright, Chad Schulken, and all of the others on the minority side who worked the long hours—I mean long hours—to assist Senators in the production of the final conference report.

Mr. President, there were some problems in conference, most notably the recessing at the call of the Chair and not returning, which left some of our members unable to offer motions. During the recess, 55 pages of modified REAL ID immigration legislation were inserted into the conference report, sight unseen, by the conferees. Now, can you imagine that? That would not have happened when I was chairman of the Appropriations Committee. That would not have happened when I was majority leader of the Senate. I will tell you, I don't blame our chairman or any committee members for this situation, but I do acknowledge that there were problems.

Nevertheless, the conference report provides the necessary funds for our troops in the field in Iraq, Afghanistan, and elsewhere. I will always support money for our troops, may God bless

them. I support them. We must support our troops, our men and women. They didn't ask to go there. They are doing their duty. They are answering the call. I do not support the policies that sent them there. I did not support it in the beginning. I did not vote to authorize this President or any other President to use the military of this country as he might see fit. I did not cast my vote there. I never, at any time, believed that Saddam Hussein, for whom I did not carry any brief—or the country of Iraq posed a national security threat to our country. I said so then, I say it now, and I believe that. So I did not vote for the policies that sent them there and keep them there. There is no end in sight. It bleeds our country of money and blood. No, I don't support that policy, and I didn't support it when the President sent our men and women there. But I do support the troops. I support them and will always support the troops of our country—may God bless them.

Nevertheless, the conference report, as I say, does provide the necessary funds for our troops in the field in Iraq, Afghanistan, and elsewhere. I supported the war in Afghanistan because there was al-Qaida. Al-Qaida attacked us. Al-Qaida invaded our country when it toppled the Twin Towers, and struck the Pentagon, and drove a plane into the ground in Pennsylvania. I supported that war. But there are two wars, the one in Afghanistan and the second war in Iraq—a country which did not invade our country, a country which did not strike our country, and a country which posed no security threat to our country.

But that is neither here nor there when it comes to our troops. That is something else. We will support our troops. I thank the Chairman for his excellent work, for his cooperation and fine leadership in our Committee, and for his support of the troops likewise. I urge the adoption of the conference report.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, as Senators know, there is time for debate of the conference report, for Senators to come over and speak, if they so choose, about the provisions of this bill and the effort we have made to meet the challenge the President has laid before us, and that is to produce a bill that provides funding for support for our troops and other officials from the State Department and other agencies who are engaged in operations in Iraq and Afghanistan and in the global war on terror. The majority of the money provided in this legislation is for those purposes.

I am pleased the committee was able to restrain the temptation that always exists to add money that was over and above the request made by the President. The fact of the matter is that this committee showed discipline and commitment to fiscal restraint. We

brought a bill back in the initial stages of this process that was below the request made by the President and that was below the request provided in the House-passed bill.

Our Senate Appropriations Committee reported legislation providing funding that was lower than either one of those documents. In conference with the House, we did resolve differences. There was give and take. Both sides had their opportunity to speak. We met on two separate occasions with our Senate conferees, joining representatives from the House in a wide range of discussion. Nobody was cut off when they wanted to discuss the issues or offer alternatives to provisions of the House-passed bill. The REAL ID provision that has come up, which some have complained about, was not a product of the Senate's action. It was put into the bill on the House side, but it was in conference. Because that legislation contained immigration issues and the identification issue, there were those in the Senate who offered germane amendments on the broad, general subject of immigration policy, guest worker provisions, quotas, workers who could come from foreign countries into the United States. The Senate will remember that we have debated several amendments on those subjects. We approved some and we rejected some.

In conference with the House, a majority of the conferees of the Senate worked with a majority of the conferees in the House to get a compromise conference report. That has been brought back to the House now and passed by a substantially overwhelming margin, 368 to 40-something, as I recall.

The Senate is prepared to wind up debate in a matter of an hour or two, under the order that has been entered. I hope the Senate will give support to this conference report and overwhelmingly approve it. It reflects strict discipline in the appropriations process, but at the same time it provides the funds needed for those who are engaged in the important operations in Iraq and Afghanistan to safeguard the security of our country and to promote democracy and help ensure a safer world. I am hopeful the Senate will approve the conference report.

I am prepared to yield the floor. Seeing no Senator seeking recognition, 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. COCHRAN. 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. COCHRAN. Mr. President, I was curious when I put in the suggestion that a quorum be present as to how time would be charged under the time that is being used now under the quorum call.

The PRESIDING OFFICER. The quorum call is charged to the Senator who suggests the absence of a quorum.

Mr. COCHRAN. Mr. President, since there are no Senators on either side present, I ask unanimous consent that the time be charged equally between both sides.

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

Mr. COCHRAN. 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. LEAHY. 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. LEAHY. Mr. President, I believe under the order the Senator from Vermont has some time reserved.

The PRESIDING OFFICER. Yes, 15 minutes.

Mr. LEAHY. I thank the Chair. I will use part of it.

I am voting for the supplemental, but I have grave misgivings about the President's policy in Iraq, the enormous strain it is putting on our Armed Forces, the horrific toll of the insurgency on innocent Iraqis, but especially the lack of a credible exit strategy.

We tried to get legislative language considered that would link the training and equipping of Iraqi security forces to the phased withdrawal of our troops. That made sense. As we train them and they are able to take over responsibility for security, we should withdraw our troops. The White House would not even consider this. I suspect had the White House asked our troops in the field or the American people, they would say that is what they want. It is also what most Iraqis want.

I am voting for the supplemental because I am concerned about our troops, many who were sent to fight and some of whom have died—as we understand from the press, even though we could not get this from the administration—without the proper armor. I opposed their deployment to Iraq, and I want to see them return home as quickly as possible, but in the meantime, I want them to have the best protection and equipment. They were sent into harm's way by the order of the Commander in Chief, and they should be protected as well as they can be.

There are other reasons I am voting for the supplemental, but I want to mention one in particular. There is a provision which I sponsored and Senators BOXER and FEINSTEIN of California cosponsored which designates the program to assist innocent Iraqi victims of the military operations as the Marla Ruzicka Iraqi War Victims Fund.

This program, and one like it in Afghanistan, was inspired by Marla Ruzicka of Lakeport, CA. She died on April 16, 2005, at the age of only 28,

from a car bomb in Baghdad. Marla's colleague and friend, Faiz Ali Salem, also died in that attack, both were on a mission of mercy.

I first met Marla 3 years ago. She worked closely with me and my staff, especially Tim Rieser of my Appropriations Committee staff, from the day after she arrived in Washington in 2002 until the day she died. In fact, Tim received e-mails and photographs of her holding a child she had helped that came in just hours before she was killed.

She was an extraordinarily courageous, determined young woman. She brought hope and cheer to everyone she met, from our military to people who were suffering from the ravages of the war. But she did it especially for the families of Afghan and Iraqi civilians who were killed or wounded as a result of the military operations. She felt passionately that part of being an American is to acknowledge those who have suffered and help their families piece their lives back together.

Who would not agree with that? By showing them a compassionate face of America, she not only gave them hope, she helped overcome some of the anger and resentment many felt toward our great country.

Over 90 percent of the casualties of World War I were soldiers. That changed in World War II. And since then, it is overwhelmingly civilians who suffer the casualties.

Rosters are kept of the fallen soldiers, as they should be, but no official record is kept or made public of the civilians who died. That is wrong. It denies those victims the dignity of being counted, the respect of being honored, and it also prevents their families from receiving the help they need.

In her young life, Marla forced us to face the consequences of our actions in ways that few others have. Even more importantly, she made us do something about it. She brought both parties in this Chamber together to help. What she did in Afghanistan and Iraq by the time she was 28, the end of her short life, was an achievement of a lifetime, far more than most people do in a much longer life.

This Saturday, from 2 to 4 in the afternoon, I am going to host a gathering in the Senate caucus room in the Russell Building so that anyone who is interested can learn more about Marla's work and the U.S. Government programs she inspired. I hope we can discuss ways for all of us to continue the campaign on behalf of innocent victims of conflict.

I thank my colleagues on both sides of the aisle for supporting naming this program after her. I want the work she started to continue. I doubt that we will see another person quite so remarkable as Marla, but I have to think there are a lot of other Americans who would want help if we give them the support they need.

I see the distinguished Senator from Connecticut in the Chamber. I reserve

the remainder of my time and yield the floor to him.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to support the supplemental appropriations bill. I do so because it supports the men and women of the American military, in my opinion the greatest fighting force in the history of the world. I say that, really having thought about it. It supports them in their efforts to advance the cause of freedom and to protect the security of every American by what they are doing to fight terrorism and terrorists in Iraq and Afghanistan.

I do want to note, however, my strong objections to House provisions known as the REAL ID Act that have been included in the conference report. The REAL ID Act will repeal ID security provisions enacted with overwhelming bipartisan support last year at the urging of the 9/11 Commission and place them with rigid and unworkable Federal mandates on State government for the issuance of driver's licenses, long exclusively a matter of State law.

The conference report from the House also includes punitive immigration provisions we rejected last year and that have no place on an emergency spending bill. In my opinion, our Nation is safer if we continue to implement the protections we passed last December rather than allow an ideological debate over immigration policy to derail those initiatives so vital to the war against terrorism.

Notwithstanding my strong objections to the REAL ID components of the conference report, I strongly support the report and I do so based particularly on a visit I was able to make last week to Iraq, the third I have been privileged to make in the last 10 months. I am back feeling we are at a tipping point and it is moving in the right direction in Iraq. It requires the sustained, strong, and visible American support that is expressed in this supplemental appropriations.

There is no doubt that the recent spate of suicide bombings has riveted the media's attention and as a result the attention of the American people, but I assure my colleagues those suicide bombings and those suicide bombers are a small, though devastating, part of life in Iraq today. They have got to be understood in context.

I come back from Iraq seeing it this way: There are more than 25 million people in Iraq. Eight million of them came out in the face of terrorist threats to vote for self-governance on January 30 of this year. They have stood up a government which is impressive and inclusive. Their military is gaining strength and self-sufficiency every day. There are 25 million on one side wanting to live a better, freer life. On the other side are the insurgents, the terrorists, the enemy, variously estimated at 10,000 to 12,000, some would say less.

For as long as I can remember as a member of the Senate Armed Services Committee in briefings we have received and on previous trips to Iraq when I have asked who are these insurgents, every other time I have been told most of them are former regime elements, leftovers from Saddam Hussein who want to go back into power and stop this new government, particularly a government which represents the majority of people in Iraq, Shi'a Muslims, to take power.

Then I was always told a minority is terrorists who are people associated with Zarqawi and al-Qaida. This time it began to turn around and that is a very significant development.

I was informed that the number of former regime elements, the number of Iraqi Sunni Muslims involved in the insurgency, is dropping. In fact, some of them have begun to reach out to come over to the other side because they see the future tipping in another direction. However, there is an increase in the movement into Iraq of foreign terrorists. Sometimes they are people recruited over the Internet, recruited at religious sites, coming into Iraq usually from Syria for as short as a day before they are strapped with bombs, sent in a vehicle aimed at a crowd of Iraqis in a marketplace, sent to be in a line of Iraqis ready to enlist in the Iraqi military or in the police force, who then blow themselves up.

What I am saying is there is a historic transformation going on in Iraq that already has and, if it can continue to go with our support, will resonate throughout the Arab world. I know that as the American people every night see only the suicide bombings, they begin to lose hope about what is happening in Iraq. I appeal to the American people to understand that those bombings, as devastating as they are, are the result of the fanatical work of a minority of people, the same people who attacked us on September 11, 2001—same attitude, same mindset, same hatred. If we diminish our support for our presence in Iraq today for the Iraqis who want so desperately to find a better life and govern themselves, we will have lost a moment of historic opportunity and we will ultimately pay the price for it ourselves.

I had the opportunity to meet with the new leadership of Iraq, the new President of Iraq, Jalal Talabani, a Kurdish leader for decades, who many of us have met and come to know, a good man, a strong man. I sat with him and realized this is the duly elected successor to the brutal, murdering dictator Saddam Hussein. It is a miracle, something that neither he nor I, nor most of us, and particularly the Iraqi people, could have imagined just a few years ago. President Talabani deserves our support.

I met with the new Prime Minister, Ibrahim al-Jaafari. I never met him before. He is a good man. I found him to be thoughtful, strong, clear, very religious, very inclusive. Neither the Shi'a

nor the Kurds who suffered terribly under Saddam—and one might understand the human instinct for revenge—have yielded to it. They have reached out to the Sunnis. We have not seen it in the papers and on the TV, but they are reaching out to bring them into the Government to try to create a leadership by consensus that will assure a better future for the Iraqi people.

I want to say a final word about the American military. As I said at the outset, it is the finest in the world. It deserves our support. The election, the negotiations with the Sunnis, the increasing capability of the Iraqi military, all bring Iraq to a tipping point in the right direction. It is historic. The American military understands what is going on. I had the privilege, over the last 16 years, to visit many of our men and women in uniform around the world. I have never seen our military more proud of what they are doing, with morale higher, more skillful, better equipped to carry out the mission than they are carrying out. This bill helps them to do what we have asked them to do.

I want to say, finally, that we have to exploit this moment, this tipping point, and act aggressively with the Iraqi government to bring over more of the insurgents, thus isolating the foreign fighters, the terrorists, the al-Qaida/Zarqawi network people, and making it harder for them to move freely and resupply themselves.

This has really now become quite explicitly a war against the terrorist movement that struck us on September 11, 2001. That, to me, means moving aggressively to close the border with Syria to stop the flow of terrorists, and further help bring stability to Iraq. Operation Matador, now in its third day in Iraq near the Syrian border, is the kind of sustained military effort we need. Our pride, our prayers, our gratitude go out to the Marines and others in the American military who have advanced Operation Matador with such remarkable success.

Our engagement in Iraq is crucial. It is in the best bipartisan traditions of American foreign policy that run from Woodrow Wilson to George W. Bush, with a lot of good Democratic and Republican Presidents in between. This supplemental supports that policy. It advances the cause of freedom. It protects American security. It supports the American men and women who are performing so valiantly and constructively. I urge its adoption. I yield the floor.

THE PRESIDING OFFICER. The Senator from Wisconsin.

MR. FEINGOLD. Mr. President, today I will cast my vote in support of the conference report on the 2005 supplemental appropriations bill for Iraq, Afghanistan, and tsunami relief. I do so despite my strong objections to the administration's policy of continuing to fund our military operations in Iraq and Afghanistan through emergency supplemental bills. These needs should

be addressed in the regular budget request so that they can actually be paid for, not placed on the tab of the American people so that debt can pile up. But the fact remains that our troops on the ground need timely support, and I will cast my vote to see that they get it, and the victims of the horrifying 2004 tsunami in South and Southeast Asia are provided with some meaningful relief and assistance.

I am pleased that the conferees retained my amendment to make it easier for the families of injured servicemembers to travel to the bedsides of their loved ones. I am disappointed that a sunset provision was added to this common-sense measure, and I will continue fighting to ensure that the benefits to military families provided by my amendment become permanent.

My vote in support of this conference report also comes with serious reservations because it contains the extremely troublesome immigration and driver's license provisions of the REAL ID Act, which the House passed as an amendment to this bill.

I strongly support efforts to curb illegal immigration and to prevent terrorists from entering our country to do harm. But as we work to secure our borders and protect our Nation from future terrorist attacks, we must also respect the need for refugees, foreign workers, family members, students, businesspeople, visitors, and others who wish to come to our Nation legally.

The REAL ID Act is a big step in the wrong direction. The new restrictions on immigration in the REAL ID Act are not necessary to protect national security. Rather, they will only serve to create serious and unjustified hardships for people fleeing persecution and for other non-citizens.

Not only that, but the Senate has had no opportunity to consider the REAL ID Act. It is astounding that Congress would enact these significant immigration changes without the United States Senate ever having held a hearing on them, without the Judiciary Committee ever having considered them, and without Senators ever having taken a vote specifically on those reforms or having had an opportunity to offer amendments. Obviously these issues are too important to address them in such a truncated way. Congressional leaders have no business tacking these very significant and controversial changes to immigration law onto an unrelated, must-pass appropriations bill. Clearly, this process was used because these changes could not pass the Senate on their own merit. They had to be added to legislation that contains vital funding for our troops in Iraq.

What has happened to the legislative process? I know that some in the other body, and some in the Senate as well, have very strong feelings about these immigration provisions. But strong feelings do not justify abusing the

power of the majority and the legislative process in this way. I strongly object to this tactic.

Let me explain a few of my concerns with the REAL ID Act. First, this conference report will make it even harder for those fleeing persecution to seek asylum in this country. These changes to asylum law are simply unnecessary. As any attorney who handles asylum cases can tell you, asylum cases are already extremely difficult to prove. In fact, only about 30 percent of asylum applications are granted today. Those seeking asylum in the United States already undergo the highest level of security checks of all foreign nationals who enter this country, and the provisions in this bill will result, I am sure, in the rejection of legitimate applications without making us any safer.

The asylum provisions of the REAL ID Act were improved somewhat in conference, and I greatly appreciate the work Senator BROWBACK did to make changes to the House-passed version. But the changes do not go far enough to adequately protect asylum seekers. This bill will have real effects on real people—people who will be sent back to countries where they or their families may be harmed or even killed because of their political or religious beliefs.

There are also provisions in this bill that would further restrict judicial review in immigration proceedings. This is not the time to downgrade the judicial branch's longstanding role as a check on the abuse of executive branch power, particularly in light of some of the administration's unprecedented actions since September 11, 2001. Non-citizens have borne the burden of many of the administration's egregious civil liberties violations that have occurred since September 11. I believe that we can fight terrorism without compromising our civil liberties. Making it harder for non-citizens to seek judicial review in immigration proceedings is sending exactly the wrong message about the need to respect the Constitution and basic human rights.

The REAL ID provisions in the conference report also have potentially serious environmental implications. One section of the conference report allows the Secretary of Homeland Security to waive all laws that he deems necessary to allow expeditious construction of barriers at the border. Let me repeat that: The Secretary can waive any and all laws that he wishes in order to construct these barriers. I guess that could include labor and safety laws, but certainly it means that environmental regulations can be waived, at the sole discretion of the Secretary.

I also want to address the driver's license title of the conference report. This title of the REAL ID Act is particularly unfortunate because it repeals provisions of the Intelligence Reform and Terrorism Prevention Act, which we just passed a few months ago, and replaces them with the unworkable mandates that Congress rejected when

debating the intelligence reform legislation. The intelligence reform bill required a negotiated rulemaking process to develop minimum identification standards, a process that is already under way and has included State governments, the Departments of Homeland Security and Transportation, law enforcement, industry representatives, privacy advocates, and immigration groups.

They all had a seat at the table under the intelligence reform bill. In fact, they met for 3 full days just a few weeks ago. This process would have, in all likelihood, resulted in sensible, realistic standards for driver's licenses to improve security.

Instead, the REAL ID Act mandates a long list of expensive and inflexible requirements for the states, some of which could have serious unintended consequences.

Let me give you an example that demonstrates why we should not be rushing these provisions into law. A variety of States, either by law or policy, have address confidentiality programs that permit law enforcement officers, judges, or domestic violence victims to list something other than their home address on the face of their driver's license. They are required to provide their home address to the DMV, but it is not actually printed on the license. This is an important security measure to protect public officials and victims of violence from individuals who wish to do them harm.

The REAL ID Act would override these protections by mandating that a person's home address be printed on the face of the driver's license itself. Had the Senate Judiciary Committee had an opportunity to review this bill, I feel confident we could have addressed this issue in a more nuanced way, and certainly the process now underway that this bill will short-circuit would have taken into account the legitimate public safety interest allowing some people to not list their actual addresses.

The intelligence reform bill struck the right balance by setting up a mechanism to help improve the security of State identification cards, while also ensuring that States and other interested parties would have input into the process of determining minimum identification standards. I am very disappointed that the REAL ID Act is overriding this ongoing process with costly and unrealistic requirements that leave States with little discretion.

On top of all this, the REAL ID Act prohibits the issuance of State driver's licenses to undocumented aliens. States should be the ones to decide whether, in the interests of public safety, they wish to issue driver's licenses to undocumented aliens. The reality is, there are millions of undocumented workers in the Nation. States could reasonably decide, just as Wisconsin has, that from a law enforcement and public safety perspective it is better to ensure that these individuals have been

tested on their driving skills, have obtained insurance, and are readily identifiable, rather than to force them to drive illegally.

While I am extremely concerned about the effects these REAL ID provisions are going to have on noncitizens and on already cash-strapped State governments, I do want to note one bright spot in the immigration landscape of this bill. That is the provision that addresses the shortage of H-2B visas for temporary, seasonal workers. The cap for H-2B visas was reached just 3 months into the 2005 fiscal year, in January, which meant that employers in Northern States, such as Wisconsin whose tourism, landscaping, and other seasonal industries get started later in the year, have been unable to hire workers using H-2B visas.

Senator MIKULSKI and Senator GREGG worked tirelessly to ensure that this provision was enacted into law in time to help employers who need workers this year, and I do commend them for their efforts. I have been proud to cosponsor their H-2B legislation, and I am very pleased this is about to become law. Unlike the REAL ID bill, this provision had overwhelming bipartisan support in the Senate and quick congressional action was definitely needed.

Mr. President, I will vote for this legislation because our Armed Forces need the funds it provides, but I strongly object to the inclusion of the REAL ID Act in the conference report. Those who support these provisions have prevailed only because they were willing to upend the legislative process to achieve their ends. I certainly regret that, and I think many of us will come to regret that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I rise today to briefly discuss the conference report to the emergency supplemental appropriations bill, which we hope to adopt later today.

First, I thank my colleague from Mississippi, Senator COCHRAN, for the good work he has done. I plan to support adoption of this conference report. There are certainly a number of programs that will benefit greatly from passage of this bill. It is the right thing to do.

I must say, though, there are a few areas, which I will discuss in a moment, where I do not think we have gone quite far enough.

First, let's talk about the most important thing. Of course, that is the money that will go to support our soldiers. That is really why we are here. That is the most important provision in the bill. Let me talk about a couple of specific items that will aid our soldiers.

This bill includes Senator CRAIG's amendment, which I cosponsored, to provide an immediate payment—it ranges from \$25,000 to \$100,000—to those who have suffered traumatic injuries

on active duty, such as the loss of an arm or leg or the loss of their hearing or sight.

The bill also includes my second-degree amendment to Senator CRAIG's amendment making this provision retroactive to October 7, 2001. This second-degree amendment I offered will ensure the coverage of soldiers who have been injured in Iraq, injured in Afghanistan, those soldiers who many of us have seen or talked to who are currently recuperating at Walter Reed, Bethesda, or other hospitals around our Nation, as well as those who have left the hospital and are learning to live with their injuries.

This amendment would help service members, such as Army SSG Justin Shellhammer, whom I spoke to today on the phone. Justin Shellhammer is a courageous young man, someone of whom we can all be very proud. I talked to him on the phone this morning. He is excited he is going to get a leg this afternoon. He told me about how his recuperation has been coming along and what his prospects are. When you talk to someone like him, your heart goes out to him. But, frankly, you feel great admiration for him and how courageous he is.

I am also pleased this bill includes an additional \$150 million for the procurement of up-armored humvees. Many of us on the Senate floor and in the House have supported, for a long period of time, increases in funding for this program. It is an important program. There is a critical need for these vehicles in Iraq and Afghanistan and here in the United States where they are used for training.

Quite simply, these vehicles have saved the lives of hundreds if not thousands of service men and women and enabled them to complete their mission.

Just a few moments ago, I talked about the fact that there are some items that should have been included in the bill that are not. I am, frankly, a little disappointed.

The conference report does not provide the death gratuity increase that we provided to all Active-Duty deaths. This bill increases the death gratuity to \$100,000—and that is a very good thing—to the families of those who have died in service to our country. But the language in the bill that came out of conference provides only for deaths that occur in a combat zone or those that are "combat-related." I think that is much too narrow. I think it is a shame. I think it is too bad that is what the conference did.

If we do not apply the death gratuity increase to all Active-Duty deaths—which is what we should have done—we will not be covering a number of individuals who die while carrying out their orders, who die in service to our country. Their families will not be covered. For example, we will not cover the family of a service member who gets into a fatal car accident carrying out very specific orders to deliver files

from one side of his home base to another, in service to his country. His family will not get that death benefit.

We also will not cover the death of a service member who gets into a fatal accident en route to a conference he or she was ordered to attend. And it will not even cover a military police officer guarding the gates of one of our domestic bases who may fall from heat stroke. I do not think that is right. I think that was a mistake the conference made.

As I have done since the beginning of this Congress, I will continue, as I know others will, to work to expand the applicability of this critical benefit.

I must say, I was also disappointed that we were unable to pass an extended TRICARE Prime medical benefit for children of deceased service members. Under current law, the dependent child of a deceased service member receives medical benefits under TRICARE Prime for 3 years at no cost. But following that period, the dependent children may continue to receive TRICARE Prime, but they must pay for that benefit at the retiree dependent premium rate, available to children under the age of 21 or 23 if they are enrolled in school. Also, after 3 years, when a dependent child's military parent dies, and if that family elects to pay the premium and stay enrolled, even if they pay that premium, that child would move down on the food chain, so to speak, in terms of the availability of services and priority. I do not think that is right. I think we need to correct that.

What that means is that if there is a doctor's appointment opening, and your parent is alive, and your parent is continuing to serve, you get preference over a child whose parent was killed in Iraq or Afghanistan. Now, do we really think that is right? I do not think so. I do not think there is any person on this floor or in the Senate who would say that is right.

This is simply not fair. I don't think any Member of the Senate who really understands this would say that is right. My amendment, which was not included in this bill, would have changed that by putting surviving children of service members killed in service in the same position—no better but no worse—as if their parent would have lived and continued to serve in the military. It would have put them in no better position but, rather, in the same position, and they would continue to receive TRICARE Prime at no cost until they became an adult.

I wish to let my colleagues know that I plan to continue this debate and to try to get this in the Defense authorization bill. This is a matter of simple fairness. It is the right thing to do. So this discussion will continue this week and in the weeks ahead.

Let me turn to another topic that this bill addresses, and that is humanitarian assistance. I believe we did a pretty good job in this bill—again, I

congratulate the chairman—as many essential priorities were funded. Because of what the chairman did and what others did, many people will be fed, many people will be helped maybe not at the level I would have liked in some cases, but we did a pretty good job.

One country that certainly needs assistance in this supplemental is Haiti. Haiti is embarking on a road to attempt to move toward democracy. They have had a very troubled past, a troubled present. Its current history is troubled. They are facing elections this year.

I thank Chairman COCHRAN and Senator BINGAMAN, Chairman MCCONNELL, and all the conferees who supported my efforts to include emergency money for Haiti. Haiti needs election assistance and security. This bill provides \$20 million for election assistance this year, for police training and for public works programs. All this money is urgently needed. I will be working closely with the U.S. Agency for International Development to ensure this money flows quickly into Haiti.

Another troubled spot in this world is Darfur. Again, I congratulate the chairman for his work. Senator CORZINE offered an amendment. Senator CORZINE has been a true champion in this area. I congratulate him. He offered an amendment, of which I was the lead cosponsor, regarding Darfur. I thank him for his efforts and commitment to helping end the crisis in the region. The final conference report provides \$50 million to support the African Union to stop the genocide in Darfur. Again, I thank Senator MCCONNELL and Senator LEAHY for their good work in this area as well.

The conference report also provides an additional \$90 million for international disaster and family assistance to help ensure humanitarian aid flows to Darfur and other African crises. We are looking at genocide in Darfur. We are staring it down, and we cannot afford to blink. It is only right that this bill contains funding for this crisis.

Finally, I thank Senator KOHL for his efforts to help increase our U.S. food aid. I worked with Senator KOHL. I was his lead cosponsor on his amendment, which the Senate passed, to include \$470 million in food aid to cover known worldwide aid shortages. Again, I thank Senator COCHRAN for his good work in this area.

The conference report, unfortunately, contains only \$240 million. This money will help, but it is not at the level the Senate had provided. This is not enough to cover existing shortfalls, much less new emergencies or worsening conditions in places such as Ethiopia. Last year, 300,000 children in Ethiopia died of malnutrition. This year, the situation is worse, with drought destroying crops in large parts of the country. The people of Ethiopia will avoid the starvation that is on the horizon only if we act. That means remaining open to the possibility of

using the Bill Emerson Humanitarian Trust and other tools in our food aid arsenal. We must understand that it is not only Ethiopia where we have a crisis; we have crises all over the world with regard to food aid. We simply do not have enough food.

I am proud to be joining Senator KOHL in sending a letter to the President asking him to look at the Bill Emerson Trust as we enter the summer season that so often results in food shortages, not just in Ethiopia but around the world. I again commend Senator KOHL for his commitment to end hunger around the world.

There are good parts to the conference report we are passing today. It provides immediate and necessary help that our soldiers need to do their job. It provides our injured service men and women with care that they desperately need. It provides money for Haiti and Darfur, other African crises. However, frankly, we could have done more. Legislation, though, is never perfect. We simply need to continue to work together to address issues that are not fixed in this legislation.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Democratic whip.

Mr. DURBIN. Mr. President, it is my understanding that under the previous order, I will be recognized for up to 1 hour.

The PRESIDING OFFICER. That is correct, of which 10 minutes will be yielded to the Senator from Washington.

Mr. DURBIN. Mr. President, I yield 10 minutes to the Senator from Washington, Mrs. MURRAY.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I rise to talk about the supplemental appropriations bill we are considering which funds our military activities in Iraq and Afghanistan. Overall, I support this bill. We do need to get the money out to our troops. But I am here today because I have several concerns about what it leaves out and how it was put together.

I have to say I am particularly troubled that I and other Senators were denied a promised opportunity to debate and vote on some very controversial immigration changes that have been attached to this bill.

First, let me say, I know how important the funding is to our troops overseas. In March, I traveled with the Senator from Illinois and several others on a bipartisan trip to Iraq and met with troops from the State of Washington. To a person, each of them was a dedicated professional who was putting duty above their personal well-being. They need our support, and they deserve every resource our grateful Nation can provide.

As I have said before, I am the daughter of a disabled World War II veteran. I represent hundreds of thousands of Washington State veterans and military families. I support every dollar in

this aid bill to help our troops protect themselves and complete successfully the dangerous mission we have assigned them. But I am concerned that when all of these new veterans come home and need medical care, they are going to be pushed into a VA system that does not have medical staff, facilities, or the funding needed to care for them. That is exactly why I was on the Senate floor fighting to include within the supplemental the critical cost of war, and that is taking care of our Nation's veterans.

I am disappointed that Republicans in the Senate have decided that funding for veterans care is not an emergency and not a priority. By denying that there is a crisis at the VA, they are simply ignoring our responsibility to fully provide for the men and women who are risking their lives for our freedom. Our veterans, our military, and our future recruits deserve better. Taking care of our veterans is part of the cost of having a great military. It is a real disservice that we have not taken care of that funding within this bill.

I am here today because I am also very troubled by how far-reaching and unrelated immigration rules got attached to this bill without a vote and without an opportunity to debate. The REAL ID provision has ramifications for privacy, for States rights, and for immigration policy. I am disappointed that it has been rammed through as an attachment to a desperately needed bill that funds our troops. Frankly, a lot of us are kind of scratching our heads about how this REAL ID provision ended up in this conference report. I know I didn't vote for it. I know there wasn't even a discussion of it in conference, but somehow it is included in a must-pass bill.

Mr. President, I served on the conference committee, and I want to share with my colleagues exactly what happened in that conference committee so they will understand why the sudden appearance of the REAL ID provision is so surprising to many of us.

When the conference committee met, the chairman gave assurances to the minority that we would be able to vote on several provisions when the conference met again. But that conference never met again, leaving no opportunity for the minority party to vote, much less to strike these provisions.

I want to share with the Senate the specifics. In our second meeting of the conference committee, Senator DURBIN, who is now on the Senate floor, asked Chairman COCHRAN for his assurance that we would get a chance to vote on these immigration changes, and other open items as well, before the supplemental was sent to the floor.

In fact, I want to read a portion of the transcript of that meeting. This discussion took place on Thursday, April 28.

Senator DURBIN said:

I would also like to say to my colleagues, if this bill contains—as I believe it does—the REAL ID Act, I would like a vote on that so

that we can be on the record on an issue that has never been brought before committee in the Senate.

My question to you is this, Mr. Chairman: There have been times when conference committees of this magnitude have recessed and never been heard from again. The next thing we find is a conference committee report on the floor on a take it or leave it basis.

Can we have your assurance that we will return for votes on amendments such as those we have debated today and those that I have mentioned?

Senator COCHRAN's response to Senator DURBIN:

Senator, I would be glad to make the assurance that if there is work to be done, if there are open items to be considered, that we can consider those in conference. I am not prepared to make a commitment as to when that will be. I don't want to lead you to believe that I am going to surreptitiously or in secret reach an agreement on the other side without consulting all the conferees on the Senate side.

I think everyone in this conference has a right to participate in this discussion and I wouldn't want to cut off anybody's right to participate.

Mr. President, I have worked closely with Senator COCHRAN for many years, and I do know him to be a man of his word. But to me, what that exchange meant, sitting there in that conference, was that we would have an opportunity to vote on the REAL ID provision, but that never happened. To me, that was wrong.

The REAL ID provision will have dramatic and far-reaching changes and puts an unfunded mandate on many States. Yet it was never brought before a Senate committee, and it was never voted on in the conference.

That is exactly why I did not sign the final conference report, which is very unusual for me. I did not sign it because I believe the process was flawed and we were denied an opportunity to debate and discuss these immigration changes before they were brought to the floor as part of a must-pass bill.

Mr. President, we are all very concerned about security, but this received very little debate. Before Congress mandates these kinds of changes, we should have a more informed debate. In fact, it begs the question, why was this added to a must-pass bill without a debate? Probably because it could not withstand a rigorous and open public debate. We should have that, and I am disappointed that the majority denied us that opportunity.

I also want to note today the irony that the Senate is about to allow a technical fix to immigration-related language that was included in the supplemental, which I agree needs to be fixed; but the Democrats in the conference committee were not provided any opportunity to fix any other immigration provision.

I want to reiterate my frustration with how the REAL ID Act was included and that we were not given the same consideration regarding that language.

Mr. President, the REAL ID provision has some unique impacts for my

home State. This section on immigration is particularly troubling to me because Washington State has proactively enacted several laws to protect the privacy of Washington State residents.

While I understand the needs for increased security, I don't think Washington State laws should be completely overridden by this provision, especially without ever having had the chance for debate and discussion on it.

We know this bill is going to pass. Our troops need the funding it includes. I am already working with communities and officials across Washington State to help find a way to implement these new requirements. I will continue, once this is passed, to push the administration to now provide the funding necessary to make these changes without piling new burdens onto our already cash-strapped State.

Mr. President, it is really unfortunate that at a time when we should be focusing on the needs of our troops and our veterans, the majority party is using the supplemental aid bill as a vehicle to legislate on subjects that have not received the debate and attention they deserve. But at the end of the day, we know we cannot afford to fail in our missions abroad. With hundreds of thousands of troops sacrificing every day in Iraq and Afghanistan, I will support this supplemental bill, and I will continue to work to fight for their care as they return home.

I thank my colleague from Illinois for yielding me time and allowing me to express my frustration on how this part of the bill was put in without anybody able to discuss it in conference committee.

I yield the floor.

The PRESIDING OFFICER. The Democratic whip is recognized.

Mr. DURBIN. Mr. President, I thank the Senator for her statement with which I agree. This is called an emergency supplemental. It is the nature of an emergency supplemental that it funds things that were unanticipated, such as natural disasters and military operations that we didn't anticipate. That is the nature of an emergency supplemental. Yet, when you look at it, at the real nature of this bill, there is no emergency or unexpected element here. This is funding the third year of a war in Iraq.

Did we expect to be gone from Iraq by this time? I don't think anybody suggested that. Yet the administration continues to bring the funding of our troops into the Congress on an emergency basis. Why would they do that? Why would they not put it through the ordinary appropriations process? There are two good reasons. First, it isn't added to the national debt each year. The President can say, when he presents his budget, that we are close to being in balance. In fact, we are not even close. We have the largest deficit in the history of the United States of America under the Bush administration. You have to add this to it. This is

a real cost to the American taxpayers, to our Government. But by putting it in separately, it is a little sleight of hand, so that you don't add the \$81 billion to the actual cost.

Secondly, if this went through the ordinary appropriations process, there would be hearings and questions would be raised—questions I would like to raise after I visited Iraq with the Senator from Washington. Why, in a third year of the war, are we still trying to find armor plating for humvees and trucks to protect our troops? Why, in the third year of the war, after giving every dollar the administration asked for, don't we have protective body armor for all of our soldiers? Why, in the third year of the war, don't we have the most modern helmets and firearms that our troops need to be safe, to perform their mission and come home?

Hard questions. I might also like to ask a few questions about some of the major contractors who are being paid for this war. Millions, if not billions, of dollars are going to companies on no-bid contracts. You know the names. Halliburton leads the list. I will tell you this. It is considered entirely inappropriate in Congress to raise the question about whether Halliburton has been paid too much or improperly. You just don't ask those questions around here. Those are things which Congress has no business asking about, according to the Republican majority. Those are questions that would be asked if this appropriations bid went through the regular process.

Instead, it comes to us as an emergency. We don't have time to talk about it or to ask any questions. They say: Come on now, the troops are at risk. Let's pass the bill and get it over with.

That is what we face every year. The majority knows that even those of us who voted against the use of force resolution for the invasion of Iraq have said we are going to vote for the money for the troops. If it were my son or daughter, my brother, or someone in my family whose life is at risk in Iraq, whether I agree with the way we went into the war is irrelevant. I am going to give those soldiers, marines, and our other Armed Forces every penny they need to perform their mission and come home safely. We can debate the policy and whether we are going to make the mistake we made in Vietnam, where our policy debate turned into a debate at the expense of our troops. And so the administration and the Republican majority take advantage of it. They pushed this bill through on a take-it-or-leave-it emergency basis, and they say do not ask any hard questions. We do not want to talk about armor for humvees. We do not want to talk about Halliburton. Take it or leave it.

That is sad. Yet in their hurry to bring this bill to the floor, they load it up with things that are not related to the war in Iraq. We heard what the Senator from Washington said. There

is a major change in the law in this bill about the issuance of driver's licenses in the United States of America. Why in the world is that in this bill, the emergency bill for the troops? I think she has made it clear.

Let me give a little background. If we were fair, we would not call this the emergency supplemental appropriations for the fiscal year ending September 30; we would call this the Larry Lindsey memorial bill. Why? Because Larry Lindsey happened to be the Budget Director under President Bush who made a big mistake. When we invaded Iraq, Mr. Lindsey predicted the war would cost somewhere between \$100 billion and \$200 billion. Mr. Lindsey was dismissed from his job as a result of suggesting the war might cost that much money.

And remember Deputy Defense Secretary Paul Wolfowitz? They asked him: How will we pay for the war in Iraq? He assured us in open testimony that Iraqi oil money would pay for the reconstruction, and at one remarkable Senate hearing, Defense Secretary Donald Rumsfeld even predicted Iraqi tourism dollars would help finance the new Iraq.

Fast forward to today. With the Senate's passage this week of this bill, American taxpayers would have committed nearly \$300 billion for the wars in Iraq and Afghanistan. We are still waiting for that tourism money, we are still waiting for that Iraqi oil money, and Mr. Lindsey is now in civilian life for suggesting the war might cost a third of what it has actually cost.

That is the reality, and there is no end in sight. We are not going to delay passage of this bill; there is too much at stake. Mr. President, 150,000 American soldiers rely on our prompt action on this bill, and it will pass here today, as it should.

Let me speak about some elements of this bill I think should be part of the record. Democrats are going to support this bill not only because it helps the troops, because it does fund some true emergencies. There is \$900 million in emergency relief for the victims of the South Asia tsunami, one of the greatest natural disasters in modern memory, and \$400 million for humanitarian assistance in the Darfur region of Sudan. If this genocide in Darfur is not an emergency, what is? Unfortunately, what is missing from Darfur accountability passed by the Senate is seeking justice and security for the victims of this campaign of murder, rape, and destruction.

I am also going to vote for this bill because it does include a provision which I added on the Senate floor reaffirming America's commitment to not engage in torture or other forms of cruel, inhuman, or degrading treatment of prisoners of war or other detainees. I believe reaffirming this longstanding American commitment to this fundamental standard of international law and decency will help restore our credibility and our moral

standing in a world which questions what happened at Abu Ghraib and Guantanamo. As many military experts have told us, it will also reduce the chance that American military personnel, when captured, would be tortured.

The bill contains \$5.7 billion to train Iraqi troops. Six or 7 weeks ago when I was in Baghdad, they showed us a handful, a dozen of these troops who were in an exercise. I am not a military expert. I do not know if they were real soldiers. I do not know if they were really trained, but thank goodness there is some effort underway to try to replace American soldiers with Iraqi soldiers.

It also contains crucial requirements that progress and training be monitored and measured, language Senator KENNEDY, Senator LEVIN, Senator BYRD, and I worked hard to preserve. It is not enough for high-ranking administration officials to assure us that 130,000 Iraqi troops have been trained when only a small fraction are actually ready to fight, or when tens of thousands of U.S.-trained Iraqi police officers have gone AWOL. We cannot find them. Knowing how many Iraqi troops are ready to defend the nation will give us a better idea of when we can bring our troops home, and the sooner the better.

I thank the chairman and ranking member for working with us on the troop training and torture amendments, some of the reasons I will vote for this bill.

The final conference report does include other issues that trouble me when it comes to our troops. I have been trying for almost 3 years to make certain that Federal Government employees who are members of the Guard and Reserve and who are activated to serve overseas do not find themselves facing extraordinary financial hardships. In the Pentagon, we go to businesses across America and say: If you want to be a patriotic business, if you want to show your love of America, show your love for the men in the Guard and Reserve, and the women as well, and if they are activated, help their families; cover them with health insurance, if you can; make up the difference in pay, if you can. And many of them have stepped forward and said: We are going to do it. In fact, almost 1,000 different corporations and units of government—State and local—have said we are going to stand behind those Guard and Reserve families. They are making enough of a sacrifice, they are putting their lives on the line, and we will stand behind the families who stay home so that soldier, worried about his life, does not have to worry about the mortgage payment. We even have a Web site sponsored by our Federal Government saluting these great companies for standing behind our Guard and Reserve, as we should.

But let me let you in on a secret. There is one major employer in America that refuses to stand behind the

Guard and Reserve. There is one major employer that employs 10 percent of the Guard and Reserve in America, 1 out of 10, that refuses to make up the difference in pay. Who could that employer be? It is the U.S. Government.

The Federal Government refuses to make up the difference in pay for these soldiers and marines in our country. How can we possibly explain that? We are praising companies and other governments that stand behind their people while we fail to do the same.

So on three different occasions, I offered an amendment on the floor, and it was adopted, which said we will stand behind the Guard and Reserve. We will make up the difference in pay, just as other companies do. Take a look at the companies that have done their patriotic duty. They are big names: Sears and Roebuck, out of my State of Illinois, IBM, General Motors, United Parcel Service, Ford, 24 State governments. But not the U.S. Federal Government. And, Mr. President, do you know what the problem is? Every time we pass it on the floor, so many Members race up here to vote for it, saying: Oh, we are all for the men and women in uniform; God bless them; give me a flag to wave; we are all with them. And then as soon as it gets in conference committee, they strip it. Year after year they take out this protection for Federal employees who are literally risking their lives today in the Guard and Reserve.

According to a recent survey made by the Defense Department, 51 percent of the Guard and Reserve members suffer a loss of income during long periods of active duty. Three-quarters of Guard and Reserve members surveyed cited income as one of the major reasons they were leaving the service. We know recruiting is down, retention is under pressure, and yet we refuse to make up the difference in pay for 1 of every 10 Guard and Reserve.

Today, 17,000 Federal employees are activated. To date, 36,000 have been activated and deactivated. So large numbers of men and women are affected by this amendment. And in the darkness of the conference, after the doors are closed, when the press has left, when nobody is watching, they take out this protection for Federal employees.

The lead sponsors of this provision are going to continue the effort with me. Senator BARBARA MIKULSKI of Maryland, and Senator GEORGE ALLEN, a Republican from Virginia, have joined me. Our measure is endorsed by the Reserve Officers Association, the Enlisted Association of the National Guard, and the National Guard Association of the United States.

The Congressional Budget Office and the Budget Committee staff studied our plan. They agree it would not add \$1 to the budget because the cost of the affected workers' salaries is already included in the budget.

The last time the conferees met, I asked the chairman, Senator COCHRAN, for his assurance that the Republicans

would not do what they have done in the past and kill this amendment without giving us a chance for an up-or-down vote in front of God and the world. I was given that assurance, but sadly it did not happen.

The conference committee recessed and disappeared and, unfortunately, we never had a chance to have an open vote on whether we would stand behind these Guard and Reserve members. That is unfortunate. I had hoped the assurance by the chairman would mean we would get that vote. It did not happen.

It appears the White House overrode anyone's intent to bring this measure up for consideration. Josh Bolton, the Director of the Office of Management and Budget, released a letter saying the White House opposed our reservist pay amendment because it would "increase costs and have a negative impact on morale and unit cohesion."

Think about that. The argument is that the soldiers under fire worrying from day to day whether they will be alive would compare pay stubs and have a general conversation about how much money are you getting from your employer, how much are you receiving, as if they would care. Those units go into battle together to protect their lives. I do not think they resented that one soldier in that unit had help because he happened to be an employee of Sears, another soldier because he happened to be an employee of one of the 23 State and local governments. They are not going to hold that against their fellow soldiers. That is going to undermine morale? They have to say: You are lucky; I happen to work for the Federal Government, and I get no help. I come here and risk my life, and this amendment is defeated in the darkness of a conference committee every single year.

That argument is just nonsense.

What message are we sending to conscientious employers? Unfortunately, the wrong message: Do as we say, not as we do. Listen to the Federal Government, listen to the Members of Congress with all their patriotic speeches, and then watch as we deep-six this provision year after year. It is an unfortunate message to some of the best men and women in America who risk their lives for our freedom.

We also wanted to push for more veterans health services. Senator MURRAY of Washington offered a \$2 billion amendment, and she said if the war is an emergency, treatment of the veterans of the war should be an emergency. We know that is true. We know these veterans come home with real needs.

I had hearings across my State on posttraumatic stress disorder. I have been around this business for a long time. I have never, ever witnessed what I did then. We had men and women coming in who had served in Iraq and returned, young men and women who risked their lives wearing the uniform of America. They are home now, but

the war is still on their mind. For many of them, it is a destructive memory, things they saw and things they did which they cannot get out of their minds. They come back and finally realize they need a helping hand. They are estranged from their families. Their spouses are saying: That is not the same soldier who I sent over there. What happened to him?

They find themselves despondent, angry, unable to cope with ordinary life, turning on members of their family in anger, and they need help. Sadly, too many of them need help they cannot find at the veterans hospitals. So if we promise these men and women when they serve our country that we will stand behind them, should not the Veterans' Administration, the hospitals and clinics, be ready to stand behind them, when they come home, for their injuries, for this posttraumatic stress disorder? Is it too much to ask that we have family therapists who will work with spouses and children who have seen a different father or a different mother come home? I believe it is only reasonable.

Senator MURRAY led the way. She asked for \$2 billion to be put in as an emergency for veterans hospitals and clinics. It was turned down on the Senate floor.

I am glad that the death gratuity is increased. Twelve thousand dollars for your life in service of your country? I am glad we have raised that to \$100,000 tax free for spouses and children of those who die in service. It also increases from \$250,000 to \$400,000 the life insurance benefits that are available. There is one catch. In the Senate, we voted to increase these benefits for the families of all Active-Duty service members, but behind the closed doors of this conference committee which met in private and in secret, the Republicans changed the rules. They decided on their own, without a vote, without a discussion, to restrict the new death benefits and the new life insurance benefits only to families of service members who die in a combat zone. That simple geographical distinction, "in a combat zone," could disqualify about half of all families who have lost a loved one serving on active duty since the start of the war in Afghanistan. These families will not be eligible for the new benefits because the husbands and fathers, wives and mothers died outside of what is technically classified a combat zone. That is arbitrary, that is wrong, it is unfair. Whether a soldier dies in Iraq or training to go to Iraq, his sacrifice is equally great, the loss to his family equally devastating, and our Government owes an equal debt to his wife and children.

We have had testimony from those uniformed officials who appear before the Armed Services Committee and we ask them about this. Admiral John Nathman, Vice Chief of Naval Operations for the Navy, said: "They can't make that distinction. I don't think we should, either," in terms of who is dying in a combat zone and who is not.

General T. Michael Moseley, Air Force Vice Chief, said:

I believe a death is a death, and I believe this should be treated that way. . . .

Sadly, these people were not listened to and, unfortunately, this bill does not provide the protection which our soldiers truly need and deserve.

Senator DEWINE and I, on a bipartisan basis, are lead sponsors of a bill to change that benefit and to make it fair. I certainly hope we can.

This bill also shortchanges our first front-line troops at home, the first responders. All across America, police, fire departments, and EMT squads are stretched thin. Many lack equipment. Many of them are not getting the HAZMAT and other specialized training they need. This bill does not contain one dollar, not one dime for first responders.

We have so few Border Patrol agents that vigilante groups such as the armed Minutemen have decided to take it upon themselves to patrol the borders of the United States. Yet this bill contains funds to hire only 500 new Border Patrol agents—not enough to do the job. New York City has 40,000 police officers. We have 10,000 border agents to secure the entire U.S.-Canadian and U.S.-Mexican borders, even with the new agents in this bill. The Republicans have argued we can afford to give a \$35,000 tax break to a person who is earning over \$1 million a year, but we cannot afford to hire 500 Border Patrol agents. Their priorities speak for themselves. Homeland security is not a job for armed volunteers; it is a job for professionals, and it ought to be a priority for this Congress.

Now let me speak for a moment to this REAL ID bill. This is a serious problem. If one is going to use a driver's license to prove their identity, wherever it may be—stopped by a highway patrolman or getting on an airplane—we need to make sure that driver's license is authentic.

We have 50 States with different standards for establishing one's identity. It is a serious problem, serious enough that when the 9/11 Commission report came out and we put together a bipartisan bill to respond to it, we included a provision in that bill that required the Federal Government and State governments to work together to come up with realistic, operable standards to prove identity for those who were applying for driver's licenses. We passed that bill overwhelmingly on a bipartisan basis. I was happy to be one of the cosponsors of that legislation and glad that the President signed it. Then Members of the House said: We do not agree with that cooperative process. We want to establish the standards on our own. We want to write them into law. And they created something called the REAL ID Act.

We did not have public hearings on the REAL ID Act. We did not invite in the Governors. We did not invite the State motor vehicle agencies. We did not have a conversation about an hon-

est and realistic way to approach it. We were given this on a take-it-or-leave-it basis.

The American people deserve to know what they can look forward to under this REAL ID Act, which is part of this emergency supplemental. Some say that it is just simply going to keep illegal immigrants from obtaining driver's licenses. If that were the case, it would be a much different and much smaller bill.

Under this law, to get a driver's license in any State in America, one will need to present several pieces of identification. One has to provide a photo ID document or a non-photo document containing both the individual's full legal name and date of birth; and documentation of the individual's date of birth, Social Security number or the individual's non-eligibility for a Social Security number, and the name and address of the individual's principal residence.

Now there is a catch to this. One has to come into that driver's license station with that proof. What is it going to be? Well, they at least need a birth certificate, that is for sure, or something like it. They are also going to need some proof of their Social Security number. They are also going to need some proof of their residence. Now when they bring those documents in for their driver's license, the State employee whom they face, who is issuing the driver's license, cannot just accept them at face value; they have to take the documents and verify them with the agency that issued them. Until they verify them, a person cannot receive a driver's license.

Imagine if one is a naturalized American citizen who was born in the former Yugoslavia. You present your birth certificate to the clerk at the Department of Motor Vehicles. There are two big problems.

How is that clerk in Springfield, IL, at secretary of state Jesse White's motor vehicle facility, going to verify the authenticity of documents issued by a government that no longer exists? Good question. I do not know the answer.

There is another problem. The REAL ID Act says that the State cannot accept any foreign document other than an official passport. So, even if the clerk could verify the birth certificate, he cannot accept it.

Imagine you are the person behind the counter.

What are you going to do? With whom do you check? Whom do you call? And what do you do about the people standing in line waiting for their turn to put more documents on the desk?

If you think a trip to the Department of Motor Vehicles is a bad experience today, wait until the REAL ID takes effect. This is not necessarily going to make America any safer. It will make States poorer. The estimates are it will cost States about \$500 million to \$700 million, another unfunded mandate,

and in return for this massive cost and inconvenience we will get, at best, marginal increases in security.

The States have 3 years to put this in place and, incidentally, if we find States that don't have it in place in 3 years, an interesting thing happens. No one's driver's license from a State that hasn't been certified to be in compliance can be used for Federal identification. And if it turns out the State of Illinois, at the end of 3 years, still does not have this together, what is going to happen? It means myself, as a resident from Illinois, presenting a driver's license at the airport, will be turned away. Illinois licenses are not accepted. That is what this bill says—without 1 minute of hearing in the Senate, without 1 minute of debate on the floor of the Senate.

This is an unworkable and unfunded mandate.

In a conference committee, I said to the chairman: I think we need a vote on this. I think members ought to be asked to stand up and explain why they are going to support this without any hearing, without any deliberation. I want to debate it, and I would like to have an official vote so we know where the Members of the Senate and the House stand on this proposal.

I believed that I had an assurance that I would receive it, but I didn't. Ultimately, the committee recessed. No votes were taken. It comes to us now as part of this funding for the troops on a take-it-or-leave-it basis. That is not a good way to legislate.

Let me also say I think this REAL ID is going to create hardships that are totally unnecessary. We can ascertain the identity, and we should, of the people applying for driver's licenses. But the way this was written is sadly not going to achieve that in the most efficient way. The REAL ID Act is another provision on which I wanted a vote, wanted a discussion, and wanted an open debate. Unfortunately, it did not occur.

Many Democrats, despite this provision, will still support this bill because we have said from the start we are going to stand behind our troops. I think the administration, the Republican leadership in Congress, is testing us. How many things can they load into this bill to force us to vote for something we are troubled with, and that is what it is all about. We all know this is not the way to pay for a war and it is not the way for Congress to operate. The late Larry Lindsey—I say "late" because he is no longer in public service—was fired for saying the war might cost \$200 billion. Now we are up to \$300 billion and counting. Sadly, too many of the important decisions on funding this war are still being made by one party behind closed doors.

We will pass this bill, Democrats will support it, but this has to be the end of it. We need to fix this broken process. The American people deserve better.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I thank the Senator from Illinois not only for the time but also for his eloquent statement about this legislation, and particularly the REAL ID bill.

The emergency supplemental bill we are considering today provides needed funding for our men and women in uniform who are engaged in combat operations in Afghanistan and in Iraq, as well as emergency assistance to the victims of the tsunami. This aid and assistance cannot wait because it is a demonstration of our Nation's good will towards those who have been devastated by natural disaster, and also our commitment to our soldiers in combat. These noble goals are unfortunately tainted, however, by the decision of the Republican leadership to include a controversial piece of legislation known as the REAL ID Act.

Senator DURBIN has gone into great detail to show how unwieldy it is and perhaps how unnecessary it is. There are other ways to more effectively and efficiently verify the identity of individuals.

Also, this kind of back-door legislating is symptomatic of the majority's near total disregard for the precedents and procedures of the Senate that have served our Nation so well and for so long. I hope the American people realize this maneuver is yet another example of the majority's desire to pass the most controversial legislation by sliding it into a bill which cannot be amended and is subject only to an up-or-down vote.

With no Senate debate, and very little review, the REAL ID Act makes significant and harmful changes to our Nation's immigration system, as well as our system of licensure of automobiles and drivers throughout the United States.

Like many, I believe immigration is an issue we cannot and should not ignore. However, the REAL ID Act is not the comprehensive immigration reform that we have gone far too long without. Instead, it vastly alters our Nation's established asylum procedures, placing the burden of proof on the applicants by requiring them to document their torture or persecution. Potential asylum seekers are already thoroughly investigated, and those suspected of engaging in terrorist activities are already prohibited from being granted asylum under our current system. Yet the REAL ID Act will make it increasingly difficult for those escaping political persecution and torture to seek refuge.

In addition, the REAL ID Act would suspend habeas corpus review of orders of removal for aliens in the United States. Essentially, this change eliminates the right of aliens facing deportation to ask the court to review their deportation, a right which the Supreme Court has already upheld. This provision will deny innocently detained aliens the opportunity to plead their case before a judge. This goes against the core principle upon which our Nation was founded.

It is unfortunate these unsound provisions will be enacted as part of this bill. It is my hope that in the very near future we will be able to have a national discussion on immigration in a comprehensive, thoughtful, and deliberate way that will provide real solutions to real problems. It is not possible to solve our immigration problems by simply removing those who seek legitimate help from our Nation, or by raising the bar for those who are immigrating here legally. As a nation of immigrants and a global leader on human rights, the inclusion of the REAL ID Act in this bill and in this manner is unacceptable, and I will work with like-minded colleagues to reverse this law.

I yield the remainder of my time to the Senator from Illinois.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum and ask unanimous consent the time under the quorum be charged equally to both sides.

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

The assistant legislative clerk proceeded to call the roll.

Mr. OBAMA. 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 Senator from Illinois is recognized.

Mr. OBAMA. Mr. President, I rise today to speak about the fiscal year 2005 emergency supplemental appropriations bill. Every day in Iraq and Afghanistan, the men and women of the U.S. Armed Forces risk their lives to defend ours. They are completing a mission they did not ask for and, in Iraq, a mission that is longer and more dangerous than they were ever told. Yet amid roadside explosions, insurgent attacks, and the loss of some of their closest friends, they wake up each day and do their jobs. They wake up each day and do whatever it takes to leave a democratic Iraq for a free Iraqi people.

This bill is a way for us to support these efforts. With its passage, I sincerely hope our troops will receive all the support and all the equipment they need to do their job. With its passage, I hope we do not hear any more stories about troops driving convoys with unarmored humvees, or about troops going into battle with armor their parents had to send them from home for their birthday. And I sincerely hope this money will be used to train more Iraqis to secure their own country so we can bring home our young people safe and secure.

I particularly thank the chairman and ranking member of the Appropriations Committee for working with me on several other emergency spending needs.

I say to Senator COCHRAN, I appreciate that this bill provides \$25 million for the prevention of the avian flu. As

some of you may have read, the number of cases in Southeast Asia is increasing, and there is serious concern that this virus could mutate and jump from continent to continent, potentially causing a pandemic that could kill millions of people. We have to work proactively to prevent such a pandemic, and I appreciate the support from the committee chairman as well as the administration on this issue.

Also included in the bill is an amendment I sponsored with my friend from South Carolina, Senator GRAHAM. This amendment will ensure that our injured service members who remain under medical care but are no longer hospitalized will not have to pay for their meals while receiving therapy. I thank the graciousness of Senator COCHRAN for adopting that amendment on the floor without debate.

I also joined with Senator DURBIN to address the security needs of our judiciary. As some of my colleagues know, a Federal judge in Illinois recently suffered a tragic loss, the murder of her mother and her husband. This bill provides necessary funding for the U.S. Marshal Service to step up its security for our Federal judges.

I commend all those who have been involved, including the chairman, for crafting a number of important measures in this bill. I wish that I could, without any further statement, simply say how proud I am of our troops and move on with the supplemental. Unfortunately, this bill also includes some immigration provisions, known as REAL ID, that cause me enormous concern. Although I will certainly vote for the conference report because of the good measures I have already discussed, it is important to state for the record my serious reservations about REAL ID.

Despite the fact that almost all of these immigration provisions are controversial, the Senate did not conduct a full hearing or debate on any one of them. While they may do very little to increase homeland security, they come at a heavy price for struggling State budgets and our values as a compassionate country. The driver's license provisions in REAL ID, for example, will cost an estimated \$100 million over 5 years. States will have to bear the majority of these costs. At a time when budgets are tight, I don't think we should be outsourcing our homeland security to States that can't afford it.

The cost to our Nation's legacy as a refuge for asylum seekers is also heavy. Conferees were able to improve some aspects of REAL ID, including increasing the limit on the number of foreigners who can apply for asylum in the United States, but other provisions intended to eliminate fraudulent asylum applications may end up denying asylum to people who deserve to receive it.

These are costs that call for greater examination. As a sovereign country, we have the right to control and identify those who enter and exit. I have

worked with my colleagues to support hundreds of millions of dollars for more Border Patrol agents to help exercise that right. But controlling immigration is a Federal responsibility—it always has been—and it should not come at the expense of State budgets or basic civil liberties. We should have more time to examine and debate the REAL ID provisions as part of comprehensive immigration reform.

These provisions, currently in the bill, are opposed by religious organizations, civil liberties groups, civil rights organizations, church groups, and hundreds of other groups. The legitimate concerns of these groups have not been properly aired in the Senate. I am aware of the fact that the REAL ID Act, despite what I say, despite my reservations, will become law. It will become law not because it is the right thing to do but because the House majority has abused its privilege to attach this unexamined bill to must-pass legislation. This is highly inappropriate, and I hope that all of the Senate will agree to highlight and correct the deficiencies of these immigration provisions in the year to come.

I yield the floor.

Ms. MIKULSKI. Mr. President, I support our troops and their families. I am behind them 100 percent. They deserve our gratitude, not just with words, but with deeds. This emergency supplemental appropriations bill helps us do just that.

The House and Senate have worked hard to respond to the President's request for additional funding to support our operations in Iraq and Afghanistan. We have provided more than \$75 million in defense-related spending, including vital support to our soldiers and their families. We have also provided more than \$6 billion in assistance to our friends and allies, including \$681 million to aid in the recovery from last year's terrible tsunami in Indonesia.

We have provided a total of \$17.4 billion to speed up the Army's purchase of trucks, additional up-armored humvees, and upgrades to Abrams tanks. There is also \$1 billion for additional purchases of Army and Marine Corps trucks, tactical vehicles like humvees, night vision and other important protective equipment to keep our soldiers as safe as possible on the battlefield. We have also preserved support for the C130J aircraft, so vital to transporting troops and materiel around the world.

U.S. troops will stay in Iraq and Afghanistan long enough to ensure that those nations can defend themselves against chaos and terrorism. It is important that we provide training and equipment to prepare Iraqi and Afghan security forces to take over when American troops come home.

To do this, we have provided \$7.0 billion to train security forces in Afghanistan and Iraq. There is also \$1.78 billion for Afghan reconstruction and counter-narcotics efforts. In addition to providing \$7.7 million to support U.S. dip-

lomatic and reconstruction efforts in Iraq, we have provided \$20 million in assistance to Iraqi families who have been affected by coalition operations in Iraq.

We must do everything we can to care for soldiers when they are injured. I am very proud that we have provided an additional \$211 million for the Defense Health program.

This funding also includes assistance to provide meal and telephone services for soldiers recuperating from injuries suffered in Iraq or Afghanistan. It also provides assistance for family members to travel to be with an injured service member recovering from combat injuries. To help soldiers with the enormous medical costs that can be associated with combat injuries, we have also made it possible for service members to get traumatic-injury protection as part of their military insurance package. This insurance rider can be worth as much as \$100,000 to service members enrolled in the Servicemembers Group Life Insurance, SGLI, program. We have also made it available retroactively, to help out those soldiers and families already dealing with combat and combat-related injuries.

Mr. President, more than 1,700 service men and women have made the ultimate sacrifice in Iraq and Afghanistan. Part of the debt of gratitude we owe the families they leave behind is to ensure that they do not have to face a financial crisis while they are dealing with the loss of a loved one.

I am very proud that we have been able to help alleviate their burden, by increasing from \$12,000 to \$100,000 the fallen heroes compensation for family members of troops who make the ultimate sacrifice for our country. This benefit is applied retroactively, to include all service members who have died since the global war on terror began in October 2001. In addition, the family of a service member who has died will be allowed to remain in military housing for a year, rather than the six months currently allowed. We have also increased the life insurance benefit provided under the SGLI, from \$250,000 to \$400,000. This increase will also be applied retroactively to 2001.

I am disappointed that the conferees did not accept the advice of the Senate—and of the Chairman of the Joint Chiefs of Staff GEN Richard Myers—and provide the fallen heroes compensation to families of all service members who die on active duty.

Instead, Congress has expanded all aspects of the current coverage to include those who die in designated combat zones and in combat-related activities, such as training. This is a good start, but I agree with General Myers that every family who loses a loved one on active duty deserves the gratitude of this nation and should benefit from the fallen heroes fund.

We also need to make sure that families receive the full amount of this compensation. Working closely with Senator GRASSLEY, I have taken steps

to ensure that the full benefit will be tax free. Senator GRASSLEY has assured me that this important correction will be added to the next tax bill considered in the Senate.

We know that nearly 40 percent of the soldiers deployed today in Iraq and Afghanistan are citizen soldiers who come from the National Guard and Reserves. More than half of these will suffer a loss of income when they are mobilized, because their military pay is less than the pay from their civilian job. Many patriotic employers and state governments eliminate this pay gap by continuing to pay them the difference between their civilian and military pay.

I am very disappointed that this conference report does not include the Reservist Pay Security Act, which would ensure that the U.S. government also makes up for this pay gap for Federal employees who are activated in the Guard and Reserves. This legislation has passed the Senate three times, and three times it has been stripped out of the conference report. I will continue to work with my colleagues in the House and Senate to build support for this important provision to help our National Guard and Reserves.

Mr. President, Americans joined the world in mourning the loss of more than 150,000 victims of the Indian Ocean Tsunami last Christmas. Together, we prayed for the 7 million displaced survivors that God may give them the strength to persevere and overcome this, the largest natural disaster of our time.

But expressions of sympathy are not enough. As I said at the time of this terrible disaster, the United States must set the example and lead the world in the humanitarian effort of recovery and rebuilding. Congress has provided \$656 million for the tsunami recovery and reconstruction fund to support on-going and long-term relief efforts, including programs aimed specifically at women and children in the affected areas. We have also provided \$25 million for U.S. tsunami warning programs to help prevent future human disasters on the scale we have seen in Asia.

The people of Darfur continue to suffer the terrible effects of war in the Sudan. Congress has provided \$248 million for humanitarian assistance to Darfur and \$37 million for Sudan peace implementation assistance. We have also included \$50 million to be made available to the African Union, for peacekeeping efforts in Darfur. Also, part of the \$90 million provided for food aid and famine relief can be used to help improve conditions in Darfur.

Because it is just as important to support our communities at home as it is to support our troops in the field, I will continue to fight for responsible military budgets. For that reason, I joined the Senate's efforts to insist that the President fund our operations in Iraq and Afghanistan through the regular budget and appropriations

process. After three years in Afghanistan and two years in Iraq, we should not be funding these operations as if they were surprise emergencies.

Unfortunately, because much of the funding included in this conference report has been designated as an "emergency," it will not count against our budget limits and instead just gets added to our ever-growing national debt.

This emergency supplemental is a Federal investment in supporting our troops and their families.

We support out troops by getting them the best equipment and the best protection we can provide. We support them by getting them the best health care available when they are injured in service to our Nation. And we support them by ensuring that their families do not face a financial crisis at the moment when they are grieving the loss of a soldier who has sacrificed everything for our country.

I am proud to vote yes for our troops and their families. I am also proud to vote yes because this bill contains important provisions to help small and seasonal businesses in the United States.

The emergency supplemental contains language that provides real relief to small businesses that need temporary seasonal workers by the summer. This emergency supplemental contains the language I offered on the floor of the Senate to temporarily solve the H2B visa shortage. It passed this body by a overwhelming bipartisan vote of 96-4 and was adopted by both House and Senate conferees to be part of the final bill.

I know that my colleagues on both sides of the aisle supported this amendment because it is a limited fix to the H2B worker shortage that many coastal states and resort states are facing. This solution is desperately and immediately needed by small and seasonal businesses throughout the country.

My amendment helps us keep American jobs, keep American companies open, and yet retain control of our borders.

I am very proud that we were able to work together, House and Senate, Democrats and Republicans, to pass this measure. This bill was a simply fix, it was temporary and it does not get in the way of comprehensive reform.

The amendment and the Save our Small and Seasonal Businesses Act on which it is modeled will help small business by doing three things:

No. 1, temporarily exempting good actor workers from the H2B cap, so employers apply for and name employees who have already been in U.S.;

No. 2, protecting against fraud in the H2B program; and

No. 3, providing a fair and balanced allocation system for H2B visas.

This amendment first and foremost protects American jobs.

It provides a short-term fix to the H2B visa cap which will only be in place through fiscal year 2006. It has four simple provisions:

One, it exempts returning seasonal workers from the cap for this year and next. That means that people who have worked here before and who have gone back home are the only ones who would be eligible. The exemption works this way—an employer requests a visa and lists the name of the returning worker on his petition. The employer must provide supporting documentation to the Department of Homeland Security or the State Department that the worker is a returning worker who has come to the United States in one of the 3 prior years under the H2B program.

This exemption does not exempt any new workers because employers must show that the worker was in the US previously in order for that worker to be exempt from the cap. Employers can petition for exempted workers at any time during the fiscal year—regardless of whether the cap on H-2B visas has been met or not. The legislation explicitly states that exempted workers are outside the cap.

The employer does not automatically get the exempted worker, they still must go through the whole DOL and DHS process before they can get exempted workers. That means that employers still must prove to the Department of Labor that they cannot find American workers to fill these jobs. Only then will DOL give them the ability to continue the application process and get the workers who they need through DHS and State. Employers will go through the whole process for new or returning workers. Returning workers will be exempt from but new workers will be subject to the cap.

This provision is both forward looking and retroactive back to the beginning of the fiscal year, or October 2004. That means that DHS will have to determine how many returning workers were admitted prior to the passage of this Act and open up those spaces to new workers. That makes it fair so that summer employers have the same bite at the apple that winter employers had. DHS estimates that between 30,000 and 35,000 workers are returning workers and they will be able to use the information they have in their databases and in coordination with the Department of State to ensure that spots that were counted in the cap and used by exempted workers will now be opened up for new workers to use so that summer employers can get their fair share.

This fix also has strong antifraud provisions to make sure that everyone is playing by the rules and that no one is misusing the program. And it gives DHS added teeth to prevent fraud and enforce our Nation's immigration laws. A \$150 antifraud fee ensures that Government agencies processing the H-2B visas will get added resources to detect and prevent fraud. This money is added to an antifraud fund to give the Department of Homeland Security, the Department of State and the Department of Labor some added resources to train workers so that they can identify fraud in the program.

We also add strong new sanctions to the law. These sanctions are permanent and further strengthen DHS's enforcement power by allowing sanctions against those who have a significant misrepresentation of facts on a petition. We increase fines and allow DHS to bar violating employers from the H-2B program for up to 5 years. This section also sends a strong message to employers—don't play games with U.S. jobs. Our bill reserves the highest penalties for employer actions which harm U.S. workers.

We also make the system better by creating a fair allocation of visas. Under current law summer employers lose out because winter employers get all the visas. So our bill does two things: First, as I said above, we exempt returning workers from the cap, so returning workers don't count for the cap. But we also divide the cap between summer and winter. What that means is that of the 66,000 visas and we make 33,000 available from October thru March and 33,000 available from April thru September. Winter employers get half and summer employers get half. And we make this change permanent to make sure that even if comprehensive reform cannot be reached by 2006, then at least summer and winter employers are competing for the limited number of visas on a level playing field.

Finally, we give the Department of Homeland Security the ability to implement this law now, without having to issue regulations. That means that employers get real relief now. DHS has a limited exemption from the Administrative Procedure Act to implement the exemption section, the antifraud fees and also the allocation of visas section. These exemptions are to prevent any barriers or delay to the immediate implementation of those provisions.

So that is what this strong bipartisan legislation is all about. This is the language that 94 Senators in this body supported and that the House adopted into the emergency supplemental conference report.

Now we want to make sure that DHS can start its implementation immediately so I want to make sure that they are very clear about what the congressional intent of this legislation is:

Section 402 is intended to increase the number of H-2B admissions available for fiscal years 2005 and 2006. This legislation was drafted with the understanding that the preexisting USCIS method of implementing the H-2B limitation is based upon accepting for filing the number of petitions (only some of which name the specific workers) that is projected to result in the authorized number of admissions, with allowance made for an expected number of petitions that will be denied or revoked and of workers with approved petitions who will not apply for or qualify for visas or admission, based upon State Department information.

Consistent with this general methodology, and with the fact that USCIS

has already received sufficient petitions for fiscal year 2005 to fill the cap and has not required any information to be provided as to whether the petitions were filed for "returning workers", it is intended that USCIS to make its best estimate as to the number of previously filed petitions that likely were for returning workers, based on State Department information, and accordingly to free up numbers for fiscal year 2005 to be available to otherwise qualified H-2B aliens, whether or not they are "returning workers."

In addition, H-2B workers will be available to petitioners identifying and certifying specific aliens to be returning workers. For fiscal year 2006, the number of new H-2B admissions available will be 66,000, plus any aliens for whom the certification and confirmation requirements of section 214(g)(9)(A), (B), and (C) of the Immigration and Nationality Act, as amended by this section, are met.

Specifically, Section 405 provides that the 66,000 limitation on H-2B admissions for fiscal year 2006 and thereafter will be administered as two half-year limitations of 33,000 each applicable to aliens subject to the overall 66,000 limitation, i.e., not including "returning workers." It is the intention of the supporters of the amendment that this provision be administered so as to give employers seeking workers for the second half of the year an opportunity to obtain them at least equivalent to that available to first semester employers.

Finally, section 407, is intended to allow this law to be implemented expeditiously. The intent was to make sure that the provisions of the Administrative Procedure Act, the Paperwork Reduction Act, and other laws relating to regulatory processes and forms—especially, but not limited to, any requirement to promulgate new rules—to the extent any such provisions might apply, should not pose a barrier in any way to the expeditious implementation of the provisions of this Act intended to give urgent and necessary relief to summer and seasonal employers and to apply the new fee provision in section 403. We therefore, provide the authority to the relevant departments to waive any such requirement that may otherwise delay such implementation.

It is a quick and simple legislative remedy with strong bi-partisan support. It fixes the problem now and takes small steps to prevent this drastic shortage in the future. It is immediate and achievable because DHS will start implementation once it is signed by the President. And more importantly, it does not exacerbate our immigration problems.

Mr. President, it is important that we continue to support the brave men and women who put their lives on the line both at home and abroad. But today, as I support funding for our troops I also stand opposed to the part of the emergency supplemental known as REAL ID.

This controversial and overly-broad provision has no place in an emergency spending bill. The changes to our immigration laws and the policies on asylum proposed by this legislation are major modifications that are contentious on both sides of the aisle. As it is written, this bill undermines both due process and the principles of fundamental fairness on which our immigration laws are based.

This legislation, plain and simple, is a drastic and unknown change. It is the type of change that both the House and the Senate should have deliberated on and given in-depth consideration to. The Senate has not had the opportunity to do that.

Just look at what this legislation does:

First, it increases the burdens on those seeking asylum in the United States and limits judicial review of some decisions. These are people who are often persecuted in their own countries and cannot produce the level of documentation or corroboration of their abuse that this bill requires.

Next, it permits the Department of Homeland Security to waive "all legal requirements" that interfere with the construction of roads or barriers along our borders. That means that the Secretary of Homeland Security can waive any State or Federal environmental, health and safety, civil rights, labor, or criminal law. And there is very limited ability of anyone to challenge these decisions. That means the Secretary has a tremendous amount of discretion to override existing laws and step all over State's rights.

It also limits judicial review of removal cases and discretionary decisions of agencies—that means an agency, not a judge, will have the final say.

And most notably, it creates national standards for identification cards that States must enforce. That means that States now must not only verify the many forms of identification that are required, but they are also responsible for keeping track of a drivers license holder's immigration status. That creates a huge increase in expenses for States and it also means that State officials, who have no background in immigration law, will be forced to enforce these complicated provisions. That's an unfunded mandate on States that are already in fiscal crisis.

Plain and simple REAL ID drastically changes immigration laws, limits access to the courts and due process, and places significant new costs and duties on local and State governments. The Senate should have had the ability to review, debate, and amend this provision before it became a permanent part of our Federal immigration law.

Now, I am the first to agree that we need strong and comprehensive immigration reform. We need to look at all the problems with protecting our borders and ensuring our safety. We need to make sure that the programs that work are updated and continued. We

need to make sure that the programs that don't work are fixed so that we do not have porous borders. But we need to use regular order to do so.

The Senate must have the opportunity to consider comprehensive reform, not focus on piecemeal measures. And President Bush should lead the way in working with Congress and our allies for solutions that protect our borders. And for solutions that allow our rich history and tradition of immigration to continue. But these supposed solutions cannot come at the expense of our constitutional framework.

REAL ID is an unfunded mandate that is punitive. We do not know if any of the provisions will actually make us safer—we just know that they override States rights and undermine civil rights and civil liberties. I believe that it is our duty, as Members of the Senate, to balance national security interests with due process and constitutional rights, yet because we have not had hearings or been able to evaluate this change to our immigration law we do not know the extent of its impact.

REAL ID proposes several different and significant changes to our immigration laws, I believe that it is important for the Senate Judiciary Committee to have an opportunity to hold hearings and consider comprehensive legislation that looks at all areas of the law. Then the whole Senate should have the ability to fully debate the issue on the Senate floor.

I am disappointed that this controversial measure was added to this must pass legislation. We should be passing an emergency supplemental bill without the harmful REAL ID provision. And then we should turn our attention to real reform and the Senate should proceed to a thoughtful and comprehensive debate on immigration reform that protects our borders and our constitutional mandate.

Mr. BURNS. Mr. President, the attacks of September 11, 2001 reminded us all that national security is of the utmost importance. Since then, we have worked to ensure the safety of this country. Still, there are gaps in our immigration and identification systems that need attention. Those with ties to terrorist organizations should not be given asylum or permission to live in this country where they can do harm. Barriers on our borders should be enhanced to adequately protect our national security. Driver's licenses and personal ID cards should be secure, and should not be given to terrorists or those who are in this country illegally.

There are provisions to address each of these concerns in the REAL ID Act of 2005, which has been attached to the Emergency Supplemental Appropriations Act. I have expressed my reservations about possible unforeseen costs to my State of Montana that these provisions could impose, particularly the costs of changing the system of issuing driver's licenses. Ultimately, however, I firmly believe that the fundamental aspects of this bill will make Montana,

a border State where homeland security is of paramount concern, and our country safer and more secure in this era where illegal immigration is out of control and the security of our identification systems continues to be lacking. I am confident that any remaining funding issues can be worked out later in the implementation process. Our job now is to move forward, and make sure that these provisions are put into place with the best interest of this country in mind.

As I have said before, my State of Montana has one of the largest international borders. A lot of attention has been placed on border security lately, particularly on the northern border. I think we can all agree that the northern border has been historically understaffed and lacks the necessary infrastructure to adequately screen individuals seeking entry into the United States who wish to do us harm. I have always supported increasing the number of border patrol agents along Montana's northern border. It does not make sense for the Department of Homeland Security to heavily staff the southern borders while leaving large gaps wide open on the northern border. The end result is that those wanting to enter the United States illegally may focus on the less secured border regions of the north so that they may cross over undetected. Unfortunately, the grave threat of this happening along Montana's vast border remains a reality.

In view of this, during debate on the Emergency Supplemental Appropriations Act, I was a cosponsor of the Ensign amendment which was adopted that would increase the number of Border Patrol agents and provide funding for Border Patrol facilities. I am happy to report that the conferees reached a compromise that would provide \$635 million for increased border security and enforcement; this includes \$176 million to hire, train, equip, and support 500 Border Patrol agents and relieve current facility overcrowding. The supplemental also includes almost half a billion dollars for Immigration and Customs enforcement; \$97.5 million of this would be used to hire and train additional criminal investigators and immigration enforcement agents.

I will always vote to protect our homeland and the safety of our citizens, and I encourage my colleagues to do the same as the Senate considers the supplemental for final passage.

Mr. KERRY. Mr. President, the Emergency Supplemental Appropriations bill for fiscal year 2005 is a vital piece of legislation. It provides \$75.9 billion for the Department of Defense, nearly \$4 billion for the Department of State, and billions more for military construction and other national priorities. It will come as no surprise to anyone that Congress will pass this bill with an overwhelming majority. Instead, we should be asking what took so long.

The administration continues to play games with the funding of the war on

terror and the war in Iraq. These aren't inside-the-beltway issues. Every day the administration resists bringing forward an accurate and reasonable accounting of our future needs in Iraq, it complicates the way the Department of Defense conducts business.

In recent weeks, the Pentagon has been forced to shuffle \$1.1 billion to cover Army shortfalls while the Department of Defense waits for the President to sign the supplemental into law. That \$1.1 billion came out of Navy, Air Force, Marine Corps and Army National Guard personnel accounts. That is a dangerous way to conduct business.

As we pass this legislation, I urge the President to heed the advice of so many Senators who believe that he must better reflect the costs of war in his regular defense budgets and simply be straight with the American people about the ongoing costs of operations in Iraq and elsewhere. Our troops shouldn't have to wait for the gear and equipment they need to do their jobs well, to win the peace in Iraq, to bring the terrorists to justice in Afghanistan and around the world, and to come home.

This bill takes some important steps toward the Military Family Bill of Rights which we have talked about for many months. It increases to \$400,000 the life insurance coverage available to service members, and raises the death gratuity to \$100,000 for those who die in combat and in combat-related incidents, including training. It also extends to 1 year the length of time widows and children of military personnel may remain in military housing. Together, these provisions are important affirmations of the Congress' support for the men and women of the American military and their families. I thank the House-Senate conferees for including those provisions.

I regret that the House-Senate Conferees struck a provision that the Senate added to pay an equal death gratuity to the survivors of all service members killed while on active duty, regardless of the circumstances. This policy was supported by 75 Senators in a floor vote. It was supported by the House in its version of the legislation. And it is supported by the uniformed leadership of the military. It is clear that the civilian leadership at the Pentagon, led by Secretary Rumsfeld, opposed it. While they have succeeded in striking the provision from this supplemental legislation, I will continue to work with my colleagues, many of whom have worked on this issue for some time, for its enactment.

While I support this bill overall, I have serious concerns about the attachment of the REAL ID Act to the conference report. This legislation creates new hurdles for legitimate asylum seekers, allows the government to waive environmental laws to build physical barriers on the border, and forces an unfunded mandate on the States. This legislation did not have so

much as a hearing in the U.S. Senate. Such legislation should be considered in committee and before the full Senate, rather than being attached to an emergency spending bill. It is my hope that the Senate will work to amend the most damaging provisions of the REAL ID Act as soon as possible.

I am pleased that the conference report includes the "Save our Small and Seasonal Businesses Act" which makes changes to the H-2B visa program. This provision will provide great relief to many small businesses in Massachusetts that count on foreign workers to keep their seasonal businesses open.

Mr. President, I would also like to thank the conferees for addressing potentially damaging anti-small business language in this bill which would have allowed small business subcontracts at the Department of Energy to be counted as prime contracts and capped all small business contracting goals at 23 percent. Section 6023 had strong bipartisan opposition from members of the Small Business Committees and from other members concerned about protecting small business federal contracting. The compromise language included in Section 6022 of the final version of this bill lays out a process for the Small Business Administration and the Department of Energy to expand small business contracting.

The compromise requires the Small Business Administration and the Department of Energy to develop a Memorandum of Understanding, MOU, on a methodology for measuring the achievement of awarding prime contracts and subcontracts to small businesses. It is my understanding that MOU will in no way count the subcontracts awarded by DOE's management and operations contractors towards DOE's prime contracting goal. Section 6022 also requires DOE and SBA to conduct a joint study of changes at DOE that would encourage greater opportunities for small business contracting, and it includes temporary relief for local small firms that are facing undue burdens as a result of contracts being broken out from large, bundled management and operations contracts.

Mr. President, the Department of Energy has the worst small business utilization record of all Federal agencies. This compromise is an opportunity to address the growing challenges facing small firms as a result of contract bundling, the need for greater diligence by the administration in its effort to meet the 23 percent government-wide minimum goal for small business contracting, and the need for greater management and oversight by the Department of Energy of the contracting dollars being awarded by the Agency. I hope the administration will use this opportunity to improve small business contracting at the DOE and will draw on the conclusions of the ongoing studies being released by the GAO to address the current shortfalls in small business prime contracting and subcon-

tracting oversight. As the ranking member of the Committee on Small Business and Entrepreneurship, I am committed to working with the other committees of jurisdiction, including the Energy Committee, to ensure that DOE and SBA do not undermine the intent of Section 6022 by using this compromise language to prevent small businesses from receiving their fair share of DOE prime contracts.

Mr. BINGAMAN. I rise today in support of H.R. 1268, the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief.

First, while this bill addresses many areas of concern, it is primarily focused on providing the American military sufficient funds for its mission to aid Afghanistan in creating a strong and stable nation and to ensure the security necessary to rebuild Iraq.

Provisions in the bills to support American soldiers and their families, such as increasing the death benefit gratuity for soldiers killed this year to \$100,000 and providing all members of the armed forces with free meals and phone service, are the right thing to do. We will no longer force men and women who volunteered to serve in one of the most dangerous environments to recuperate without the support of loved ones while charging them for their meals. Other important provisions, such as providing more money to combat the effectiveness of improvised explosive devices, or IED's, and providing \$150 million for the purchase of up-armored humvees, will serve to protect Americans already operating in combat zones. The biggest danger to Americans in uniform remains the IED; by using funds to both prevent the IED from exploding and then ensuring that those that do go off near a humvee are defended against, I can safely say that we are working toward the ultimate goal of mitigating the largest source of American casualties.

I was also happy to see that the bill also requires reports on the status of training for both the Afghan and Iraqi security forces, so that the American public is not given arbitrary numbers of successfully trained soldiers and policemen without an understanding of their capabilities. Just as importantly, the bill states that the President should submit an appropriate budget amendment for FY 2006 by September 1, 2005.

There are also some very important, non-military, provisions in this legislation, nearly all of which I co-sponsored when it came to the floor. All will contribute significantly to the establishment of increased stability in regions throughout the world. For example, the United States has done far too little to stop the genocide and atrocities that continue to occur in Darfur, Sudan. This legislation specifically dedicates \$50 million to support efforts by the African Union to bring a halt to the violence and another \$90 million in humanitarian assistance for refugees in

the region. The United States has hardly anything at all to create a stable and viable government in Haiti, this in spite of the fact that the country is only miles from our shore. This legislation provides \$20 million to assist in efforts at institution-building, law enforcement, and democracy promotion.

Significantly, this legislation is the only vehicle available for disaster assistance to the countries affected by the tsunami in the Indian Ocean. I need not remind anyone that this was likely the most catastrophic natural event in recent history, with nearly 200,000 people in eight countries dying in just a few hours. Over 100,000 are still missing. Thousands had their homes, family, and livelihoods swept away. The cost in dollars is easily in the hundreds of billions.

It is imperative that the United States step up to the plate and assist in repair and reconstruction. We have pledged almost a billion dollars to this effort, and this legislation provides an initial \$656 million to help people get back on their feet. A substantial portion of the funding is directed toward repairing replacing essential services—roads and highways, telecommunications and energy infrastructure, and water and food distribution systems, and so on. But portions of the funding are dedicated to other critical issues that will allow these countries to get back to baseline—programs designed to assist women with new economic opportunities now that they have lost the provider in their families, programs designed to assist individuals with mental or physical disabilities as a result of the tsunami, programs designed to protect orphaned children from violence and exploitation and reunify them with extended or immediate families, programs to provide loans, business advice and training in job skills so new sources of income and new businesses are developed; and programs to stop the spread of disease, including avian flu.

This bill provides funding for many important causes which I fully support. But let me take a few moments to discuss a few provisions about which I have significant concerns.

First, the conference committee removed a provision that I had included in the Senate version of the bill that would have helped Federal courts cover costs associated with the substantial increase in immigration related cases filed as a result of recent border enforcement efforts. I strongly support efforts to enhance our border security—indeed, I cosponsored an amendment to this bill that was offered by Senator ROBERT BYRD that provided funding to hire an additional 500 border patrol agents and have consistently voted to allocate additional resources to secure our Nation's border. However, we must also consider the impact that these enforcement measures are having on our Nation's courts, especially in districts along the border region. Since 1995, immigration cases in the 5 southwestern border districts—the District

of Arizona, District of New Mexico, Southern District of California, and Southern and Western Districts of Texas—have grown approximately 828 percent. In 2003, overall immigration filings in U.S. District Courts jumped 22 percent, and in 2004 they jumped 11 percent. Of these cases, 69 percent came from these 5 districts.

We can't just fund the enforcement side without considering what will happen to these individuals once they are detained. This approach not only places a tremendous burden on our courts, but it also threatens our national security by limiting the ability of the courts and probation services to provide adequate case oversight.

Second, the REAL ID Act, which was attached to the bill by the House of Representatives, was included in the final version of the bill. Although the conference committee made several minor modifications to lessen the impact of these provisions, I remain strongly opposed to this section of the bill. The REAL ID Act never received a hearing in the Senate and Republicans on the conference committee refused to consult with their Democrat counterparts on this language. The bill makes it more difficult for legitimate asylum applicants to obtain a safe haven in the United States and authorizes the Secretary of Homeland Security to waive all legal requirements which could impede the construction of a fence along the border with Mexico. It also repeals provisions of the recently-passed Intelligence Reform and Terrorism Prevention Act of 2004, which implemented the recommendations of the 9/11 Commission. Specifically, the intelligence reform bill charged the Department of Transportation, in consultation with the States, with promulgating "minimum standards" for State driver's licenses in order to prevent fraud or abuse. Without enhancing our national security, the REAL ID Act repeals this section and replaces it with a system that will be extremely difficult and costly for States to implement. I know that these provisions will have a significant impact on my home State of New Mexico, and it is my hope that Congress will be able to revisit this legislation in the near future.

Thus, while there are some aspects of this supplemental request that remain troubling to me and many of my Senate colleagues, I know that by supporting this bill we are working to create a more peaceful and stable world community and meet more of the needs of our brave soldiers serving in Iraq and Afghanistan.

Mr. DODD. Mr. President, I will vote for the conference report because I believe we have few higher priorities than the safety and well-being of our troops deployed in harm's way. This legislation is critical to the war efforts in Iraq and Afghanistan, providing funding to purchase life-saving armor, replenishing stocks of spare parts and ammunition, and increasing the government's financial support for the families of America's fallen heroes.

Probably one of the most significant provisions in this legislation is the \$308 million added above what the President proposed to ensure that more humvees deployed in combat are adequately armored. Just as in the previous 2 years, I have been deeply troubled by continuing shortfalls in the administration's plans for outfitting our troops with the protection they need. Over 1,600 U.S. troops have been killed in Iraq since the beginning of the war in March 2003. And rarely a day goes by that one does not hear about an improvised explosive device or roadside bomb seriously injuring an American there. This conference report is a step in the right direction to better prepare our troops for these threats, but more always needs to be done to ensure greater security for our soldiers, sailors, airmen, and marines. We owe it to them to make sure they have the resources to protect themselves as best they can.

And we owe it to their families here at home to make sure that their sacrifices are so honored. This bill also authorizes the Department of Defense to increase to \$500,000 the amount that can be paid to surviving families of deceased servicemen and women. In addition, this bill rightly includes traumatic injury insurance of up to \$100,000 for military personnel seriously wounded in action. These provisions are the least we as Americans can provide to the families of our men and women in uniform who are giving so much to our Nation.

Not all of this bill directly pertains to our troops deployed in Iraq and Afghanistan, however. And while I support many of these provisions, there are some sections that give me pause. On the positive side, I am pleased by the conference committee's decision to retain the amendment put forth by Senator WARNER to stop the Navy from downsizing its aircraft carrier fleet. We must retain the ability to quickly project power around the globe, particularly as emerging powers in Central and East Asia amass powerful fleets in direct challenge to U.S. Naval supremacy. And this amendment rightly puts the brakes on the administration's efforts to cut too deeply into our Navy's critical assets.

In terms of homeland security, this bill adds an additional \$450 million over the President's proposal for more border security and customs agents. I support these additional resources and am pleased the conferees included them in this bill.

But this bill is not perfect. Indeed, I have some serious concerns about provisions that are included in the conference report before us. I also have concerns that certain important issues are not addressed by this bill.

First, I am greatly disappointed that the conferees decided to include the majority of the text that makes up a bill called the REAL ID Act. There are many troubling provisions in this language—virtually the same language that Republican members of the House

tried to push through as part of last year's intelligence reform legislation. At that time, the 9/11 Commission opposed its inclusion. And the Senate managers of the bill prevented it from being included in conference.

But now, the vast majority of the REAL ID language has been included in the conference report before us. Although I do not sit on the Senate Judiciary Committee, I am concerned that this package of provisions was never debated within that panel. I would note that an effort to include the language in the Senate version of the emergency supplemental was withdrawn after bipartisan opposition to its inclusion.

This bill's REAL ID provisions, among other things, would require State departments of motor vehicles to verify documents used to obtain drivers licenses. This is an unfunded mandate—the language included in this bill does not specifically appropriate any amount for this purpose. Reportedly, the National Conference of State Legislatures estimates that REAL ID will cost States between \$500 million and \$700 million over 5 years to implement. Many States are already dealing with budget shortfalls. What impact will this additional financial have on States' abilities to provide basic services for their residents?

These licensing regulations also raise privacy issues, as DMVs will gain access to much private information. All Americans, when renewing or obtaining a new license, will be subject to these provisions. Certainly, some reform with respect to identification documents might be needed. But this partisan and hasty approach is not the right way to do it—especially when State governments are currently working to establish reasonable standards for reform that can be implemented. These are only two of the many troubling provisions of the REAL ID language, which deal with issues as far reaching as eligibility for asylum in the U.S. and border security.

I also have concerns about issues that were left out of this bill. For example, this bill does not include language addressing the practice of renditions—the process whereby the U.S. has reportedly transferred foreign prisoners, detainees, or combatants to other countries for interrogation purposes. Often, the countries to which these people have been transferred are known to practice torture. Yet, few specifics are known about the practice of renditions.

Nor does this bill address important issues of accountability, such as the extension of the lifespan of the Special Inspector General for Iraq Reconstruction, or the SIGIR. The SIGIR has performed admirably, but its doors will be closed years before it can complete its task of accounting for all American taxpayer money devoted to the reconstruction of Iraq. Senator FEINGOLD filed an amendment that would have fixed this problem. Unfortunately, the Republican leadership failed to support

his efforts, and the amendment was ruled non-germane—even though the SIGIR had originally been created and its authority subsequently extended as part of an emergency supplemental bill.

All in all, this bill is a mixed bag. But it contains critically important provisions to support our troops—specifically, it will help provide some of the equipment our troops need in order to finish their jobs safely. Moreover, it will help further the process of training Iraqi Army and police forces so that U.S. troops can finish their jobs and come home. I believe that it is incumbent upon this body to swiftly pass this spending bill. That is why I intend to support it when it comes to a vote.

Mr. CHAFEE. Mr. President, today the Senate considers the conference report on the President's emergency supplemental appropriations bill. Unfortunately, the REAL ID Act which had been attached in the House bill was included in the final measure.

The REAL ID Act should have been debated as a part of comprehensive immigration reform. By attaching REAL ID to a must pass spending measure, the critical process of vetting the bill in committee was circumvented and an opportunity for discussion and debate, which is essential for effective legislation, was denied.

There are many concerns I have with REAL ID in addition to the process used to bring it to the floor. First, the measure is an unfunded mandate to the States. Furthermore, unless every State complies, the Federal Government will have to mandate the creation of a national ID. Between the creation of a new database and approval system, training for DMV workers, and struggling State budgets, REAL ID will impose real costs.

More importantly, a database of this type will open up many privacy concerns and there must be security safeguards in place to prevent the gathered information from being obtained inappropriately.

Many States, including Rhode Island, have already passed legislation setting their own requirements for driver's license recipients. The Federal Government should not impinge upon the States' ability to decide who can and cannot drive on their roads, especially without the funding to support the idea. REAL ID will put more drivers on the road without licenses and without insurance.

I am also concerned about another provision of the REAL ID Act that would allow for the waiver of all laws—Federal, State, and local—to build barriers and roads at our borders. As a strong advocate of environmental protection, I am troubled about blanket waivers from environmental laws like the Endangered Species Act and the National Environmental Policy Act.

The REAL ID Act, at its best, should be a catalyst for discussion of comprehensive immigration reform. That discussion cannot take place in a

forum primarily devoted to quickly releasing funds for our troops around the world and veterans returning home.

Ms. CANTWELL. Mr. President, the emergency supplemental appropriations conference report before us today is a critically important piece of legislation. This bill will ensure that our troops in Iraq, who put their lives on the line for us every day, are properly equipped and protected. It provides vital funds to support the emergence of a free Afghanistan, and it provides much-needed funding for tsunami relief.

I am supporting this conference report even though I strongly oppose the REAL ID provisions that are also included. The REAL ID Act is a complete overhaul of our immigration laws that would, amongst other things, impose complicated new driver's license requirements on States, make it harder for refugees at risk of persecution to be granted asylum, and suspend all environmental laws along the U.S. border.

This language will result in the most significant changes to our immigration policy in 10 years. While we have long recognized the need for comprehensive immigration reform, this debate has no business taking place as part of an emergency spending bill. Legislation of this importance deserves to be the subject of focused study and serious debate. Passing REAL ID without careful consideration is reckless, irresponsible, and a disservice to the American people.

Mr. SCHUMER. Mr. President, in this post-9/11 world, it has never been so important to work seriously and carefully on efforts to enhance our border security.

We in New York are particularly cognizant of the need for comprehensive efforts to make our borders, our ports, our critical infrastructure, and our airports as secure as possible. Like no other place in America, like no other place in the world, New Yorkers I represent know what terrorism looks like, feels like, and costs to our communities, the economy and our psyches.

It is crystal clear to almost everyone that there are many questions that need to be answered about how we secure our borders. As a member of the Judiciary Committee and a Senator from New York, an enormous amount of my time and energy is devoted to just those questions. And indeed, I don't think we are doing enough to secure our borders. But sneaking drastic changes to our immigration laws into a must-pass measure supporting our troops is not the way to address these issues.

Opinions are mixed about how effective the REAL ID bill will be in enhancing national security. But regardless of what you might think about the merits of the bill itself—I, for instance, have serious concerns regarding the impact of its asylum provisions—this is an issue that requires serious debate. Instead, the Republican leadership has completely bypassed the committee

process and slipped this controversial and complicated proposal into the emergency supplemental bill, which we will have to approve because it provides the necessary support of our men and women serving in Iraq and Afghanistan as well as the vital relief for the tsunami victims abroad.

Immigrants have built New York and this country from the bottom up. Our country was founded by and made stronger by the hard work of immigrants from all different countries, cultures, religions and races. I marvel how our new immigrants remake our land, making it a better place, even as they become new Americans. Just think of how many recent, and expectant immigrants now serve in our Armed Forces, some of whom have made the ultimate sacrifice for our Nation in Iraq and Afghanistan. I am proud that New York is still an epicenter for immigrants. Just like my ancestors came over from Europe many decades ago, the new generations of people just like us are beginning to take root, making our country, our economy, and our culture that much stronger and diverse.

So any bill that makes such dramatic changes to our immigration laws should be looked at carefully and considered judiciously. We must never bend in our determination to secure our borders and protect our Nation from harm. But nor can we forget what makes our Nation great. These debates and decisions must be reasoned debates, not take-it-or-leave-it ultimatums strategically devised for partisan political benefit.

There are provisions in this bill, for instance, that will make it harder for people persecuted on the basis of their race, religion, national origin, or gender abroad to pursue asylum and the American dream.

There are other provisions that would allow bail bondsmen to play judge and determine which immigrants are dangers to the community.

These are major changes to our laws, and we have a system to debate, discuss and vote on such changes. No bill raising so many questions on issues of such fundamental importance should escape an honest debate in the Senate. I urge my Republican colleagues to rethink this strategy and allow the Senate to do its work the right way.

Mr. BROWNBACK. Mr. President, I am pleased that we are voting on the final passage of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005.

I commend my colleagues, especially Chairman COCHRAN, for working diligently to see that the Senate act quickly to address the needs of our troops in Iraq and Afghanistan and emergency humanitarian needs worldwide. Americans everywhere are grateful for the efforts of our troops who fight on the front lines of the war on terror. They have made personal sacrifices for the liberty of all Americans,

and we must support them by providing them with the very best equipment.

The conference report includes much needed funding for humanitarian assistance in areas of the world devastated by famine, disaster and war.

I am especially pleased that we have provided \$90 million for international disaster and famine assistance for Darfur, Sudan and other African countries including Ethiopia, Liberia, Uganda, and the Democratic Republic of Congo. The situation in Sudan remains dire and there are several other countries in the region that will also greatly benefit from these funds.

The conference report also includes necessary peacekeeping dollars that will address the security needs of millions of oppressed people. First, it provides \$50 million in funding for the African Union mission in Darfur. It is the experience of many on the ground in Darfur that atrocities do not occur when AU troops are present, and this funding should facilitate an expansion of their mission. I thank my colleagues, Senators CORZINE, DEWINE, DURBIN, LEAHY and MCCONNELL for their tireless work to get this money included in the bill. Security is paramount to ensuring an end to the violence that persists in Sudan, killing an estimated 15,000 people per month.

Second, the conference report directs \$680 million to general peacekeeping operations in other war-torn areas worldwide. The United States contributions to these missions are important to security and stability on a global level.

I commend the inclusion of \$5 million for assisting internally displaced persons in Afghanistan and \$120.4 million for migration and refugee assistance for worldwide refugee protection and for the President to meet his goals for refugee admissions this year.

While all of these earmarks will provide much needed protection and assistance to the world's poorest and oppressed people, I am extremely disappointed that the Darfur accountability amendment was stripped in conference. The amendment which was included by the Senate, would have placed targeted sanctions in the form of a travel ban and asset freezes on individuals who are committing war crimes and crimes against humanity in Darfur. It would also have directed the administration to pursue certain policies at the U.N., including multilateral sanctions and an arms embargo against Sudan as well as the establishment of a no-fly zone over Darfur.

I appreciate my Senate colleagues' support of this measure and look forward to working together to move this as stand-alone legislation in the near future. It is my hope that the administration will publicly address their concerns with this bill so that we may move swiftly to enact the very important provisions that will help alleviate the ongoing genocide.

I am also disappointed that such sweeping immigration provisions were

included in this bill without adequate debate or scrutiny. What concerned me most of all about the REAL ID bill is that it undermines America's moral authority by turning away legitimate asylum seekers fleeing tyranny. This language was added based on a claim that our asylum system can be used by terrorists to enter the country. This is not the case.

However, I would like to thank my colleague Chairman SPECTER for working diligently to successfully soften some of the harsher language in the asylum provisions. As originally drafted, the REAL ID Act would have created significant and additional barriers for refugees fleeing persecution to obtain asylum.

REAL ID would have greatly increased a refugees' burden of proof to establish their eligibility for asylum. At the whim of an immigration judge's discretion, refugees would be required to produce corroborative evidence of their claims of persecution or prove that the central intent of their persecutors was to punish them for their race, religion or political beliefs even in cases where the refugee's testimony was already credible.

The facts are quite obvious: persecutors are not going to issue official documents explaining their actions. In addition, proving the mindset of those who carry out killings, torture and other abuse is next to impossible. Even if this were possible, those who flee a country often times don't have time to gather up the proper documentation they may later need in an American immigration court.

The incorporated revisions would make an immigration judge take into account the totality of the circumstances when evaluating an applicants claim and would not be able to discard a claim for subjective reasons.

I want to clarify that the triers of fact must consider all relevant factors and base any adverse credibility determinations on a consideration of all of those factors. The findings must be reasonable. It would not be reasonable to find a lack of credibility based on inconsistencies, inaccuracies or falsehoods that do not go to the heart of the asylum claim without other evidence that the asylum applicant is attempting to deceive the trier of fact.

I also understand that when assessing demeanor, triers of fact must take into consideration the individual circumstances of the asylum applicant, such as his or her cultural background, educational background, gender, state of mind, history of trauma, and other factors.

I remain concerned about how the asylum provisions will affect the adjudication of claims by children. Adjudicators cannot realistically hold these children to the same burden of proof and standards of persuasion as adult asylum-seekers. For example, children reasonably cannot be expected to pinpoint a central motive of persecution and provide corroborating evidence of their persecution.

I conclude by pointing out that applications for asylum have fallen from 140,000 to just over 30,000 per year, and the numbers of those who are actually granted asylum has fallen to about 10,000 per year. Individuals fleeing persecution must already meet a high burden of proof and undergo intensive security measures to obtain asylum. While I recognize the importance of security in the post-9/11 environment, I am committed to ensuring legitimate asylum-seekers a haven without imposing unrealistic barriers.

In addition to the asylum revisions, I am extremely pleased that we were able to secure the repeal of the arbitrary 1,000 annual cap placed on refugees fleeing coercive population control. This, along with the lifting of the asylum adjustment cap, will enable those who have fled persecution, including forced abortions, to become legal permanent residents and enjoy the security and benefits that go along with that status.

The importance of the supplemental bill is not to be understated. Our troops are valiantly protecting human freedoms and deserve our support. The humanitarian crises around the world resulting from natural disasters such as the tsunami, and resulting from human rights atrocities such as genocide, cannot be ignored by a country such as ours. I thank my colleagues for working to get this bill to the President.

IRAQ SECURITY FORCES FUND

Mr. DURBIN. Mr. President, an important component of this \$82 billion Emergency Supplemental Appropriations conference agreement is the \$5.7 billion appropriated for the Iraq Security Forces Fund. I commend Senators STEVENS and INOUE, the chairman and ranking member of the Defense Appropriations Subcommittee, for their efforts in securing the full budget request for this important effort. Security must be a high priority in Iraq. The sooner the Iraqis develop their own capacity to stabilize and secure their country, the sooner our men and women in uniform can come home to their families.

An important part of security in Iraq involves communications systems. The deployment of an Advanced First Responders Network, AFRN, throughout Iraq will begin to address the current lack of mission-critical public-safety communications capabilities. The AFRN system, when deployed throughout Iraq, will allow for focused coordination of security planning and execution, rapid data collection and analysis of changing security threats, rapid coordination and deployment of security assets to address threats, effective planning to reduce/prevent future security threats, and a more secure environment that will foster democracy and economic development.

The AFRN infrastructure in Iraq has been designed to address needs

throughout the country, including border regions and pipelines. However, additional funding is needed to meet this objective.

Mr. President, I would like to inquire of the chairman and the ranking member, Senators STEVENS and INOUE, whether continued funding of the AFRN could be a qualified activity within the \$5.7 billion included in the conference agreement for the Iraq Security Forces Fund?

Mr. STEVENS. Mr. President, I thank the Senator from Illinois for this question. Yes, I believe that funding for the AFRN could be an eligible activity within the funding we are providing in the Iraq Security Forces Fund. I cannot guarantee the Senator any particular level of funding will be provided, but I do agree with him that continued work on the AFRN is important.

Mr. INOUE. I concur fully with the chairman.

Mr. DURBIN. I thank Senators STEVENS and INOUE for their insight into this matter.

AUSTRALIAN NATIONALS

Mr. KYL. Mr. President, will the Senate Majority Leader yield for a question?

Mr. FRIST. I would be happy to yield.

Mr. KYL. I thank the distinguished Senate Majority Leader. I am pleased to see that the Frist Amendment, adopted by the Senate during consideration of the supplemental appropriations bill, is included in this conference report. The Frist Amendment creates a new E-3 visa sub-classification for Australian nationals. I would be grateful if Senator FRIST would clarify a couple of technical points relating to his amendment. It is my understanding that the E-3 visa would not be limited to employment that is directly related to international trade and investment, as are the E-1 and E-2 visas. Could the Senator confirm that this is his intention?

Mr. FRIST. I thank Senator KYL for his question. He is correct in his understanding that the E-3 visa would not be limited to employment that is directly related to international trade and investment. To qualify for an E-3 visa, an Australian national must be seeking employment in a "specialty occupation," as that term is defined in the Immigration and Nationality Act, and the U.S. employer must have obtained a certified labor attestation from the Department of Labor. In other respects, such as visa application procedures, periods of admission, dependent admissions, and spousal work authorizations, the rules applicable to the new E-3 visa will be the same as for other E visa holders currently. Also, Australian nationals will continue to have access to all existing categories of visas to which they are currently entitled.

Mr. KYL. I thank the Senate Majority Leader for these few points of clarification.

Ms. COLLINS. Mr. President, I rise today in support of this urgently needed funding for our soldiers, sailors, airmen and Marines fighting around the world. Specifically, I would like to thank my colleague and friend from Mississippi, the distinguished chairman of the Appropriations Committee, Senator COCHRAN, for his commitment to our Nation's Armed Forces.

I particularly want to express my support for the provision dealing with DD(X) destroyers. This bill includes a critical provision to prohibit the use of funds by the Navy in conducting a "one shipyard" acquisition strategy to procure next-generation DD(X) destroyers.

The Navy serves not only as a central pillar of our Nation's military strategy, but also as a symbol of American strength abroad. It is crucial that not only do we have the most capable fleet, but also that we have sufficient numbers of ships . . . and shipbuilders . . . to meet our national security requirements.

Unfortunately, the Navy has proposed to radically change the acquisition strategy for DD(X) destroyers in such a manner as to ensure that there is only one shipyard involved in major surface combatant production. If implemented, the Navy's ill-advised proposal to go forward with a "one shipyard" competition for DD(X) between General Dynamics' Bath Iron Works in Bath, ME, and Northrop Grumman Ship Systems in Pascagoula, MS, would jeopardize our national security and our industrial capacity.

We need to move forward with DD(X) at both shipyards, as originally planned. Holding a competition will inevitably delay DD(X) acquisition and increase the costs to taxpayers.

The fleet needs the capabilities of a DD(X) destroyer that will provide sustained, offensive, and precise firepower at long ranges to support forces ashore and to conduct independent attacks against land targets. These systems will provide a naval or joint task force commander with the multimission flexibility to destroy a wide variety of land targets while simultaneously countering maritime threats.

Moreover, DD(X) will take advantage of advanced stealth technologies, which will render it significantly less detectable and more survivable to enemy attack than the current class of ships. It will also operate with significantly smaller crews than current destroyers.

Conducting a competition for these ships, or implementing a "one shipyard" acquisition strategy further exacerbates the decline in America's shipbuilding employment that has shrunk by an overwhelming 75 percent since the late 1980s.

This supplemental appropriations bill continues to build upon the work many of my colleagues and I during the past several months to thwart the Navy's attempt to have only one shipyard capable of building DD(X)s. On March 1, I joined 19 of my Senate col-

leagues, in concert with Senator LOTT, to send a letter to President Bush expressing our strong opposition to any "winner take all" competition for DD(X).

We all agreed that any instability or delay in the DD(X) program at this time could lead to the permanent exodus of skilled men and women from the last remaining shipyards that produce our complex surface combatants. Construction of surface combatants at a single shipyard would affect the Navy's ability to keep costs lower in the long term.

The recently-passed Senate budget resolution included a sense of the Senate on the acquisition DD(X) that correctly emphasized that the national security of the United States is best served by a competitive industrial base consisting of at least two shipyards capable of constructing major surface combatants.

The Congress has spoken very loudly, and very clearly on this rapid change in direction. It is in our national interest to have two major surface combatant shipyards. This appropriations bill is good for the Navy, good for our shipbuilders, and good for our Nation.

I urge my colleagues to support this legislation and funding for our men and women in uniform serving around the world.

Mrs. FEINSTEIN. Mr. President, I will vote to support the conference report on H.R. 1268, the fiscal year 2005 Supplemental Appropriations bill, although I have serious reservations about the process that was used to attach the REAL ID Act to legislation urgently needed to ensure our troops are adequately funded.

I am voting for this legislation because it provides needed support to our troops in combat, additional border patrol agents to secure our porous frontiers, vital relief to areas affected by the recent tsunami in the Indian Ocean, and important disaster relief here at home.

My colleagues have noted that this legislation funds important needs for our military, from additional up-armored humvees to increased death benefits for those who have lost their lives in service to our Nation in Iraq and Afghanistan.

I agree with my colleagues that it is vital that we get these resources to our men and women in uniform without delay.

However, I have serious concerns about the process by which controversial immigration provisions were attached to the bill.

And I want to again express my opposition to the inclusion of the REAL ID Act—despite the negotiated changes during conference—because an emergency supplemental is not the place for the Congress to enact substantive immigration provisions.

The REAL ID provisions included in this legislation will bring about significant legal and policy changes in the areas of asylum law, judicial review,

deportation of individuals alleged links to terrorist activities, driver's licenses and the border fence.

And while I recognize that there were modifications to the REAL ID Act during conference—including provisions relating to bounty hunters—we are still talking major changes to our immigration laws and I don't believe the Senate was given adequate opportunity to review, consider, debate and amend these issues.

Any voices of opposition to the REAL ID Act were all but silenced. I was a member of the conference committee, but I was not able to see the final language until the bill was ready to be filed and it was too late to do anything. Essentially, the minority was shut out of the conference negotiations on this bill.

The REAL ID Act wasn't the only immigration language added to this bill in which the Democrats were shut out.

For instance, the Republican leadership added language at the eleventh hour, postcloture, which creates a new temporary worker program for 10,500 Australian workers.

So each year now we will see an influx of 10,500 Australian workers, along with their families. Assuming that each of these professional workers brings their spouse and child, in reality we could be seeing an increase of 31,500 individuals each year—in addition to the other categories of professional workers, such as H-1B and L-1 workers.

At what point do we stop creating special carve outs for different groups of people or different countries? And after Australia, what country is going to come to us and ask for special exceptions to our immigration laws?

I am pleased that the conference committee came to a reasonable compromise on the issue of funding additional Border Patrol agents. The conference report makes available \$635 million to address understaffing at our borders.

While this is a reduction from the amount provided by the Senate, it will provide for 500 new Border Patrol agents, 50 additional Immigration and Customs enforcement investigators, 168 detentions officers, as well as needed support staff and construction of additional detention space.

This is a good start toward meeting the goals of the Intelligence Reform and Terrorism Prevention Act, which authorizes the hiring of 2,000 new Border Patrol agents. That goal was developed in concert with the recommendations of the 9/11 Commission.

I look forward to working with my colleagues on the Homeland Security Appropriations Subcommittee to ensure that next year we continue to hire additional agents to secure our borders. Unfortunately, President Bush's budget for fiscal year 2006 only provides for 210 additional agents, which is simply not enough.

I would like to briefly comment on the military construction portion of

this legislation. The House and Senate conferees included \$1.128 billion to support military construction projects worldwide.

This includes \$250 million for projects requested by the Army in Alaska, Colorado, Georgia, Kansas, New York, North Carolina, and Texas, to support Army modernization.

The bill also includes \$647 million for the Army to support the global war on terror—\$38.5 million for projects in Afghanistan, \$40.4 million for a prison and security fence in Cuba, \$479 million for projects in Iraq, and an additional \$39 million for the design of these projects.

In addition, there is \$140 million included in the bill to support the Marine Corps Force Structure Review Group to alleviate the overall stress on the Marine Corps produced by deployments related to the global war on terrorism. These projects are located in California, North Carolina, and Djibouti.

The bill includes \$141 million to support Air Force projects in Central Command—\$31 million for Afghanistan, \$58 million for projects in Iraq, \$1.4 million for the United Arab Emirates, \$42.5 million for Uzbekistan, and an additional \$8 million for the design of these projects.

Let me turn to an issue that is of particular importance to me and to my State—and that is preventing and fighting wildfires that have struck the West with increasing regularity and intensity in recent years.

As many of my colleagues know, southern California was hit this winter with unusually heavy rain storms that caused severe flooding—at this point it is the second wettest winter in Los Angeles since records have been kept.

These storms dumped 70 to 90 inches of rain in parts of southern California that include several national forests, causing flooding, debris flows, and mudslides which destroyed or damaged more than 90 percent of the roads in four National Forests: Angeles National Forest; Cleveland National Forest; Los Padres National Forest; and San Bernardino National Forest.

The conference report provides \$24.39 million in capital improvement and maintenance funding to the Forest Service to repair those roads. This funding will make it possible to repair roads that are vital to firefighting efforts for thousands of acres in these forests.

We all know about the disastrous wildfires that burned in southern California in 2003. Fires burned 739,597 acres, destroyed 3,631 homes, and killed 24 people, according to the California Department of Forestry.

San Bernardino Forest Supervisor Gene Zimmerman told my staff that he has never seen the grass grow as high as it has this year, and it is starting to turn brown—which means it could burn later this year.

Here is the biggest difference from 2003: right now, firefighters cannot get in to the forests to contain fires. The

Forest Service estimates that 2.3 million acres of National Forest System lands are inaccessible to ground-based fire vehicles.

The Forest Service tells me that they need to begin work immediately on roads to allow access for the 2005 fire season. They already have contractors working and will add to their contracts as funding is available. They have done the necessary damage assessments to enable immediate start up of work.

With the \$24 million in this conference report, the Forest Service can open the majority of roads to accommodate fire apparatus by July and August, which is still the early part of this year's fire season.

I thank Chairman COCHRAN, Senator BYRD, Interior Subcommittee Chairman BURNS and Senator DORGAN, as well as their able staffs for helping to secure this funding in the Senate bill.

I also thank House Chairman LEWIS for working with us in the conference committee on an issue that is crucial to preventing a repeat of the devastating fires our State suffered in 2003.

I want to briefly highlight one last issue that is important to me, and I believe to the prospects for peace in the Middle East.

This conference report includes a provision that I offered to provide legal authority for a Federal agency, the Overseas Private Investment Corporation, OPIC, to receive \$10 million to help bolster economic and infrastructure development in the Gaza Strip.

OPIC is combining forces with private organizations to build a \$250 million loan fund that would be aimed at microfinance, small business, corporate and mortgage lending to deserving businesses, firms and entities in the Gaza Strip and West Bank.

A meeting is being held this coming week in London among the various loan fund participants to continue sorting out appropriate financial and legal mechanisms for distributing these funds.

As the group moves forward, this \$10 million subsidy will play a crucial role in extending OPIC political risk guarantees for loans to deserving Palestinian business recipients and I was pleased to assist in this process.

On a larger scale, as we begin the process of Gaza disengagement, we need to help provide the Palestinians with real economic hope—not continued frustration about the lack of jobs and exports.

The lack of agreed mechanisms to coordinate disengagement, developing an agreed concept on how Palestinian security forces will take over areas evacuated by Israeli defense forces, and permitting greater freedom of movement, between Gaza and the West Bank, to assist with rehabilitation efforts are just a few areas of concern.

I hope the \$150 million provided by this conference report will contribute to framing key security and economic arrangements that allow Gaza disengagement to occur peacefully and not violently.

Although I am troubled by the inclusion of the REAL ID Act in this bill, the bottom line is that it provides necessary funding to our troops in Iraq and Afghanistan, as well as relief to countries struck by the Tsunami in the Indian Ocean and disasters here at home. It may not be perfect, but it gives vital financial support to those who badly need it.

Mrs. BOXER. Mr. President, I will vote in favor of the fiscal year 2005 Emergency Supplemental Appropriations conference report. This conference report contains important funding that gives our troops in Afghanistan and Iraq the equipment and support they need. It also provides additional resources to help train new Iraqi security forces that will help speed the return of our servicemen and women.

In March, I traveled to Iraq to witness firsthand our military operations. There is no doubt that the insurgency is strong and that our continuing presence in Iraq, without even a goal for leaving, is fueling it.

Therefore, our troops are in grave danger every day, as evidenced by the tragic number of dead and wounded. Since the beginning of the Iraq War, we have suffered more than 1,600 deaths and more than 12,000 wounded.

My trip to Iraq confirmed my fears that not enough is being done to protect our soldiers from the threat of roadside bombs. Roadside bombs are one of the leading causes of death in Iraq and are responsible for 70 percent of those personnel killed or wounded. That is why I am glad that the conference report provides \$60 million to rapidly field electronic jammers that help prevent the detonation of roadside bombs. This is consistent with the Boxer amendment that was adopted on the floor during the Senate's consideration of the bill.

I am also pleased that the conference report provides \$150 million in additional funding for up-armored Humvees. While this is not as much as provided by the Bayh amendment, it is still a step in the right direction.

I will vote for this conference report, but I do so with serious reservations about the lack of an exit strategy in Iraq and with additional reservations about the way the REAL ID Act was attached to this legislation.

The REAL ID Act contains sweeping changes to our immigration laws. These provisions were not included in the President's supplemental appropriations request, nor were they included in the Senate version of the bill that was approved last month.

But at the insistence of the Republican leadership in the House, this legislation was attached to the House version of the emergency supplemental bill and then rammed through conference without the participation of Democrats. The REAL ID Act will become law without discussion or debate in the Senate.

The REAL ID Act contains a provision that would require states to col-

lect documents proving the date of birth, social security number, principal address, and lawful immigration status for any applicant seeking a driver's license or identification card that would be recognized by the Federal government. States would be required to keep these documents on hand for a minimum of 7 years, maintain this information on a database, and allow electronic access to all other states.

States are understandably concerned that they do not have the capability to meet this mandate. Privacy concerns have also been raised.

Unfortunately, we have not had the ability to fully investigate the privacy implications and other issues related to this provision. My State of California has worked for 3 years trying to find a workable solution to this issue. But in the Senate, the REAL ID Act did not even warrant a hearing. This is why the National Governors Association, the National Council of State Legislatures, and the American Association of Motor Vehicle Administrators all oppose this legislation.

The REAL ID Act also contains a troubling provision that allows the Secretary of Homeland Security to waive all legal requirements—including environmental laws—in order to build security fences along U.S. borders. Security fences can be built without waiving environmental laws.

So, while I will vote for this bill because it helps our brave and courageous troops, I am deeply distressed at the way Democrats were left out of all the immigration discussions.

Mr. LEAHY. Mr. President, I am dismayed that nearly all of the provisions of the REAL ID Act have been included in this conference report after closed-door negotiations between House and Senate Republicans. Democratic conferees were excluded from these negotiations. Indeed, my staff specifically asked the conferees for the majority to be included in negotiations on these far-reaching provisions—which have never received Judiciary Committee consideration—but our request was ignored.

I oppose the inclusion of these provisions for a number of reasons. First and foremost, this is not the way we should be legislating comprehensive changes to our immigration laws. The Judiciary Committee never considered them. The Senate never voted on them when the supplemental appropriations bill was being debated. Indeed, Senator ISAKSON offered an amendment that included the text of REAL ID but then withdrew it, reportedly under pressure from his own leadership. Many of us believed the Senate would vote down the Isakson amendment, especially considering that six Republican Senators had joined six Democratic Senators in writing to the majority leader to oppose including REAL ID in the supplemental appropriations bill.

Second, I am concerned that the REAL ID Act will cause great hardship for asylum seekers. In the guise of pre-

venting terrorists from obtaining asylum—which is forbidden under current law—this conference report raises the standard of proof for all asylum seekers. The REAL ID Act's asylum provisions are opposed by a wide variety of religious organizations from across the political spectrum, as well as advocates for refugees and asylees. The United States Conference of Catholic Bishops has said that the asylum provisions in REAL ID would "eviscerate the protection of asylum, thus preventing victims of persecution from receiving safe haven in the United States."

Third, this conference report includes the REAL ID Act's breathtaking waiver of Federal law. The Secretary of Homeland Security will now be empowered to waive any and all laws that may get in the way of the construction of fences or barriers at any United States border. The Secretary already has broad authority in this area, and to further increase it demonstrates a lack of concern both with environmental protection and the rule of law.

Fourth, the conference report repeals the minimum Federal standards for driver's licenses that Congress passed only last December in the intelligence reform bill, in response to the recommendations of the 9/11 Commission. The Bush administration said that it preferred the approach taken in the conference report to the approach favored by the House, which is contained in the REAL ID Act. The House approach, now included in this conference report, replaces the newly enacted minimum standards with Federal mandates that I fear will be unworkable. The administration and the States have already devoted substantial energy to implementing the existing standards, and this conference report may represent a step backwards in our security.

These new provisions will endanger the lives of victims of domestic violence, including U.S. citizens. Many States currently allow victims of abuse—who frequently are hiding from their abusers—to obtain driver's licenses that do not list their address. This conference report will require all licenses to bear the recipient's address; unfortunately, it contains no exception for victims of domestic abuse or stalking. If a victim of domestic abuse or stalking is forced to disclose her physical residence in order to get a Federally-approved driver's license, she risks the possibility that she and her children will be tracked down by their abuser. For women and children fleeing domestic abuse or stalking, the option to use an alternate address is not a matter of convenience or preference; it can be a matter of life or death. We must fix this residential address requirement when we reauthorize the Violence Against Women Act later this year by creating an exemption for victims of domestic abuse or stalking.

Fifth, the conference report would eliminate habeas corpus review for

aliens who have received removal orders. We have not taken such a step in this country for more than a century, but we are taking it now, without the Senate even considering the measure.

Overall, the REAL ID provisions in this conference report need a much wider airing and consideration before enactment. Unfortunately, Republican conferees agreed to exclude the Democrats from consideration of these proposals and a group of Senate and House appropriators have agreed to change our immigration laws in profound ways.

On a much more favorable note, I am pleased that the conference report included, with minor modifications, the Senate-passed provision to provide relief to the small and seasonal businesses across our nation that rely on temporary foreign workers who come here on H-2B visas. I cosponsored the Senate amendment, offered by Senator MIKULSKI, to make additional visas available for aliens who wish to perform seasonal work in the United States. For the second year in a row, the statutory cap on such H-2B visas was met before businesses that need additional summer employees were even eligible to apply for visas. This has hurt businesses across the country, and this amendment will provide needed relief.

In Vermont, the main users of these visas are hotels, inns and resorts that have a busy summer season. I have heard from dozens of businesses in Vermont over the past year that have struggled mightily to manage without temporary foreign labor. I know that the Lake Champlain Chamber of Commerce, the Vermont Lodging & Restaurant Association and many small businesses in Vermont are vitally concerned and expect that similar associations and businesses in other States are, as well.

Indeed, a wide range of industries use these visas in other States. I imagine that nearly all Senators have heard from a constituent who has been harmed by the sudden shortage of H-2B visas, and fear that they will go out of business if Congress does not act to make more visas available.

The conference report does not raise the cap on the program, but rather allows those who had entered the U.S. in previous years through the H-2B program to return. These are, by definition, people who came to the U.S. legally and returned to their own countries as the law requires. The amendment also addresses the concerns some members have expressed about fraud.

I have been working to solve this crisis for more than a year. I joined last year with a substantial bipartisan coalition in introducing S.2252, the Save Summer Act of 2004. Senator KENNEDY was the lead sponsor of the bill, which had 18 cosponsors, including 8 Republicans. The bill would have added 40,000 visas for the current fiscal year, providing relief to those summer-oriented businesses that had never even had the

opportunity to apply for visas. Unfortunately, that bill was opposed by a number of Republican Senators and never received a vote. Our constituents suffered the consequences, and I am gratified that we are prepared to provide relief.

Mr. JOHNSON. Mr. President, thousands of men and women are proudly serving in Iraq and Afghanistan. While the majority will return home to their loved ones, more than 1,700 have paid the ultimate sacrifice to their country, and nearly 13,000 have been wounded in action. Even after Iraq's historic elections in January, violence continues on a daily basis with no end in sight to the insurgency.

Today, the Senate is preparing to approve another massive supplemental appropriations request from the Bush administration to fund ongoing operations in Iraq and Afghanistan. The most recent request of \$82 billion makes it the second largest supplemental appropriations measure Congress has ever passed and brings the total amount of appropriated funds to \$275 billion.

I support this supplemental request because I firmly believe that Congress has an obligation to provide our troops with all the resources they need to complete their mission. While I am deeply troubled by the Bush administration's continued practice of funding our efforts in Iraq and Afghanistan through supplemental appropriations requests rather than the normal annual appropriations process, the bill contains too many important resources for our troops not to support it.

This bill includes additional funding above the President's request for essential items such as up-armored Army Humvees, add-on vehicle armor kits, night vision equipment, and radio jammers that disrupt remote-controlled bombs used by Iraqi insurgents. In addition, Congress recognizes the extraordinary sacrifices our soldiers are making in defense of freedom by increasing the amount of life insurance servicemembers can purchase, as well as the one-time death gratuity a soldier's surviving family members receives.

Having said that, I have deep concerns about this most recent supplemental request. For over 2 years, American soldiers have been shouldering most of the peace-keeping burden in Iraq. While no one dismisses the contributions being made by coalition members, once again, I ask President Bush to reach out to our allies so that our efforts in Iraq are truly an international effort. The entire world has much to gain by a secure and peaceful Iraq, and other nations should do their fair share because we ask even more of our brave men and women in uniform.

While I am supportive of quick action on funding for U.S. troops, I must express my strong opposition to the way the Republican leadership is forcing approval of far-reaching driver license legislation as part of this bill.

There has been no real opportunity for debate of the "REAL ID" amendment. Its inclusion in this must-pass bill subverts the work of the Regulatory Negotiation Advisory Committee that was established in last year's intelligence overhaul bill to provide a thoughtful and carefully crafted approach to driver's license legislation. Because we are now faced with a conference report on emergency funding, no further amendments will be permitted and Senators must vote yes or no on the entire package.

The REAL ID amendment will saddle the States with a \$500 million unfunded mandate over the next 5 years, while at the same time, complicating the issuing and re-issuing of drivers licenses. State employees will be required to assume the duties of the Federal Immigration and Naturalization Service at a time when States are already reeling from Federal cuts in Medicaid, education, and community development funding. With no opportunity for amendments or expert testimony, Congress is being required to establish what amounts to a national ID card. While the goal of establishing more secure driver's licenses in the post-9/11 world is vitally important, it should be the responsibility of the Advisory Committee. Forcing this ill-considered amendment past Congress on the back of an unrelated bill that provides needed funds for our troops is wrong and a disservice to the American people.

I am uncomfortable conducting Senate business in this manner, particularly when it comes to issues that affect the security of our personal identity. These provisions were attached to a vital appropriations bill before authorizing Senate committees of jurisdiction had an opportunity to properly scrutinize the content, conduct hearings, and pose questions to administration officials and other interested individuals. Even more astounding, Democrats were not included in negotiations to determine the immigration provisions of this bill.

On matters as important as immigration reform and homeland security, it is misguided and short-sighted to pass legislation in this ad hoc fashion. Forcing Senators to support funding for our troops by voting in favor of legislation they may oppose is not in the best interest of our country.

I have deep reservations about some of the provisions included in this bill, and I hope they can be reconsidered as measures apart from this supplemental bill. However, I will vote in favor of providing additional funds for our troops. Our first priority must be to ensure our troops have the necessary tools to finish their mission in Iraq and Afghanistan as swiftly and as safely as possible.

Ms. SNOWE. Mr. President, I rise today to address the provisions of the conference report to H.R. 1268, the Iraq and Afghanistan Emergency Supplemental Appropriations Act, concerning

small business contracting at the Department of Energy.

As chair of the Senate Committee on Small Business and Entrepreneurship, I am concerned that, although the conference report did not contain a substantive change to the Small Business Act's prime contracts goaling requirements, it does contain a provision addressing small business contracting. I remain deeply disappointed that H.R. 1268, an emergency appropriations measure, includes targeted language dealing with the Department of Energy's small business contracting. Numerous groups and individuals, including the SBA Administrator and the SBA Chief Counsel for Advocacy, wrote to Congress in opposition to substantive changes to small business prime contracting goals.

As a result of inclusion of this provision, the Congressional small business committees prepared a joint statement to be submitted in both the House and the Senate. Chairman MANZULLO of the House Small Business already filed this Statement in the House prior to the vote on the conference report for H.R. 1268. I ask unanimous consent to have printed in the RECORD the following statement.

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

JOINT STATEMENT CONCERNING SMALL BUSINESS CONTRACTING PROVISIONS IN H.R. 1268

(by Senator Olympia J. Snowe, Chair of the Senate Committee on Small Business and Entrepreneurship, and Congressman Donald R. Manzullo, Chairman, House Committee on Small Business)

Section 6022 of H.R. 1268, as adopted in the Conference Report, H. Rep. 109-72, contains certain provisions concerning small business contracting at the Department of Energy. These provisions were inserted as a substitute for Section 6023 of the Senate version of H.R. 1268. Section 6023, among other things sought to amend the Small Business Act to authorize counting of small business subcontracts at the Department of Energy's large prime contractors for purposes of reporting small business prime contracting results. Because the substitute language was not adopted by Congress through regular legislative proceedings in the Senate Committee on Small Business and Entrepreneurship and the House Committee on Small Business but was adopted anew during the House-Senate conference, the committees of jurisdiction take this opportunity to provide guidance generally provided through their reports to Senators and Representatives prior to their vote on the Conference Report, and to affected Federal agencies prior to their implementation of the Conference Report if adopted.

In subsections 6022 (a) and (b), the language chosen to replace Section 6023 in the Conference Report directs the Department of Energy and the Small Business Administration to enter into a Memorandum of Understanding for reporting small business prime contracts and subcontracts at the Department of Energy. This replacement language does not change the Small Business Act's clear distinction between prime contracts and subcontracts, does not amend the statutory small business prime contracting goal requirements which are binding on the Department of Energy, and does not obviate Congressional and regulatory policies

against contract bundling. This language does not repeal the President's Executive Order 13360 directing the Department of Energy to comply with its separate statutory prime contracting and subcontracting goals for awards to small businesses owned by service-disabled veterans. Any interpretation to the contrary would be unreasonable and contrary to Congressional intent.

In subsection 6022(c), the replacement language mandates a study of changes to management prime contracts at the Department of Energy to encourage small business prime contracting opportunities. The object of the study is to examine the feasibility of establishing a procurement agency relationship between the management prime contractors and the Department of Energy in accordance with the requirements of Federal procurement laws, Federal procurement regulations, the "Federal norm" of government contracting as recognized by the Comptroller General, and applicable judicial precedent such as *U.S. West Communications, Inc. v. United States*, 940 F.2d 622 (Fed. Cir. 1991).

Finally, in subsection 6022(d), the replacement language imposes certain requirements upon the Department of Energy concerning break-outs of services from large prime contracts for awards to small businesses. First, the Secretary of Energy is required to consider whether services performed have been previously provided by a small business concern. This requirement is for acquisition planning purposes only, and shall not be construed as imposing a restriction of any kind on the ability of the Department of Energy to break out its large prime contracts for award to small businesses. Congress recognizes that most of work currently contracted by the Department of Energy to its large prime contractors has never been historically performed by small businesses. However, this does not waive the application of the Small Business Act, the President's Executive Order 13360, or the President's initiative against contract bundling to the Department of Energy. Second, the Secretary of Energy is required to consider whether small business concerns are capable of performing under the contracts which are broken out for award. This requirement is simply a restatement of current statutory and regulatory requirements on contractor responsibility. Subsection (d)(2) directs the Secretary of Energy is required to impose certain subcontracting requirements. As the text plainly indicates, this provision applies solely to small business prime contracts which were formerly small business subcontracts for services.

Mr. GREGG. Mr. President, I rise to discuss a few of my thoughts regarding the Iraq/Afghanistan supplemental appropriations bill that the Senate is expected to pass today. In particular, I wanted to discuss the bill's important provisions that would improve the H-2B visa program and provide timely relief for seasonal businesses in my State and across the country.

First, let me express my appreciation to my dear friend from Maryland, Senator MIKULSKI, who has been a tireless fighter for the seasonal employers in her State. She and I have worked together on this issue for several months, and I was proud to be the lead cosponsor of S. 352, the "Save Our Small and Seasonal Businesses Act of 2005." Our offices worked closely to draft this legislation, which was incorporated into the Iraq/Afghanistan supplemental appropriations bill when the Senate overwhelmingly approved Senator MIKUL-

SKI's H-2B amendment on April 19, 2005 by a vote of 94-6. I am pleased that this legislation was also accepted in conference and will soon become law.

With the summer season soon upon us, I believe that the H-2B problem needs timely relief that is fair to all seasonal employers, and the Save Our Small and Seasonal Businesses Act will do exactly this. As most of us know, the 66,000 cap on H-2B visas was reached in early January; therefore, shutting out businesses that rely on H-2B workers in the spring and summer months. This seasonal inequity is unjustifiable, and therefore I am pleased that the H-2B provisions before us will divide the 66,000 cap so that 33,000 visas will be available for the first half of the fiscal year and the other 33,000 visas will be available for the second half of the fiscal year.

To provide timely and meaningful relief, the Save Our Small and Seasonal Businesses Act will also temporarily exempt returning H-2B workers from the statutory cap. For fiscal years 2005 and 2006, H-2B workers who had worked in the U.S. under an H-2B visa during the past three fiscal years will qualify for this exemption and will not be counted against the cap. Since the cap has already been hit for fiscal year 2005, the H-2B provisions in the supplemental appropriations bill will establish a "look back"—namely, they allow the Department of Homeland Security to estimate how many of the H-2B visas already issued for this fiscal year were given to returning workers. This is necessary to ensure that the Department can swiftly apply the exemption for fiscal year 2005 and free up visas under the cap for new H-2B workers for this summer season.

In addition, the Save Our Small and Seasonal Businesses Act will allow the Department of Homeland Security to waive the Administrative Procedure Act to avoid having to issue rules and go through other hurdles to implement the H-2B provisions before us. This is intended to give the Department the ability to swiftly accept H-2B petitions and implement the Save Our Small and Seasonal Businesses Act in a timely manner so that businesses can employ H-2B workers this summer.

As I stated earlier, I am pleased that Congress has finally acted to improve the H-2B program and provide timely relief for small and seasonal businesses. In my State, the H-2B program is of special concern to the tourist and logging industries, which are both important to the New Hampshire economy. For instance, in 2004 alone, New Hampshire's tourism industry generated \$4 billion in revenues and nearly \$140 million in rooms and meals taxes, which makes up about 25 percent of the State's total revenue stream. For a number of seasonal employers in my State, the short-term hiring needs and the nature of their businesses make it extremely difficult, if not impossible, to fully staff their positions with U.S. workers. H-2B workers therefore are

the only lawful option to fulfill labor shortages when U.S. workers are not available.

The Save Our Small and Seasonal Businesses Act will help ensure that these seasonal employers can stay in business and use a program that has safeguards for U.S. workers. Moreover, as we try to reign in illegal immigration and bolster respect for our laws, I believe that Congress has shown wise judgment by passing this legislation. In addition to strengthening anti-fraud protections, these H-2B reforms will reward employers that follow the rules and will encourage the lawful hiring of temporary workers instead of the hiring of illegal aliens.

Some provisions of the Save Our Small and Seasonal Businesses Act are only temporary in nature and are intended to be a short-term fix. I recognize that significantly more work must be done to improve our immigration policies over the long term, including our guest worker programs. We can no longer accept having immigration laws that fail to bring about order along our borders and other points of entry or are ignored altogether. As such, Congress must re-double its efforts to pass comprehensive immigration reform legislation, and I look forward to working with my colleagues on this long needed effort.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I thank Chairman COCHRAN for his leadership on this important bill for our country, as well as ranking member BYRD.

I rise in support of H.R. 1268. I support it because it is a symbol of our compact with our troops and their families. I support it because it sends a signal of hope to other emerging democracies. And I support it despite some baffling decisions taken in the conference committee to strike key proposals to support our troops and their families.

Insurgent attacks in Iraq are on the rise. There were 45 per day in March, 60 per day in April, and the rate of attacks this month is topping that number. While down from the highs of the preelection violence, this spike does not suggest a weakened or retreating insurgency. Instead, it suggests a greater urgency is needed for even greater support for our troops.

Last month the Washington Post quoted an unnamed American official in our embassy in Baghdad as saying:

My strong sense is that a lot of political momentum that was generated out of the successful election, which was sort of like a punch in the gut to the insurgents, has worn off.

In Colorado, we have seen Army units mobilizing for their second and third tours in Iraq; this nearly 2 years after we were assured that the mission there had been accomplished. So it is time that we get this assistance to our troops and to their families.

This bill includes \$75.9 billion for the Department of Defense and an addi-

tional \$450 million for increased border security. Those efforts cannot wait any longer. After having been needlessly delayed by the inclusion of extraneous provisions in the House of Representatives, we need to put these investments to work.

We also need to put the resources to work that are called for in this legislation beyond Iraq. That is why it is so important that the conference committee include the \$5 million downpayment on America's investment in a strong and independent and democratic Lebanon, free from interference from Syria. We all remember the courageous protests in the streets of Beirut earlier this year. Yet despite this brave show of support for freedom, the President's supplemental included no funding for strengthening democracy in Lebanon. That would have been a missed opportunity, and I am delighted that the conference committee kept this funding in the conference report.

At the same time, we need to ensure that the enormous investment our taxpayers are making in this bill is invested carefully. We were all painfully familiar with the reports from Iraq of security personnel that received training only to turn and run when confronted with insurgents, or even the instances where personnel we paid to train turned their weapons on our own troops.

That is why I am so pleased the conference report includes the amendment I included during our debate in the Senate regarding the hundreds of millions of dollars we are investing in Afghan security forces. Like our successful efforts to invest increased resources in Colorado police officers when I served as Colorado State attorney general, my amendment simply says that we are prepared to pay to train Afghan forces, provided they are prepared to accept greater accountability and standards of excellence. That is the least the American people should expect, and I commend the conference committee for adopting that amendment.

I also want to comment on inadequacies that I see in the conference report. As a new Member of the Senate, I have to express my surprise at the partisan nature of the conference committee report itself. This is a shame because the rest of the country does not see supporting our troops as a partisan issue. It seems to me that in a time of war, we can do better than a conference committee that meets purely on partisan lines, better than a conference committee that cuts out proposals that passed this Chamber with overwhelming majorities, and better than a conference committee that inserts a proposal to overturn decades of American asylum policy, a policy that protects the world's most vulnerable people, even though a Senate committee has never reviewed that policy.

The conference report provides an increase in the fallen hero compensation to \$100,000 for all combat-related

deaths, similar to language proposed in the Senate committee. Regrettably, it omits the Kerry amendment, which I cosponsored and which was adopted by an overwhelming bipartisan majority of this body, that would have assured that all the families in the military who have died since 9/11 would be eligible to receive \$100,000 in fallen hero compensation. Similarly, just as insurgent attacks began to spike, this conference report also omits much of the additional funding for up-armored humvees, overwhelmingly passed in the form of an amendment sponsored by Senator BAYH.

As we see more and more reservists and guards men and women deployed to Iraq, the conference report omits protections for these patriots and their families.

The amendment would have ensured that Federal employees who have been activated in the Guard or Reserves do not suffer any loss in salary as a result of their willingness to take on this patriotic assignment. I do not understand why the conference deleted the payment protections afforded these families by the Durbin amendment.

While the conference committee could not protect these important provisions for our troops and their families, somehow this conference, led by Members of the House of Representatives, did find time to include within this wartime supplemental a huge proposal that has never received a hearing in the Senate.

I will say this about the so-called REAL ID Act included in this bill: It does nothing to address the calls of many Coloradans for serious border strengthening.

It will not reduce the flow of undocumented immigrants who come to the United States. Instead, it will heap an unfunded mandate on the States, passing onto the States our duty to protect our borders. At the same time, it denies protection to refugees who come to this country seeking freedom from religious and political persecution.

Let's be clear what those protections are for. They are for the world's most vulnerable people who come to this country seeking freedom and safety from persecution. They include Christians fleeing persecution in Egypt, democracy activists fleeing violence in West Africa, and women fleeing abuse in Somalia. While the issue of immigration is an issue that necessarily deserves attention in our Nation's Capitol today, this is not the way to go.

Mr. President, it is time that we get the funding contemplated in this legislation to our troops. It has been delayed long enough. I intend to vote for it, and I hope my colleagues will do the same.

I yield the floor.

Mr. COCHRAN. Mr. President, I am pleased to see that Senators have endorsed the conference report in a bipartisan way. We appreciate the support that this is receiving. In every conference, there are always issues that

arise that cannot be resolved to suit all Senators or all Members of the other body. But I must say to the Senate that this was a conference that was open, fair, and it allowed for the participation of all conferees, both parties in the Senate, and the same with the House. We had two sessions; one was in the Capitol over on the House side and another was on the Senate side in the Mansfield Room, where any Senator or any Member from the House who wanted to speak before the conference had the right to do so. In addition, Members had the opportunity to offer motions, amendments, or suggestions for the benefit of members of the conference.

I was very pleased to acknowledge, at the time, the important participation of the ranking member on the Democratic side in the Senate committee, Senator BYRD, who took an active role in the discussions, who offered a motion at one point to insist upon the position of the Senate in the conference. Other members could have done the same or argued against including any provision of the House-passed bill.

There has been some discussion today about the REAL ID provision. I didn't think that was a wonderful idea myself. It was not included in the Senate bill. It was a House provision. But the House Members insisted that it be included in the conference report. Anyone who wanted to resist that had an opportunity to argue against it or to offer a motion that the Senate insist upon its position that it not be included. No Senator elected to do that.

I didn't know how many meetings were going to be required of the conference. I had no idea what the House would do in terms of insisting on provisions in this bill as that conference began. I was, frankly, surprised that we didn't have but two meetings of the conference. I expected that we would have other meetings. But the House didn't think it was important or necessary, and I got the impression that there were going to be no more meetings but only after the second meeting had concluded. Members of the committee continued to discuss issues with House conferees, and we finally reached agreement.

I think this is a good conference report. It is a reasonable compromise between the two bills that were passed by the House and the Senate. We didn't get everything we wanted in the conference with the House; neither did the House get everything they wanted in conference with our Senate conferees. But I think this is a fair conference report. It reflects a commitment to support the President, to provide funding that is needed for military operations in Iraq and Afghanistan. It is an urgent supplemental bill, and it ought to be passed today by the Senate. I am confident that it will be.

I appreciate very much the assistance and the affirmative way members of our conference worked to ensure that we could get a conference report

that would be adopted by the Senate. I think we have accomplished that goal.

I am proud of the work that was done by the members of our staffs. They worked very, very hard in the preparation of the conference report that is before the Senate today. I especially want to thank our staff director, Keith Kennedy; Terry Sauvain, his counterpart on the Democratic side; Chuck Keiffer on the Democratic side, who also worked very hard; Charlie Houy, who has been a stalwart member of the staff of the Defense Appropriations Subcommittee for many years; Rebecca Davies on the Homeland Security Appropriations Committee; Sid Ashworth, the clerk of the Defense Appropriations Subcommittee. Senator STEVENS, chairman of that subcommittee and former chairman of the full committee, was enormously influential in this conference. I have been very grateful for his support and assistance. I also thank Clayton Heil, counsel to our Senate Committee on Appropriations, who has been very helpful as well. And there are others.

Mr. President, I appreciate the assistance of other Senators on the full Committee on Appropriations. We had strong support in the signing of the conference report. It has been a bipartisan achievement. It is not a partisan bill, and we appreciate the fact that it is not.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time under the quorum be charged equally to each side.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CARPER. 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. CARPER. Mr. President, in a time of war, nothing is more important than making sure that our fighting men and women have what they need to do their jobs well. It is with our troops in mind that I will vote in favor of this supplemental appropriations conference report.

Having said that, I do have some major concerns about how this bill has been put together and how the Congress has conducted its business with respect to such emergency spending requests over the past several years.

Thousands of brave Americans have been serving our country in war zones since shortly after that fateful day of September 11, 2001. But 4 years later, the President and those of us in this Congress continue to refuse to budget for these wartime expenses. Rather than incorporating the costs of the operations in Iraq and Afghanistan in the budget, these important expenditures continue to be tagged as "emergency spending." Emergency spending should be reserved, in my view, for unforeseen needs.

We know, however, that the need for additional funding for our campaigns in Iraq and Afghanistan is something we should expect and be able to budget for. Unfortunately, this is not new for this Congress or for the Bush administration. This is, I believe, the fourth consecutive time that funding for military operations in Iraq and in Afghanistan have been requested outside the regular budgeting and appropriations process.

By not taking into consideration the costs of these supplemental requests, which we all know are coming, the President and the Congress can more easily fudge the true nature of our Federal deficits and what our spending assumptions will be over the foreseeable future. In other words, by keeping the spending out of the budget, the President and this Congress can paint a fiscal picture that is, frankly, rosier than reality.

Contrast, if you will, what we are doing today with what we did during the Vietnam conflict, the conflict I served in and I know others of us did as well. After one supplemental appropriations in 1966, President Johnson and later President Nixon included the cost of our military operations in Vietnam in their annual budget requests, not in emergency supplemental after emergency supplemental. They requested them in their annual budget request. That approach was the right approach. Whether people approved of the war in Vietnam and our involvement there, at least the approach of budgeting for it was appropriate. I believe we owe it to the American people, who are very aware of the cost and nature of our operations, to be upfront about the true state of our country's finances.

To make a second point, there have been times in the last several years when the House has passed a bill, the Senate has passed a bill, we convene a conference committee, and the House and Senate, Democrats and Republicans, have a full and open opportunity to participate in that conference committee.

Concerns have been raised. I think the chairman of this committee is, quite frankly, as fairminded a person as I know. It is a real joy to serve with him. I have said it to him privately and I will say it to him publicly. But I have heard reports back from those who felt they did not have opportunity extended to them to actually offer amendments in committee that they felt they had been assured they would have a chance to offer. That is a matter of concern to me and I think it would be if the shoe were on the other foot.

Third subject, REAL ID. There was an amendment I alluded to offered by Senator DURBIN that passed the Senate. It passed the Senate 99 to 0. The amendment would have helped to compensate Federal employees who were called to active duty who were making more money as a Federal employee than they were after they had been activated to active duty. We passed by a

99-to-0 vote a provision that said we should make up the shortfall in those instances. That particular amendment that was passed by a 99-to-0 vote was left out of the conference report. I know other items were never considered by the Senate. A prime example of that is the controversial REAL ID proposal somehow did find its way into the legislation. As I recall, we never had a chance on the Senate floor to even discuss the REAL ID issue. It was not part of our supplemental bill. Yet when the final bill comes up, we are looking at 55 pages of new immigration law that this body has never debated and which was inserted at the behest of the House Republican leadership.

I have a serious concern about whether these immigration provisions make sense. I know some feel they do, but I have some real concerns. The REAL ID Act, for example, would repeal the driver's license standards framework we created last year in the Intelligence Reform Act, which is based on the recommendations made unanimously by the 9/11 Commission. In place of the 9/11 Commission framework, REAL ID would create an entirely new and expensive Federal standard for the issuance of driver's licenses but provide no funding to my State, Mississippi, South Carolina, or any other State, for that matter. As a former Governor, I believe such unfunded mandates should not be considered lightly.

Furthermore, I have heard from a number of constituents in my own State who are concerned that the bill would make it more difficult for those fleeing religious persecution to gain asylum, while allowing the Secretary of Homeland Security to waive all laws in order to build a fence along our borders.

In this post-9/11 world we know it is vital to ensure security not only along our borders but also within our Nation. However, instead of thoroughly considering homeland security and immigration reform measures, the House has hastily tacked on legislation that could have potential negative consequences for the Latino and other immigrant communities in my State and across our country. I think we should have had a proper debate to ensure that this legislation would actually protect our Nation and make us more secure.

The last thing I want to mention deals with Israel and the peace process there. I returned from that part of the world about 5 weeks ago, convinced there is an opening, a possibility, however difficult to achieve, that Israelis and Palestinians may find common ground; that the Palestinians finally have a chance to end up with a homeland of their own and to live side by side in a separate state, in a geographical area with the Israelis, who would have peaceful and secure borders and reasonable economic and diplomatic relations with their Arab neighbors.

I came back and called Secretary Rice and said, we ought to be putting as much energy and time and attention into trying to forge a final compromise, a final peaceful resolution, in Israel. To the extent we can do that between the Palestinians and the Israelis, we would probably do more to reduce the ability of terrorists to raise money, to reduce the ability of terrorists to recruit new terrorists, to reduce their ability to convince people in some kind of unholy jihad to go out and blow themselves up and kill a lot of innocent people.

If the United States can somehow emerge from a peace process in the Middle East and Israel and be seen as the honest broker in helping the Israelis and the Palestinians get to a fair and peaceful permanent resolution, we would do more to set back the terrorists and end the war on terrorism, to make us safer in this country, to make people safer in Israel, in Palestinian-controlled areas, to make people safer in Iraq and Afghanistan as well.

When I was in Israel, I had the opportunity to travel to Ramallah. During that trip, we were behind a flatbed truck. As that truck went from Israeli-controlled territory into the West Bank, it had to go through a checkpoint. At the checkpoint, literally everything on the flatbed truck had to be removed and moved on to another flatbed truck in order to make sure there was not contraband, explosives or something there that would represent an endangerment to other people.

One of the best ways to ensure that terrorists still have plenty of places from which to recruit new terrorists in that part of the world is to ensure that the rate of unemployment in Palestinian-controlled areas remains at about 50 percent. It is in our interest, it is in the interest of the Israelis, it certainly is in the interest of Palestinians who want peace and a better life, for us to help bring down the rate of unemployment.

The way to do that is not to have trucks go from one part of that area to stop at a checkpoint and offload on to a new truck. There has to be a free flow of people and a free flow of goods, a free flow of commerce in that part of the world in order to help get the Palestinian economy up and on its feet and to bring down unemployment.

My parents used to say to me, an idle mind is the devil's workshop. Well, people who do not have anything to do with their time are also prime for being recruited as terrorists. To the extent we can help bring down the unemployment rate in the Palestinian communities, we also bring down the likelihood they are going to be recruited to become terrorists.

In the bill that passed the Senate, there is a provision for some \$200 million to support Palestinian political, economic, and security reforms. As we have gone through the process in conference, roughly the same amount of money has emerged, and it is not going

directly to the Palestinian Authority. A portion of that, maybe \$50 million, will end up going to the Government of Israel as they try to create high-security checkpoints which would allow that truck I talked about earlier to go through a high-tech security checkpoint and not have to be offloaded. It would enable people to move freely who are trying to get a job or going to a job from Palestinian areas to Israeli areas or vice versa, without being impeded from doing that, or having to spend hours trying to get through a checkpoint.

At the same time, we have the ability through the technology of today to stop the terrorists. People who are carrying contraband or explosives or stuff that will enable them to hurt other people can be stopped at these checkpoints. There is money in this bill that would enable the Israelis to help build terminals, checkpoints for folks to pass through, Palestinians or Israelis, for that matter, to reduce the likelihood of terrorist incidents that will grow out of that movement of people, and to better ensure that goods and services in commerce can move about freely. So that is a good thing.

There are some who will quarrel with whether the money should have gone directly to the Palestinian Authority or whether it is more appropriate to go through other organizations that we call NGOs. I am not going to get into that argument.

I say to my friend from Mississippi, we may have a chance later on—maybe in the Foreign Affairs appropriations bill or the foreign operations bill—to come back and revisit this issue and decide whether, given the reforms that are being made in the Palestinian Authority through reduced corruption, to tamp down on terrorism within organizations such as Hamas, we may have the opportunity to come back and decide whether to allocate some additional money later this year to strengthen the position of President Abbas and to reward positive behavior on his behalf and that of other Palestinians.

So those are points I wanted to make. I am going to recap them again very briefly. First, the concern as we go forward for us to take as an example the budgeting approach used by earlier administrations, Democrat and Republican, President Johnson, President Nixon, at least in terms of funding the Vietnam war. After the first emergency supplemental appropriation, fiscal year 1966, they said we are going to make part of our regular budget request moneys to support that war effort. Again, we ought to do the same thing now going forward.

Second, I call on our Republican friends to remember the Golden Rule, to treat other people the way we want to be treated. As we go forward in these conference committees, to the extent we treat people fairly from our side, some day when we are in the majority—and some day we will be—more

likely we will end up with a situation where the minority, in that case the Republicans, will be treated fairly, too.

On REAL ID, it will be interesting to see what the States come up with in response to these unfunded mandates. I don't like unfunded mandates. I never liked them as a Governor. I don't like it now. Whenever we in Washington figure out that we ought to tell the States and local governments how to spend the money, we don't provide the money. We tell them how to raise the money, or not raise the money, but we do not provide an offset. That is a slippery slope. I think we are on that slippery slope with respect to this REAL ID provision.

Finally, on the Palestinian peace initiative, I think it is important to promote investments in the Palestinian areas to get their economy moving again, and it is important we help fund security measures that enable the free flow of commerce, of people and goods in and out of the Palestinian areas so they can reduce their unemployment rates and reduce the threats of terrorism.

With that having been said, I am going to stop here. 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. NELSON of Florida. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. NELSON of Florida. Mr. President, I want to speak as to how I am going to vote. Clearly, the necessity of funding for all of our troops requires a "yes" vote on this legislation. I gladly do that. I do want to express my concerns about this so-called REAL ID part that was put in in the dead of night, without the notification that was promised to the minority and without the informing of all the various Senators who were part of the conference committee. This is not the way we should be doing legislation. It ought to be in the full light of day. That is why they refer to making legislation is like making sausage—you don't know what all is in it.

With regard to this REAL ID Act, the concern that I have is that we are going to have an invasion of people's privacy without having carefully considered it through committee hearings and through full debate of the issue. For something that is as important to so many Americans as a driver's license, we are going to start on the road of the invasion of privacy. I do not think this is the way to establish what is, in effect, the first step for a national identification card. I don't think this is the way to do it, in the dead of night, by stealth and sleight of hand.

Second, I think Senators are going to get an earful if they are starting to get the rumblings that I am getting from constituents in my State. When most

people find out they have to haul out a birth certificate when they go down to reestablish their driver's license, it is going to cause a great inconvenience, especially to the senior citizens of this country. I think Senators are going to get an earful.

Third, I am quite concerned about the implication that this is going to have on the rights and protections of minorities. Is this the beginning, portending certain discriminations because of minorities?

Obviously, this is a must-pass piece of legislation. It is funding the war effort. It is funding our troops. We are all going to vote for it, and we will pass it. But we should not have something that is so important to the privacy rights of Americans added to a bill like this in this secretive way.

I wanted my comments made very clearly on the record.

I yield the floor.

Mr. President, I have something else as long as we are in a holding pattern. What is the pleasure of the majority leader? Does he want to go on and call for the vote or does he want to have some more time before the vote, in which I will speak on another subject?

Mr. FRIST. Mr. President, I have not talked to the Democratic leader, but I think if we are about ready to vote, then what I might do is go ahead and do my statement in the interest of time, unless there is something just burning that the distinguished Senator from Florida has to say. I will go ahead and do my statement and then—if the Democratic leader is available?

Mr. NELSON of Florida. I will tell the Senator that I have something that is really burning because they are trying to drill for oil off the coast of Florida. But I am going to yield to the majority leader and to his wishes so he can expedite the process and the vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I apologize for Senators having to wait for me. I want to begin by saying I support this legislation. I commend the work of the managers of the bill, Senator COCHRAN and Senator BYRD. I understand how essential this bill is to our troops who are risking their lives and, of course, to the tsunami victims who are struggling to rebuild their lives.

The conference report, though, comes up short on two issues: Iraq and, of course, immigration—short of what the world rightly expects from the most free nation in the world, and short of what Americans should expect from their elected leaders is what is written all over this conference report.

Starting with Iraq, the Chairman of the Joint Chiefs of Staff recently said that the insurgency is as strong today as it was a year ago. The recent upsurge in violence and unrest in Iraq seems to bear out that remarkable and very troubling conclusion. Yet the administration acts as if the situation in Iraq is essentially under control and

the remaining difficulties are Iraq's problems.

The unfortunate truth seems to be that more than 2 years after President Bush declared the end of major combat operations—remember "mission accomplished"—Iraq has a limited capacity to defend itself or govern itself.

Even worse, the administration has no real plan to help Iraq acquire that capacity. As much as the President may want to dump Iraq's problems on the new Iraqi Government, his administration has a responsibility to our troops and the Iraqi people to help address these problems and to inform Congress how he plans to do so.

I would underscore that this supplemental appropriations bill should not have had to come before this body at this time. It should have been in our regular budget. This war is ongoing. There is no reason to do it in this way.

I have supported and the Senate passed an amendment crafted by Senators DURBIN, LEVIN, and KENNEDY requiring the administration to inform us of its efforts and plans for securing and stabilizing Iraq. Unfortunately, Republican conferees dropped the important amendment from the text of this bill.

As troubled as I am by the Republican majority's actions on Iraq, I am perhaps more disturbed by what they decided to do on immigration, and how they went about it.

Republicans tacked the so-called REAL ID immigration legislation onto this emergency supplemental that is to provide funding for our troops. REAL ID imposes dramatic new burdens on the States and substantially alters the immigration and asylum laws in ways that this Nation may soon come to regret the action taken by this body.

For the House to self-righteously say that on appropriations bills they will allow no authorizing legislation, people can always waive this REAL ID—this is the mother of all authorizing legislation on an appropriations bill.

This REAL ID Act makes reckless and unwise changes to our laws with respect to the environment, refugees, judicial review and, most of all, States rights. It is essentially anti-immigrant legislation couched in the language of antiterrorism. The Wall Street Journal, not the bastion of the so-called liberal press, said the changes made by REAL ID "have long occupied the wish list of anti-immigration lawmakers and activists." That is the Wall Street Journal.

REAL ID will make it much more difficult for individuals fleeing persecution to seek asylum in the United States, will sharply reduce the ability of the Federal courts to rein in overzealous or ill-willed administration officials, and will give the Secretary of Homeland Security unprecedented authority to waive environmental and other laws.

REAL ID could compromise the privacy of American citizens, create long

lines at local DMVs, and make it harder for States and the Federal Government to keep track of who is in our country. In short, REAL ID may make us less rather than more safe.

As troubling as what the majority did on immigration is the way they went about it. Republicans tacked on REAL ID knowing full well immigration issues had nothing to do, as I have said before, with the underlying legislation and that REAL ID had never, ever been considered in the Senate, either in the Judiciary Committee, the committee of jurisdiction, I believe, or on the Senate floor.

Compounding matters, House and Senate Republican conferees went behind closed doors without Democrats and included a modified version of REAL ID.

What so troubles me is that the Republicans have the votes. They are in the majority. They had the majority in the conference. But they refused to have up-or-down votes so the public could see what they were doing. They had the ability to turn down every amendment we offered, but they were unwilling to do that.

They rejected a bipartisan plea to give REAL ID and other immigration issues the time and attention they deserved, and limited opportunities for opponents of REAL ID to offer motions to strike or change what they agreed to.

As a result of the Republicans' decision to incorporate REAL ID and their abuse of the process, most Democratic conferees either refused to sign the conference report or did so while taking strong exception to the REAL ID provision.

I am also disappointed about the White House's role in this matter. For years now, the administration has been talking about the need to reform immigration laws. Remember the big trip President Bush made, when he was first elected, to meet with President Fox in Mexico? They have been talking about the need for reform, so law-abiding, hard-working immigrants can find work in this country, help our economy grow, and support their families here and back, mostly, in Mexico. Since this legislation will hurt hundreds of thousands of the very people the administration professes to be concerned about, I would have expected the President to oppose it. Unfortunately, he chose not to do so.

The best thing we could do for our security would be to enact comprehensive and effective immigration reform so we can gain control once again over our borders and focus our limited resources on terrorists and criminals.

Senator FRIST has indicated he is willing to set aside time for a separate debate about immigration later this year, and I know he will follow through on that. That is what he said he would do. The Senate and the American people deserve time to consider this issue and time to revisit many of this legislation's most problematic provisions.

Finally, I think our ability to succeed in Iraq should have received much greater attention in this bill, and immigration should have been dealt with more thoughtfully and thoroughly in a subsequent legislative vehicle. Our troops and taxpayers are expecting solutions and leadership from the President and the Congress. The world is expecting this Nation to live up to some of the lofty immigration rhetoric espoused by the administration early on. I regret the majority acted in this fashion. I look forward to opportunities to revisit these unwise decisions.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, in a few minutes we will vote on the President's war and tsunami supplemental request. I take this opportunity to thank Chairman THAD COCHRAN, as well as Senator BYRD, for their leadership on behalf of our men and women in uniform. This is one of the first major appropriations for Senator COCHRAN under his chairmanship of the full committee, and I do congratulate him for a job superbly done. I also thank Senator STEVENS and Senator INOUE. I am confident we have a bill that will shortly be overwhelmingly supported on both sides of the aisle.

The legislation before us is absolutely critical to winning the war on terror. It provides \$75.9 billion in support of our troops who are out in the field in Iraq and Afghanistan courageously hunting down the enemy, helping rebuild these countries, and spreading freedom and democracy.

We are indebted to our soldiers, and this legislation reflects our deep commitment to their readiness, to their safety, to their families' well-being.

This weekend, U.S. troops launched a major counterinsurgency offensive in western Iraq near the Syrian border. This region has become an infamous smuggling route and sanctuary for foreign jihadists. So far, our troops have killed over 100 of the terrorists, and they continue to press the enemy back.

Meanwhile, this weekend, our military announced the capture of a top Zarqawi associate, Amar Zubaydi. He was apprehended in a raid on his home last Thursday. Zubaydi is an extremely dangerous man. He is believed responsible for multiple car bombings across Baghdad, as well as the attack on the Abu Ghraib prison last month which wounded 44 U.S. troops and 13 detainees. Authorities also discovered he was planning the assassination of a top Iraqi Government official.

The good news is he is now in custody where he can no longer wreak his havoc. Military sources tell us Zubaydi's capture has provided invaluable insights into the Zarqawi wing of the al-Qaida network.

This arrest, along with the capture of Ghassan Amin in late April and Abu Farraj al-Libbi in Pakistan last week, further tightens the noose. Indeed, we intercepted a note by one of their colleagues complaining of the group's low morale.

Osama bin Laden and al-Zarqawi will be brought to justice, just as Saddam and his henchmen now sit in prison. Our brave men and women in uniform and their colleagues across the U.S. Government are risking their lives and working hard every day to bring that moment ever closer.

I urge my fellow Senators to pass the supplemental swiftly so we can get this support to our military men and women in the field—and also, I should add, to the victims of the December tsunami tragedy. The war supplemental includes nearly \$880 million in relief funds to help people in countries devastated by that deadly wave.

Furthermore, it includes nearly \$630 million to increase security at our borders by hiring 500 new border agents and tightening our driver's license ID requirements.

America is leading the war on terror, and we are making great progress. As this supplemental appropriations demonstrates, we are a strong Nation, and we are a compassionate Nation.

I look forward to an overwhelmingly bipartisan vote on this critical legislation in a few moments. Our troops and our fellow citizens are depending on it.

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 yeas and nays were ordered.

Mr. FRIST. Mr. President, we yield back the time on our side.

Mr. CONRAD. Mr. President, I yield back our time as well.

The PRESIDING OFFICER. All time has expired.

The question is on adoption of the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 117 Leg.]

YEAS—100

Akaka	Dayton	Lautenberg
Alexander	DeMint	Leahy
Allard	DeWine	Levin
Allen	Dodd	Lieberman
Baucus	Dole	Lincoln
Bayh	Domenici	Lott
Bennett	Dorgan	Lugar
Biden	Durbin	Martinez
Bingaman	Ensign	McCain
Bond	Enzi	McConnell
Boxer	Feingold	Mikulski
Brownback	Feinstein	Murkowski
Bunning	Frist	Murray
Burns	Graham	Nelson (FL)
Burr	Grassley	Nelson (NE)
Byrd	Gregg	Obama
Cantwell	Hagel	Pryor
Carper	Harkin	Reed
Chafee	Hatch	Reid
Chambliss	Hutchison	Roberts
Clinton	Inhofe	Rockefeller
Coburn	Inouye	Salazar
Cochran	Isakson	Santorum
Coleman	Jeffords	Sarbanes
Collins	Johnson	Schumer
Conrad	Kennedy	Sessions
Cornyn	Kerry	Shelby
Corzine	Kohl	Smith
Craig	Kyl	Snowe
Crapo	Landrieu	Specter

Stabenow	Thomas	Warner
Stevens	Thune	Wyden
Sununu	Vitter	
Talent	Voinovich	

The conference report was agreed to. Mr. COCHRAN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

CORRECTING THE ENROLLMENT OF H.R. 1268

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Con. Res. 31, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 31) to correct the enrollment of H.R. 1268.

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

Mr. COCHRAN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid on the table.

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

The concurrent resolution (S. Con. Res. 31) was agreed to, as follows:

S. CON. RES. 31

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of H.R. 1268, an Act making emergency supplemental appropriations for the fiscal year ending September 30, 2005, and for other purposes, the Clerk of the House of Representatives is hereby authorized and directed to correct section 502 of title V of division B so that clause (ii) of section 106(d)(2)(B) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106-313; 8 U.S.C. 1153 note), as amended by such section 502, reads as follows:

“(ii) MAXIMUM.—The total number of visas made available under paragraph (1) from unused visas from the fiscal years 2001 through 2004 may not exceed 50,000.”.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Inhofe amendment No. 605, to provide a complete substitute.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SARBANES. Will the Senator yield?

Mr. SHELBY. I yield to my colleague from Maryland.

Mr. SARBANES. Mr. President, I ask unanimous consent that I be permitted to follow the Senator from Alabama, after he completes his statement.

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

Mr. SHELBY. Mr. President, I rise tonight to speak in support of the Federal Public Transportation Act of 2005. We know it as the Transportation bill. This bill was marked up in the committee on Banking, Housing, and Urban Affairs on March 17 and reported out with a unanimous vote.

I am proud of this legislation which was crafted on a bipartisan basis with cooperation from the distinguished Senator from Maryland, Mr. SARBANES, the committee's ranking member and former chairman.

The Federal Public Transportation Act of 2005 provides record growth for public transportation. The funding authorized in this bill will provide for significant improvements to and expansion of the Nation's transportation infrastructure. I am pleased to be working with my colleagues, Chairman INHOFE from the Environment and Public Works Committee, and Chairman STEVENS from the Commerce, Science and Transportation Committee.

I want to thank my friends from the Finance Committee, Senators GRASSLEY and BAUCUS, for working so diligently to identify additional money for public transportation. Thanks to their efforts the Banking Committee's transit title provides record growth for transportation, \$53.8 billion over this is an increase in the share of transit funding over TEA-21 and I am confident that this money will be helpful in meeting surface transportation needs across the country.

Public transportation services are often the only form of transportation available to many citizens. These services provide mobility to the millions of Americans who cannot, for various reasons, use an automobile. More than 80 million Americans cannot drive or do not have access to a car.

Further, senior citizens are the fastest growing segment of the U.S. population. Many of them require access to public transportation in order to maintain their independence and to access vital healthcare services.

Today, the American public transportation industry consists of nearly 6,000 transit systems in both urban and rural areas. These transportation agencies operate a diverse array of vehicles, including subways, buses, light rail, commuter railroads, ferries, vans, cable cars, aerial tramways, and taxis.

According to the Texas Transportation Institute's 2005 Urban Mobility Report, congestion costs over \$63 billion, more than 3.7 billion hours of delay and 2.3 billion gallons of excess fuel annually. The average driver loses more than a week of work each year sitting in gridlock. The same report finds that without public transportation, there would be 1 billion more hours of delay. The report also finds that public transportation reduces the cost of congestion by about \$20 billion per year.

Public transportation investments help create employment and sustain

economic health. The Department of Transportation has estimated that for every \$1 billion in Federal highway and transit investment, 47,500 jobs are created or sustained.

The Transportation Equity Act for the 21st Century, TEA-21, expired on September 30, 2003, and has temporarily been extended through May 31, 2005. The delay in providing a long-term authorization has had a significant impact on State and local governments which have been unable to develop long-term programs for funding. Public transportation represents an important part of the Nation's transportation infrastructure, which by its nature, requires long-term planning and project development. Delays in funding have resulted in project delays which ultimately increase costs and postpone the benefits which projects are designed to produce. The impact is particularly significant in States with short construction seasons since planning must be done well in advance of contracting for construction. Therefore, the committee has responded and taken action to reauthorize the public transportation title of TEA-21 in order to continue the Federal Government's critical role in public transit programs.

This bill accomplishes three important policy goals. It creates funding flexibility, increases accountability, and improves the performance and efficiency of the transit programs in the United States.

The bill creates several new formulas to better address growing transit needs. A “rural low density” formula is created to allow for transit services in sparsely populated areas where employment centers and health care are great distances apart. A “growing states” formula is created to allow communities with populations projected to grow significantly in the coming years to put in place needed transportation infrastructure. A “transit intensive cities” formula is created to address the needs of small communities where the level of transit service exceeds what their population-based formula would provide for. Finally, our bill also creates a “high density” formula to provide additional funding for States with transit needs that are particularly great because they have transit systems in extremely urban areas with high utilization rates.

The bill increases the accountability within the transit program. It rewards transit agencies which deliver projects that are on time, on budget, and provide the benefits that they promised. Further, this bill allows communities to consider more cost-effective, flexible solutions to their transportation needs by opening up eligibility within the New Starts program to non-fixed guideway projects seeking less than \$75 million in New Starts funds. With this change, other solutions can be fostered, such as bus rapid transit, which is more flexible than rail at a fraction of the cost.

Finally, the bill seeks to improve the performance and efficiency of transit

systems nationwide. It provides incentives for the coordination of human service transportation activities in order to eliminate duplication and overlap. It increases the focus on safety and security needs within transit systems to help insulate them against terrorist attacks. It also enhances the role of the private sector in providing public transportation in an effort to reduce cost and to improve service.

The Federal Public Transportation Act is very good legislation. The funding made available by this bill and the policy initiatives contained in the bill will dramatically improve the public transportation program to help Americans with their mobility needs in both urban and rural areas nationwide.

I commend this bill to the Senate and ask my colleagues for their support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise to join my able and distinguished colleague from Alabama, the chairman of the Senate Banking, Housing, and Urban Affairs Committee, in strong support of the Federal Public Transportation Act of 2005, which has been incorporated into the pending amendment which was offered yesterday by Senator INHOFE, the chairman of the Environment and Public Works Committee.

The Federal Public Transportation Act was reported out by the Banking Committee earlier this year, and, I might add, by a unanimous voice vote. Moreover, although the funding level provided in this bill is lower than in the one we passed last year, the program structure and policy decisions reflected in this bill are almost identical to those included in S. 1072, the Safe, Accountable, Flexible, and Efficient Transportation Act, SAFETEA, which passed the Senate last year with overwhelming bipartisan support.

At the very outset, I express my appreciation to Chairman SHELBY who worked tirelessly on the development of this legislation last year, reaching across the aisle in a cooperative manner to develop a transit bill that will begin to address the urgent needs faced by communities all across the country.

I also want to acknowledge the leadership of the Environment and Public Works Committee, Chairman INHOFE and Ranking Member JEFFORDS; and the Finance Committee Chairman GRASSLEY and Ranking Member BAUCUS, for their efforts to move this very important bill forward.

As has already been observed in this debate, SAFETEA did not emerge from conference last year, regrettably, due in large part to the unwillingness of the administration to support the kind of significant investment needed to meet our pressing transit and highway needs. As a result, we have had to pass six short-term extensions of the previous transportation legislation, TEA-21. The uncertainty inherent in these

short-term extensions hinders our State and local partners in their efforts to meet the daily challenges of maintaining our transportation infrastructure and planning for improvements.

I want to express my appreciation to a number of colleagues who worked to provide additional resources for transportation beyond what was reported out by the various committees earlier this year. A higher level of investment is essential if we are to keep up with the increasing demand along our entire transportation network.

I want to say a few words about the transit title, which was supported by every member of the Banking Committee. Over the last several years, the Banking Committee and its Housing and Transportation Subcommittee, under the leadership first of Senator REED of Rhode Island and then more recently of Senator ALLARD of Colorado, has held a series of hearings on the Federal transit program and its contribution to reducing congestion, strengthening our national economy, and improving our quality of life.

Over the course of those hearings, we heard testimony from dozens of witnesses, including Secretary of Transportation Norman Mineta, Federal Transit Administrator Jenna Dorn, representatives of transit agencies from around the country, mayors, business and labor leaders, environmentalists, economic development experts, and transit riders themselves. Virtually all of the witnesses agreed that the investment that had been made under TEA-21 contributed to a renaissance for transit in this country. In fact, transit ridership is up 23 percent since 1995, and is still increasing, even faster than the growth in highway use.

Transit plays a critical role in our efforts to combat congestion. My able colleague, the Chairman of the Committee, Senator SHELBY, made reference to a study released just this week by the Texas Transportation Institute, talking about the tremendous cost to the Nation in lost time and wasted fuel because of congestion—people simply stuck in traffic.

We heard testimony at our hearings about many other important benefits of transit as well. For example, the U.S. Chamber of Commerce testified that \$1 billion of capital investment in transit creates almost 50,000 jobs. Moreover, the economic development benefits of transit are becoming more and more apparent as new systems come into service. For example, we heard testimony from one of the county commissioners in Dallas that over \$1 billion had been invested in private development along Dallas's existing and future light rail lines, raising nearby property values and supporting thousands of jobs.

We heard from a representative of BellSouth that his company had decided to relocate almost 10,000 employees from scattered sites in suburban Atlanta to three downtown buildings near the MARTA rail stations because,

as he put it, transit "saves employees time. It saves employees money. It saves wear and tear on the employees' spirit."

Transit benefits the economy in other ways as well. For example, transit investments in one community can have repercussions in many areas around the country. The president of the American Public Transportation Association, Bill Millar, who has testified before the Senate on a number of occasions, pointed out that when one locality builds a rail system or develops its bus system, the manufacturing or the assembly of those rail cars and buses may well be done in a different jurisdiction. So one has to keep in mind when considering the economic benefits of transit, it is not only the area that is upgrading its transit system that benefits. That area will invariably spend its money on a whole range of supplies and services which are produced elsewhere in the country. As Mr. Millar said:

While the Federal money would appear to be going one place, the impact of that money tends to go very far and wide.

Of course, transit is about more than our economic life. It is also about our quality of life. During our hearings, we heard a great deal about the importance of transit to our senior citizens, our young people, the disabled, and others who rely on transit for their daily mobility needs. Several of our witnesses observed that the increased investment in transit and paratransit services under the previous bill provided the crucial link between home and a job, school, or a doctor's office, for millions of people who otherwise might not have been able to participate fully in the life of their community. Further, we saw after 9/11 how transit can be an important lifeline in other respects, as well. We had very moving testimony during our hearings about the efforts made by transit operators on that day to move tens of thousands of people quickly and safely out of our city centers.

As a result of transit's many benefits, the demand for transit is continuing to increase all across the Nation. Small towns, rural areas, suburban jurisdictions, and large cities, are all struggling to keep up with the need to provide safe and reliable transit service for their citizens. The Department of Transportation has estimated that very significant sums will be needed to maintain the condition and performance of transit systems across the country.

The transit title authorizes \$53.8 billion in transit investment. I am frank to say I believe that the transit needs of the nation would justify even more, but I am pleased to say that under this bill transit will see a significant increase in funding over TEA-21. A strong transit program is essential to our efforts to improve our citizens' mobility and strengthen our national economy.

I want to take just a moment or two to highlight some of the most important features of the amendment before us with respect to transit.

The amendment provides for growth in both the urban and rural formula program, with added emphasis placed on the rural program. The committee was sensitive to the needs of the rural areas of our country, and the rural program will see significant growth in order to help States with large rural areas provide the services their residents need.

The bill also provides increased funding in the Fixed Guideway Modernization Program. This funding is very important to helping cities with older rail systems, which in some cases were built almost a century ago, make the investments needed to preserve those highly successful systems, which literally move millions of people every working day.

The New Starts program, which helps communities make their first major investment in transit as well as expand existing systems, also grows under this bill. The New Starts program will enable communities to address their mobility and development needs with transit investment and to gain the benefits of transit that exist elsewhere in the country.

Furthermore, the amendment maintains the existing 80 percent Federal match on new starts transit projects, and thus continues the parity that has existed between the local match requirement for highway and transit projects. This is a very important factor in ensuring that the investment decision at the local level is not weighted in one direction or the other because of a more favorable local match requirement. Mayor McCorty of Charlotte, NC, made this point in one of our hearings when he observed that:

There's a strong need to keep the program 80-20, as we do for other forms of transportation, including roads. That does send a strong message that transit is as important as our road network.

The bill makes a significant change in the new starts program by allowing new starts funding to be used for the first time to fund transit projects that do not operate along a fixed guideway, as long as the project is seeking less than \$75 million in Federal funds. There are only a few examples of such projects currently operating in the Nation, and I hope to work with the Federal Transit Administration to ensure that the FTA develops an appropriate quantitative methodology for evaluating the costs and benefits of such projects, particularly as they relate to land use and economic development impacts.

As we begin to experiment with different forms of transit service, we must be careful not to adversely impact FTA's highly competitive and successful process for moving projects through the New Starts Program.

While the bill preserves the general structure of TEA-21, several new for-

mulas are included to target transit funds more directly to those States and cities with extraordinary transportation needs. The bill includes a new growth and density formula. The growth portion will distribute funds to all States based on their expected future population, and the density portion will provide funding to those States whose populations are above a certain density threshold.

The bill also includes an incentive tier to reward small transit-intensive cities, those cities with a population between 50,000 and 200,000 which provide higher than average amounts of transit service. The funds distributed under these new formulas will help communities address their unique transportation needs.

The bill includes a requirement that metropolitan planning organizations develop a public participation plan to ensure that public transportation employees, affected community members, users of public transportation, freight shippers, private sector providers—all the interested parties concerned about the transportation infrastructure—have an opportunity to participate in the transportation plan approval process.

Transportation investments are among the most important decisions made at the local level. I firmly believe all interested parties should have an opportunity to contribute to this process. Our transportation infrastructure is central to making our economy and, indeed, our society work day to day. That is why this is such a critical and important piece of legislation.

Finally, I am pleased that the legislation includes a new Transit in Parks Program to help national parks and other public lands find alternative transportation solutions to the traffic problems they are now facing. This is a program the administration supports. It has very strong bipartisan support in the Senate. It is an effort to address the problem of overcrowding that has come with increased visitation to our national parks and other public lands. In some cases people must wait in long lines to get into a national park, or they get to the entrance and find they are turned back because the park's roads and parking lots are at capacity.

TEA-21 required the Department of Transportation to conduct a study of alternative transportation needs in our national parks and other public lands, and that study confirmed that the parks are ready and willing to develop transit alternatives. This legislation will help the parks make investments in traditional public transit, such as shuttle buses or trolleys, or other types of public transportation appropriate to the park setting, such as waterborne transportation or bicycle and pedestrian facilities.

In closing, let me note that there are a number of other provisions in the legislation that modify previous aspects of the transit programs, but for the most part the committee's intention

was not to enact major changes to a program that has worked well.

The committee put a great deal of effort into developing a package that would recognize the various types of transit needs across the Nation. Of course, as with any program with limited resources, no one gets as much as they would like. But given the framework within which the committee had to work, I think we have responded fairly and rationally to the needs that have been expressed to us. All in all, I think this is a balanced package, which I am pleased to commend to my colleagues.

This bill provides essential support to our local and State partners in their efforts to combat congestion and pollution and to ensure that their citizens can access safe and reliable transit services. It is no exaggeration to say this is essential legislation for the future strength and vitality of our economy and of our society, and I urge my colleagues to support it.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent I be allowed to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. Mr. President, reserving the right to object, and I will not object, I would like to have the Senator add to his unanimous consent request that following his remarks we return to the bill H.R. 3, as amended, for consideration of amendments.

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

(The remarks of Mr. STEVENS are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to discuss a transportation bill that has been several years and several congressional sessions in the making. For a very long time now, Senator BAUCUS and I have worked with the various authorizing committees to prudently fund the highway and transit programs. Of course, this has not been an easy process. But last year, we found a way to fund the programs in a way that enabled every State of the Union to bring home more money for needed transportation, particularly for highways. Let me repeat that because it is important. Every Member of the Senate, including those who complained about our funding mechanism, did better under our plan last year.

This year we face a different set of challenges. There are conflicts that arose in last year's conference that are still with us. The conflicts spring from three principles that have proven very difficult to reconcile. I will lay out those conflicts.

The first principle is to get a highway bill that is an improvement over current policy. That is where overwhelming majorities are in both the

House and the Senate. We need adequate funding for our transportation infrastructure. We need to do our best to meet the job, economic development, and transportation needs of the country. The authorizers say improved policy requires more trust fund money.

The second principle from conference is deficit reduction. President Bush has rightly put deficit reduction as a key objective in general and applied it to the highway program in particular. Toward that end, the administration has pegged spending at \$284 billion in spending over the applicable period.

In conference, the House brought forward a third principle. They made it clear that they would not accept the use of general fund offsets to prevent deficit increases because of the highway bill.

Over the last several years it has been frustrating to see some Members advance all these principles without acknowledging the inherent conflict. They say: Senator GRASSLEY, we need more money for my State for roads or transit. At the same time, these same Members would say: Senator GRASSLEY, why are you paying for it in this way or that way?

So to any complainers, I issue the challenge that I issued last year: If you complain about the additional money that the Finance Committee has found for your State, explain to me how you would do it differently. Would you forgo that money for your State? If you have an alternative, explain to me how you would find the votes for your method of financing. I issued that challenge last year, and somehow I didn't get any takers. I expect complaints again this year despite the smaller numbers involved and don't expect anyone to take me up on the challenge.

Whether folks want to admit it, as we begin floor debate and conference on this bill, it will become increasingly apparent that these three principles conflict. As one who has tried and continues to try to enact a highway bill into law, I have worked very hard to grow trust fund revenues in a way that doesn't increase the deficit or require general fund offsets. While we were able to devise a floor amendment that grows the trust fund without increasing the deficit, we were not able to do so without the use of any general fund offsets. We did get 40 percent of the way there using additional fuel fraud compliance measures. We are filling in most of the \$5 billion gap with a small version of the refund proposal which the administration included in its fiscal year 2006 budget.

Finance Committee investigations reveal that many of the refunds are based in fraud, and these steps will contribute to our efforts to close the tax gap. A very small amount of that gap is also bridged by changes to gas guzzler tax administration. We are still awaiting progress on additional fuel fraud measures and loophole closures and plan to fill in the \$5 billion gap in conference. In the meantime, we are

using other general fund offsets to do that.

Almost none of these general fund offsets are new, as nearly all were included in the Senate-passed JOBS bill last year. Two notable provisions have been added. One of those provisions is intended to improve the administration of the Internal Revenue Service's offer-in-compromise program. The second involves a leasing tax shelter abuse in the transportation sector that we refer to by the acronym SILOs. These were the schemes that allowed big corporations to claim tax deductions for bridges, pipelines, and subways that are paid for with taxpayer dollars but with no risk for the leasing company.

Congress passed the JOBS bill last fall and outlawed these SILOs but not without concessions to the interests of shelter promoters. Under that bill, SILO shelter promoters got more than a year to get their deals-in-process approved by the Department of Transportation. And, of course, I believe that is an outrage. We exerted great effort in Congress to shut down this abuse, but the transition relief in the JOBS bill is a sop to shelter promoters and an insult to American taxpayers. This amendment will end that abuse now, not a year from now.

In committee, we marked up in alignment with the President's \$284 billion figure. That was the deal the authorizing committees and this committee made with Leader FRIST to get the bill to the floor. In our Finance Committee markup, I indicated my intent to work on the floor with Senator BAUCUS, the Senate leadership, and authorizers to grow the trust fund revenues in a manner that does not negatively impact the deficit. I believe we have incorporated a Finance Committee amendment that does just that.

I also understand and agree with the House position that we should not mix general fund offsets and trust fund resources. To that end, I want the Senate to know that I commit to working further so that no general fund offsets are required to maintain a sufficient trust fund for the conference agreement.

At the markup, I also asked and I continue to ask the administration to shift its focus away from the top-line \$284 billion number and toward the principle of deficit reduction. The bill before the Senate, including our recently added amendment to grow trust fund receipts, is paid for in its entirety principally by cracking down abuse and closing loopholes. In fact, this bill, as currently drafted, actually contributes positively and substantially towards deficit reduction.

I reemphasize that an exclusive focus on the top-line spending number viewed outside of a deficit reduction context will only lead to a repeat of last fall's conference gridlock. Gridlock in conference won't resolve the gridlock on our Nation's highways. So I ask all the key players at each end of Pennsylvania Avenue to focus on main street and work toward a fiscally responsible highway bill.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I wish to make one comment. We are on the bill, and I compliment Senators GRASSLEY and BAUCUS for the great work they have done. We have put together a good bill, and it is necessary to go out to the proper committee, the Finance Committee, to see what we can do to enhance this bill and make it a little bit more robust. They have done a great job, and I compliment them on that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I am very pleased to join in offering the substitute amendment to this bill. This bill is called SAFETEA. It culminates many months of hard work. I commend the chairman, Chairman INHOFE, and Senator BOND, chairman of the transportation subcommittee, and especially the chairman and ranking member of the full committee, Senator GRASSLEY and Senator JEFFORDS, for their hard work.

I especially thank my good friend, Senator GRASSLEY. He is a good man. He is good to work with. He is pragmatic, practical, he cares, he wants good solutions, and he wants to advance the ball. The people of Iowa are very lucky to have him as their Senator. Senator HARKIN is another great Senator from Iowa, but I particularly enjoy working with Senator GRASSLEY. We have a strong working relationship and it means a lot to me personally.

This legislation is critical for Montana and also for the country as a whole. I cannot think of any other legislation that would have such a substantial effect on our Nation's economy. The current transportation program expired in September 2003. Since then, regrettably, Congress has had to enact extensions. We could not come up with a solid 6-year bill. We have had six extensions to the highway program—the most extensions in the history of the program.

Frankly, in addition to all of the substantive good provisions of the bill, it is very important to enact a full 5-year bill rather than going down the road with more and more extensions. The current extension expires at the end of this month, about 3 weeks from now. If we fail to meet the deadline, the program lapses and States will no longer receive their funds. We should not let that happen. We can and should do our work right away. We have already seen an entire construction season go by without a long-term bill. In Montana, we have a very short construction season. Winter weather prevents us from working on our roads all year long. We cannot afford any more delays.

Because Congress has not acted, States are letting fewer bids; it is that simple. Because Congress has not acted, contractors, suppliers, and other construction businesses have less business. Transportation projects are very complex. Any bumps along the way only compound them over time.

Another extension is not a solution. We need to act; we need to act right away. We should act on this bill and head to conference. By approving the substitute amendment and adding funding to the bill, we can speed the process to complete the conference.

While I supported reporting this bill out of the Environment and Public Works Committee because of a commitment made by others to the Republican leader, it was with the firm understanding I would offer an amendment to make substantial improvements to this bill, working in conjunction with other Senators.

That is why we are here today offering this important amendment, which is part of the underlying bill, to increase the authorization and spending levels in this bill.

Chairman GRASSLEY and I have been working for 3 years to develop the financing for the Transportation bill. It is not a simple task. I am pleased to say the chairman and I have proposed a package that does several things.

First, we shore up the highway trust fund to ensure solvency during the life of this bill by providing over \$7 billion in additional receipts during the authorization period.

Second, using these receipts, we increase investments in this Nation's infrastructure by \$8.9 billion for the highway program and \$2.3 billion for the transit program.

Third, we fully pay for the additional highway spending in this amendment. Repeating that, we fully pay for highway spending in this amendment. We do so in a responsible manner.

Let me take a couple moments to comment on the misperceptions and, frankly, outright distortions that I have heard about this amendment.

First, we do not raise gas taxes in this amendment. I will repeat that. We do not raise gasoline taxes.

We can increase resources to the highway trust fund without raising taxes. It is that simple. Don't be fooled by the hysteria of some who flatout oppose more funding for transportation and will say almost anything to defeat our efforts.

I have also heard people say this amendment transfers general fund money to the highway trust fund. That, too, mischaracterizes our proposal.

The other day, Secretary of Transportation Mineta made a very interesting statement. When he described our amendment to raise the investment in transportation, he said: "There is a dark cloud looming on the horizon."

But when his own Department estimated the unmet transportation needs in this country, the Transportation Department said there are more than \$325 billion in unmet needs. That figure grows each and every day that we forego maintenance of the transportation system.

This amendment is no dark cloud. Rather, adopting this amendment will

part the clouds that others have created over this bill and allow the sun to shine on this bill.

Let me lay out the facts.

The President's 2006 budget submission increased the funding proposed for this bill. While I believe that those levels are still artificially low, I want to acknowledge that effort.

Two efforts by the Finance Committee made possible the President's increased funding in its February budget. The administration's reliance on these developments then makes its criticism of this amendment now ring hollow.

The first reason the President was able to increase his highway funding request was the Finance Committee's work last year on fuel fraud and the ethanol credit.

The President's budget proposal depends on the increased dollars from the fuel fraud provisions and the volumetric ethanol credit that Congress enacted as part of the JOBS Act last year.

Over the years, the Senate spent many hours debating the merits of ethanol incentives. I believe the incentives are good agricultural policy and good energy policy.

But whether you favor the incentives or not, last year, Congress broadly agreed that the highway trust fund should not bear the burden of that subsidy. The volumetric ethanol tax credit in the JOBS bill eliminated that problem, and we do so here again today.

The Finance Committee also developed proposals to reduce fuel tax evasion. We tightened the rules for fuel transfers and increased penalties for noncompliance with the tax laws.

When Senator GRASSLEY and I first introduced the ethanol changes and fuel fraud provisions, we heard some of the same comments and criticisms we hear today.

Yet enactment of these provisions has added more than \$17 billion to the highway trust fund for the years 2005 through 2009. The President and the House could not have funded their current \$284 billion proposals without those dollars.

Second, the President's 2006 budget submission also included what some call "the refund proposal." This provision relates to the amount currently refunded to States, cities, and schools that are exempt from paying the Federal gas tax.

States, cities, and schools do not pay the Federal fuel tax. They are exempt. That is appropriate. They should be. Right now, when a State, city, or school fills its vehicle with taxed fuel, the organization is entitled to get a refund of the Federal excise tax. They get that refund.

Currently, the general fund pays that refund. Then the highway trust fund repays the general fund. That doesn't make sense.

All we are saying in this amendment is that the highway trust fund should not have to reimburse the general fund

for the amount of the refund. It is that simple. Those are vehicles traveling on the highways. We do not raise taxes on State and local governments, not one penny.

Vehicles used by State and local governments still cause the same wear and tear on our roads as vehicles owned by entities that pay Federal gas taxes. So the highway trust fund should not have to bear the burden of the exemption.

Some in the administration, and others, call this an "accounting gimmick." That is flatly not the case. The administration uses the same refund mechanism to pay for the President's Transportation bill.

If it was not an "accounting gimmick" in February, when the President submitted his budget, then it is not an "accounting gimmick" for Congress to use the same mechanism now. It is not a gimmick anyway.

In addition to the elements contained in the President's budget, let me briefly describe the other provisions that increase receipts in the highway trust fund.

The amendment will increase collections of present-law fuel taxes. The amendment will improve tax compliance with respect to blend stocks used in gasoline.

The proposal prevents the blending of untaxed chemicals with gasoline by imposing the Federal excise tax when blendstocks are removed from the bulk system.

We make sure that kerosene used on the highways is taxed as diesel fuel, and we improve the rules for tax-free fuel purchases by requiring appropriate certification that an entity is exempt from the fuel taxes.

The amendment also dedicates the gas-guzzler tax to the highway trust fund. Today this transportation excise tax goes to the general fund. That does not make any sense. It belongs in the highway trust fund. After all, these are vehicles that travel on the highways. It belongs in the highway trust fund with the rest of the Federal excise taxes that are imposed on vehicles and fuels. This proposal does not take current dollars out of the general fund, but when the guzzler tax is paid in the future, it will go to the highway trust fund.

The amendment maintains the integrity of the highway trust fund. The highway program will be paid entirely by transportation excise taxes to the highway trust fund. But because more transportation taxes will now rightfully go to the highway trust fund, there will be a gap to fill in the general fund.

We make the general fund whole by including revenue-raisers that are not related to highways. These are good policy loophole closers. Everybody would want to vote for these regardless, just standing alone. They are the sort of provisions the Senate has passed before.

All in all, it is a win-win situation. This bill pays for highways legitimately and replenishes the general fund legitimately.

On April 27, the majority leader stood on the Senate floor and said this about the Transportation bill:

I am confident by working together we can get this done, and we can demonstrate reasonable fiscal restraint.

At the Finance Committee markup, I made that same statement that we would be responsible in this new funding amendment. We have done that. We have been responsible.

I commend my colleagues who voted for the Talent-Wyden amendment to this year's budget resolution. That amendment firmly stated that new receipts to the highway trust fund should be available and spent in this bill. Eighty-one of us supported that amendment. That is an overwhelming majority of the Senate supporting additional transportation funding in this bill, all paid for.

Mr. President, I say to my colleagues, this amendment provides the funding they voted for in the budget resolution. Each of the 81 Senators who supported the budget resolution amendment should support this new money.

Why are we working so hard to increase the funding in this bill? Let me explain why we have not just given in and gone along.

Every billion dollars in infrastructure investment creates nearly 47,500 jobs—every billion dollars. That is important. Over the life of the bill, we will sustain more than 2 million good-paying jobs.

Highway jobs are jobs that stay in the United States. You cannot export highway jobs. You cannot outsource highway jobs. They are not shipped overseas. This bill will affect all Americans whether they build the road or drive on the road.

Our economy could sure use a boost, and one certain way is to produce jobs through this bill. It is a jobs bill.

This bill is an economic engine for my State of Montana. The last Transportation bill, TEA-21, provided more than \$1.2 billion in my State and helped sustain more than 11,000 jobs. With the increased funding in this substitute amendment, Montana and every other State in the country will receive a much needed increase in economic growth and development, all paid for.

This amendment will also allow us to make some modest changes to the formulas in the SAFETEA bill. We made changes for both donor and donee States. For the donee States, we have increased the guaranteed funding from 110 percent of TEA-21 levels up to 115 percent each year of the bill—each and every year. From a 110-percent increase to a 115-percent increase—that is for the donee States.

For the donor States, we have provided funding to bring every donor State to 91 cents on the dollar beginning in 2006, with an additional guarantee of 92 cents in 2009.

I know this is not what everybody wanted, but we have limited funds. We cannot do everything for everyone. I

hope that as this debate continues, my colleagues will understand the very difficult task of drafting a national formula. We must work together. Prior transportation bills have never been partisan fights. It is very important. There is no such thing as a Republican road or a Democratic road; they are American roads.

I remember fondly working with Senator Daniel Patrick Moynihan on ISTEA in 1991. We had good debates on the future of transportation policy. He had such vision, and ISTEA reflected that vision.

In 1998, I worked closely with two dear friends developing TEA-21—the late Senator John Chafee of Rhode Island and Senator JOHN WARNER of Virginia. We worked side by side through many long nights and hours of discussions. Each of us brought a different perspective to the table. I represented the needs of rural and Western and Midwestern States, Senator Chafee represented the Northeastern States, and Senator WARNER represented the donor States, generally Southern States. Each of us recognized that with a national transportation program, we had to balance the needs of each constituency. I believe we put together a good product in TEA-21. Was it perfect? Of course not, but it moved our country forward. Did I get everything I wanted for my State? No. We did not get to write legislation in a vacuum. We had to work together.

The bill before us is balanced. We have worked hard to balance the needs of the various States, each with different interests but with a common purpose. We have worked hard to balance the needs of highways and transit. It is time for us to finish the job. We have substantial differences with the House. We need to get this bill to conference so we can iron those differences out.

Legislating is the art of compromise. I have been fortunate to represent the people of Montana in this Capitol for the last 30 years. In that time, I have worked on hundreds of pieces of legislation that have become law. To craft these measures, I have worked with Members on both sides of the aisle—with Members on my side and Members of the other side—because, after all, we all are Senators. I have not received everything I wanted. I have had to give a little bit. That is what we all do around here. We are a nation of 50 States with different needs. I hope my colleagues will continue to work with us on the Senate floor with that in mind. There are small States, there are large States, there are urban States, there are rural States, there are donor States, and there are donee States. We have done our very best to balance the various needs.

Our ability to address many of the outstanding issues depends on the added funding this amendment provides. We could not balance them without this added funding. Without additional funding in this bill, we cannot

make further changes. It is that simple.

To my friends who have come to me over these past weeks asking for more money for their States, I simply say: Now is the time to stand and be counted. Now is the time to complete action on this bill and invest in our future. Let us not allow gridlock in Congress to cause gridlock on the main streets of America. Let us adopt this amendment and provide the funding our transportation system needs. Let us move this bill to help get our economy moving.

Mr. President, I again thank all those concerned. I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I know there are a number of my colleagues waiting to speak this evening. I assure them I will take a minute and then yield the floor.

CLOTURE MOTION

Mr. McCONNELL. Mr. President, I send a cloture motion to the desk on the pending substitute.

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 pending substitute to Calendar No. 69, H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Bill Frist, James Inhofe, David Vitter, Thad Cochran, Norm Coleman, Jim DeMint, Richard Shelby, Orrin Hatch, Kit Bond, Chuck Grassley, Pete Domenici, Jim Talent, Richard G. Lugar, John Thune, Bob Bennett, George Allen, Mitch McConnell.

Mr. McCONNELL. Mr. President, I now send a cloture motion to the desk on the underlying bill.

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 to Calendar No. 69, H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Bill Frist, James Inhofe, David Vitter, Thad Cochran, Norm Coleman, Jim DeMint, Richard Shelby, Orrin Hatch, Kit Bond, Chuck Grassley, Pete Domenici, Jim Talent, Richard G. Lugar, John Thune, Bob Bennett, George Allen, Mitch McConnell.

Mr. McCONNELL. Mr. President, I say to all of our colleagues that votes on these cloture motions will occur on Thursday. Before we adjourn tonight, there will be additional information on the balance of the schedule for the week.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from Montana for his comments and a very excellent explanation as to how the Finance Committee is coming up with some more money to try to make this a better bill.

Senator JEFFORDS and I have been trying to get people to come down with amendments for several days now. We are pleased that Senator Hutchinson and Senator NELSON of Nebraska have an amendment. It is one to which we have agreed, but there may be others who want to be heard on it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 617 TO AMENDMENT NO. 605

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Mr. NELSON of Nebraska, Mr. BURNS, Mr. SHELBY, Mr. PRYOR, and Mr. GRAHAM, proposes an amendment numbered 617.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To limit the number of facilities at which the Secretary may collect tolls in the State of Virginia)

On page 250, strike lines 17 through 19 and insert the following:

(B) by striking paragraph (2) and inserting the following:

“(2) LIMITATION.—The Secretary may permit the collection of tolls under this subsection on 1 facility in the State of Virginia.”;

Mrs. HUTCHISON. Mr. President, this is an amendment that is going to try to take away the right of States to put tolls on interstate highways that have already been paid for and built by the taxpayers of our country. Recently, there has been a renewed interest in expanding opportunities to toll our Nation's interstate highway system. The interstate system was conceived and built with Federal tax dollars, so tolling interstates amounts to double taxation.

Today, I, along with Senators NELSON of Nebraska, SHELBY, BURNS, AND PRYOR, offer an amendment which simply repeals a provision from the previous highway bill, TEA-21, the Interstate System Reconstruction and Rehabilitation Pilot Program, which is known as the interstate tolling program, which is fundamentally unfair to taxpayers.

I have said if local communities and States want to come together and build a toll road, they should be able to do it. In these situations, the taxpayers know what they are getting into. Many times a vote is required to issue bonds,

but at any rate the taxpayers can hold the elected officials accountable. To allow unelected transportation officials to simply install a toll booth on facilities already paid for by Federal tax dollars is unacceptable.

Tolling existing highways will also increase the number of drivers on the free roads, resulting in greater congestion and more accidents. Studies show that drivers will choose to bypass the tolls by driving on local, small roads. We also know that tolls on existing interstates will produce substantial diversion of truck traffic to other roads, and our rural roads are not equipped to handle significant truck traffic.

In Ohio, traffic tripled on US-20 after toll increases on the Ohio Turnpike. Unfortunately, fatal accidents on US-20 are now 17 times more common than those on the turnpike. In response, Ohio's Department of Transportation decided to lower the tolls, even though the action did reduce the revenues for the State.

A recent study predicted that a 25-cent-per-mile toll on an interstate would cause nearly half the trucks to divert to other routes. This is an understandable economic decision for trucking companies considering that truckers' profit margins average 2 to 4 cents per mile and the rising price of gasoline has already affected profitability. Technology already exists to help truckers and other drivers evade tolls in a cost-effective manner. It does not make sense to invest in tolls that people will not pay.

Tolling interstates would reduce the safety of nearby local roads, degrade the quality of life in neighboring areas, and hurt the economy. Eighty percent of the Nation's goods travel by truck, and they will travel more slowly and expensively if tolls are imposed on interstates.

The Federal Government collects taxes to fund the Federal interstate highway system. The States should not have the right to come in and impose another tax via a toll. The idea of tolling Texas highways is more concerning to me because the Federal highway program has treated my home State pretty poorly. Texas is the single largest donor State over the program's 50 years of history. We have the most highway miles of any State and our drivers have contributed billions to other States to enable them to build their portion of the Federal highway network.

In this bill, we will get a 91-cent return. It is better than the previous 5 years, but I am going to continue to work for parity. I have always defended States rights, but the flexibility to toll interstates has a clear effect on interstate commerce and fundamental fairness. If Arkansas, for example, decided to toll I-40, all deliveries coming into or out of Texas on I-40 would be subject to that toll. In effect, Texas businesses and citizens would be taxed for using that highway. As a donor State, our taxes have already helped to finance it.

So it is clear from the studies that tolling an interstate will shift traffic to other roads and potentially to other States.

These States would not share in the toll revenue but would bear the brunt of the costs for more accidents on their roads, more traffic, pollution, and added highway maintenance and expansion costs. I cannot support a program which could shift new traffic and related burdens to our State and others.

The underlying SAFETEA bill establishes a commission to explore alternative sources of transportation revenue. The commission should be allowed to complete its work before we start experimenting with tolls or any other alternative.

At the request of Senator WARNER, we have modified the amendment to limit the interstate tolling program to the Commonwealth of Virginia. The senior Senator from Virginia and the State's congressional delegation have been working with Virginia's Department of Transportation for more than 3 years on the I-81 project. Virginia is the only State with an active application pending before the U.S. Department of Transportation. While I disagree with implementing this program, I am willing to defer to Senator WARNER on the need to allow Virginia to finish its application and have therefore agreed to this modification.

I am going to defer to the Senator from Nebraska, who is one of the cosponsors of the bill. I hope we will be able to pass this amendment. It is very important that the taxpayers of America know they are going to have the opportunity to use this interstate system their tax dollars for 50 years have gone to build.

The purpose of having an interstate system was so we would have seamless transportation into all of our States and it is very important we keep those highways that have already been built free highways for the citizens who have already paid for them. I urge the support of my colleagues.

I defer to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I thank my colleague from Texas, Senator PRYOR, and others for supporting and cosponsoring this legislation, which I think is extremely important. There are several points that need to be made about it. One is to point out what it does not do. It does not prevent tolling. Tolling on new construction and on additional construction on existing highways will be continued to be permitted. What it does do, as a matter of fairness, is it stops the equivalent of double taxation on existing highways already paid for by the Federal gas tax and in many cases State gas tax dollars.

What this will avoid having is an additional tax now put on those highways in the name and in the form of a toll, perhaps a little less ominous sounding than a tax. If one looks at the net effect of putting a toll on an already

paid-for stretch of highway, it amounts to an additional tax, in this case double taxation.

The second point that is important to make about this bill is it is a matter of highway safety. All studies will indicate very clearly that if there is a choice between a toll road and a nontoll road, it is most likely that truckers and other drivers will seek to use that nontoll road. In many cases, that is not going to present a matter of safety, but in all too many cases it will redirect traffic and reroute traffic to older, smaller, and less capable roads of handling that additional traffic. That not only will be a burden for the roads and will deteriorate the roads at a faster rate than was originally planned in their construction, but it will also raise the amount of traffic in many cases on two-lane highways or smaller highways and will increase the safety factor. I think it is pretty clear that we would ordinarily not take away the right of a State to do this. But under these circumstances, where we are allowing tolling of existing lanes on the Interstate Highway System, that is bad policy and it is absolutely unfair.

This amendment does not affect the State's ability to finance new construction using tolls, as perhaps some thought. But it does affect the right to do it in the case of existing highways.

I urge my colleagues to support this amendment. We worked out the questions that have been raised with respect to the State of Virginia. We believe that has now been handled, and this legislation should pass as part of this important bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I understand there is no further debate on the amendment. I see the Senator from Texas wishing to urge the adoption of this amendment. We have no objection. It is a good amendment and I urge its passage.

The PRESIDING OFFICER. Is there further debate?

Mrs. HUTCHISON. I thank my colleague from Nebraska for being a cosponsor of the amendment. My colleague, Senator NELSON, signed on very early, as did Senator BURNS. I really appreciate that.

Mr. President, I urge the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 617) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mrs. HUTCHISON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I ask unanimous consent I may proceed as in morning business for the next 10 minutes.

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

(The remarks of Mr. BURNS and Mr. BAUCUS are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise in support of the Safe Accountable, Flexible and Efficient Transportation Act of 2005 and the cloture motion that was filed this evening.

First, I commend Senators INHOFE, JEFFORDS, BOND, BAUCUS, GRASSLEY, SHELBY, SARBANES, STEVENS and INOUE and their staffs for their hard work and strong leadership in putting together a bipartisan bill. As a member of the Environmental and Public Works Committee, I am pleased to have been a part of this effort.

In the last Congress, I was a conferee for the bill and we worked in a bipartisan fashion, but we were unable to get the bill across the finish line. To expedite the process this year, this bill is essentially the same language that the Senate passed the last time around with the support of 76 Senators. The only difference is the numbers have been adjusted to reflect a lower spending level.

I call on the President and my colleagues in both the House and the Senate to work expeditiously to get this bill enacted into law as soon as possible.

We have serious needs to our aging infrastructure. The deterioration of our Nation's transportation system is impacting our economy, the environment, and the welfare of the American people. Passage of a transportation bill cannot be delayed any further due to these needs and the numerous jobs it creates. It is simply too important to our Nation in terms of its benefits to our economy and environment and to a safe and equitable transportation system.

A new substitute amendment was added to this bill yesterday which increases the total guaranteed Federal investment in highway and transit funds to \$251 billion, about an \$11 billion increase. I am pleased that the Finance Committee, under the leadership of Senators GRASSLEY and BAUCUS, was able to fully offset this increase so as not to increase the debt, as Senator GRASSLEY spoke so eloquently about it earlier today.

It is my understanding the bill remains budget neutral. I think it is important that everyone understand that. It is budget neutral because many of these offsets were included in the Senate-passed version of the JOBS bill last year. They passed the Senate but were taken out in the conference committee on the JOBS bill, so they are available to us as offsets in this bill.

Second, offsets are included in the bill which go after the proliferation of abusive tax shelters used by individuals and corporations and include increased criminal fines and penalties for those committing those abuses.

Additionally, these offsets include efforts to target fuel tax evasion schemes to ensure that additional money is available to properly fund the highway bill.

In 1998, the Transportation Equity Act for the 21st Century, TEA-21, was enacted, increasing the Federal investment in highways and transit by nearly 40 percent. This bill increases funding over TEA-21 by about 35 percent. Now, people will hear those numbers, and they will think: Wow, that is an enormous increase in spending. But listen to some of these facts.

While the total funding is still well below what I and several of my colleagues think is appropriate and necessary, I support this bill because it represents a compromise between the Senate-passed bill last Congress and the level the President has requested. I commend the managers of the bill for their hard work in finding this middle ground.

As I mentioned, this legislation is modest, given the need. It falls far short of the level that would improve and even maintain our Nation's highway system. Frankly, the bill that passed last Congress was not enough, either.

According to the Federal Highway Administration's 2002 Conditions and Performance Report, \$106.9 billion is needed every year through 2020. It is needed to maintain and improve our highways and bridges. And just to maintain the system, \$75.9 billion is needed annually through 2020.

This bill contains \$199 billion in guaranteed funding for highways for 5 years. This is only an average of about \$36.5 billion annually, which is \$70.4 billion below what is needed to improve and \$38.8 billion below what is needed to maintain the system. So this is not some gigantic porkbarrel ripoff legislation. It is a modest attempt to meet the needs we have in our country.

Additionally—and I will go into this more later—I would have liked donor States to get back more of each dollar they put in the highway trust fund. However, the inadequate funding pales in comparison to the need to pass a bill now. TEA-21 expired on September 30, 2003. That was 19 months ago, and we are still trying to get a bill done. This program has been operating under a total of six short-term extensions, and the next extension expires at the end of this month.

Our States and our workers cannot afford for us to simply pass another extension. We cannot pass another extension. State contract awards for the 2005 spring and summer construction season are going out to bid. If we fail to enact a bill by the end of this month, States will not know what to expect in Federal funding, potentially delaying many projects.

According to a survey conducted by the American Association of State Highway Transportation Officials, another extension could mean the loss of over 90,000 jobs and \$2.1 billion in project delays.

This is the most significant jobs bill we will pass this Congress. We have an opportunity with this bill not only to improve and repair our crumbling highways and bridges but to create good-paying jobs at the same time.

The transportation construction industry generates more than \$200 billion in economic activity and helps sustain 2.5 million jobs in the United States each year. According to the U.S. Department of Transportation, every \$1 billion invested in highway construction creates 47,500 jobs and generates more than \$2 billion in economic activity. This economic activity includes \$500 million in new orders for the manufacturing sector that is so desperately needed in my State.

AASHTO estimates that over the next 5 years, the highway portion of this bill would create about 518,000 jobs nationally and 23,000 jobs in the State of Ohio. Perhaps even more importantly, let me reiterate that the failure to pass this bill could cause the loss of 90,000 jobs across the country.

It is also estimated that every dollar invested in the Nation's highway system generates \$5.70 in economic benefits, including reduced delays, improved safety, and reduced vehicle operating costs. This is a 6-to-1 return on investment. It has a synergistic effect on so many parts of our economy.

Ohio's "just in time" economy cannot afford any further delays in passing this bill, as transportation congestion seriously threatens our competitiveness. Our aging infrastructure is also impacting people in their pocketbooks. Nationwide, 162,000 bridges are structurally deficient or functionally obsolete, and 160,000 miles of highway pavement are in poor or mediocre condition. Americans pay \$49 billion a year in extra vehicle repairs and operating costs due to road conditions. This is an average of \$255 per driver in the United States of America.

Americans also pay due to increased congestion and poor road conditions. The average urban rush-hour driver spends almost 62 additional hours a year stuck in traffic—62 additional hours a year stuck in traffic. Vehicles caught in stop-and-go traffic emit far more emissions than they do without frequent acceleration and breaking. Traffic congestion is also responsible for 5.7 billion gallons of wasted gasoline every year. Wasted fuel and lost productivity due to traffic congestion costs the U.S. economy nearly \$70 billion annually. So this issue of highway construction, repair, and maintenance has a dramatic impact on the quality of life of our fellow Americans.

It not only costs our economy and environment, but also lives. Nearly 43,000 people were killed on America's roads in 2003. Poor road conditions were a factor in one-third of those fatalities. In Ohio, 1,277 people were killed on roads in 2003, and the number increased to 1,285 in 2004. The Federal Government predicts highway fatalities will grow to nearly 52,000 by 2009,

absent any new Federal investment in highway safety. Studies report that every \$1 billion invested in road improvements since 1950 has helped prevent 1,400 premature deaths and nearly 50,000 injuries, as well as helped save over \$2 billion in health care, insurance, lost wages, and productivity costs.

If we continue to ignore the upkeep and allow the deterioration of our infrastructure, we risk disruptions in commerce and reduced protection for public safety, health, and the environment.

This bill is extremely important to my State, which has one of the largest surface transportation networks in the country. There are 60 public transit systems serving 58 of Ohio's 88 counties. This is a statistic that I am sure my fellow Ohioans are not aware of. In 2003, these systems made approximately 135 million trips. Ohio has the Nation's fourth largest rural transportation program, the fifth largest bus fleet, the ninth most transit vehicle miles traveled, and the tenth highest overall ridership in the Nation.

The American Public Transportation Association estimates that for every \$10 million spent, 310 jobs are created, and \$30 million in business sales is generated. For transit, Ohio will receive \$884 million, which is about \$220 million more, or a 33-percent increase over TEA-21.

In terms of highways, Ohio has the Nation's seventh largest highway network, fifth highest volume of traffic, fourth largest interstate highway network, and the second largest inventory of bridges in the country.

Under TEA-21, Ohio received a 23-percent increase in highway funding. This bill will provide Ohio with \$7.7 billion, which is about \$1.91 billion more, or a 33-percent increase over TEA-21.

Throughout my career, I have been working to ensure that Ohio receives its fair share of highway funding. Through the 1990s, we moved from receiving less than 80 percent of our contributions to the highway trust fund to 90.5 percent under TEA-21.

This is, again, one of my top priorities for reauthorization.

Early this year, along with 19 cosponsors, Senator CARL LEVIN and I introduced legislation, the Highway Funding Equity Act of 2005, to increase donor States' minimum rate of return to 95 percent. It has been a pleasure to lead this effort on behalf of the SHARE—States' Highway Alliance for Real Equity—coalition in the Senate. This bill increases the guaranteed share for all donor States to 92 percent by 2009. While it is not the 95 percent we sought, I recognize that it is a compromise, and the Ohio Department of Transportation has told me it is sufficient.

First and foremost, ODOT has made it clear they need a bill with an increased level of investment signed into law as soon as possible. I hope all of my colleagues have the same kind of pres-

sure being put on them by their respective DOT directors. The bill increases funding by 35 percent over TEA-21. In order to get it enacted before the extension at the end of the month expires, the bill must be passed this week.

Second, Ohio needs to no longer be penalized for consuming ethanol-blended fuel. That is one of the issues we worked on during the last several years. Because we are a high ethanol user and because of the fact that money didn't go into the highway trust fund, we were losing about \$140 million a year. I cosponsored language last Congress, written by Senator GRASSLEY, to transfer 2.5 cents of the Federal tax on ethanol-blended fuel from the general fund of the Treasury to the highway account of the highway trust fund and to replace the 5.2 cents per gallon reduced tax rate for ethanol-blended fuel with a tax credit.

Fortunately, we were able to make these changes last Congress in the JOBS bill which means \$400 million in increased funding for Ohio over the life of this bill.

Our Department of Transportation has informed me they need a 91-percent rate of return to meet Ohio's transportation goals over the life of this bill. Again, this bill takes us to 92 percent. Because of this, our Ohio Department of Transportation will be able to move forward with their Jobs and Progress Plan, a \$5 billion, 10-year Ohio construction program dedicated to Ohio's most pressing congestion, safety, and rural access needs. This plan is possible because Ohio approved a State motor vehicle fuel tax increase in 2003 to provide half of the funding. This new construction program in Ohio will employ approximately 3,950 construction workers directly and another 9,850 indirect highway jobs. The citizens of Ohio should be proud of the fact that they reached into their pockets to increase their gas tax so Ohio will be a leader in this country in responding to its highway needs.

The Ohio Jobs in Progress Plan is going to help finance several major projects throughout the State, including a \$350 million project to rebuild I-75 in Dayton, a \$400 million project to begin rebuilding the central viaduct or, as we in Cleveland call it, "dead man's curve," and a \$600 million project to improve the I-70/I-71 split in Columbus. It also includes investments in high crash locations and the freight corridors such as U.S. 24 and U.S. 30 in northwest Ohio.

In addition, the bill provides funding for \$202 million worth of projects that ODOT has ready to go but no funding. The 128 projects on the shelf range from major reconstruction to traffic signals.

Finally, I have a few comments about the environmental planning and project delivery provisions of this bill. As chairman of the Clean Air, Climate Change, and Nuclear Safety Subcommittee, and the past chairman of

the Transportation and Infrastructure Subcommittee, I understand full well the importance and significance of the overlap between highway planning and air quality.

As requested by Federal, State, and local officials, this bill makes important improvements to the conformity process by synchronizing planning and conformity timelines and requirements. It also modifies the Congestion Mitigation and Air Quality Improvement Program, called CMAQ, to include nonattainment areas for the new ozone and particulate matter standards. EPA has designated about 500 counties in this Nation as in non-attainment, including 33 counties in Ohio. These areas will need all the help they can get to attain the new standards, and the CMAQ Program will help to pay for those things that need to be done.

While these are two areas in which I believe we made progress, I believe we could have done more with the metropolitan and statewide planning and transportation project delivery provisions in this bill. As a former Governor, I was frustrated at how long it took to do a highway project from the beginning to the end. As Senator, I have wanted to do something meaningful on this issue since I was chairman of the Subcommittee on Transportation and Infrastructure. While I was chairman, I held a number of oversight hearings on the implementation of the streamlining provisions included in TEA-21. Although I have not introduced any amendments on this matter, I look forward to continuing to work with my colleagues on this issue as this bill moves forward. It takes too long to build a highway in the United States.

I do want to mention an area where I think we have made good progress. This is with the section 4(f) provisions of the bill. Last Congress, I proposed an amendment on this after working with a bipartisan and diverse group to develop a compromise such as the National Trust for Historic Preservation, the American Association of State Highway and Transportation Officials. I am pleased these provisions are included in this bill as the process has caused more delay in my State than any other planning or environmental review requirement. This is a requirement of Federal law in terms of where you can put a highway, in terms of areas that involve historical places or parks and so forth. As a result of that, it has slowed down our ability to move forward with highway construction.

As I mentioned, the 4(f) reforms are a true compromise—not far enough for some and perhaps too far for others. I have numerous examples of this cumbersome process. I will not go into them tonight.

I urge my colleagues who have concerns with these provisions to contact me so I can discuss the problem and how we reach a balanced solution.

I urge my colleagues to support the bill and the cloture motion filed on it.

The current surface transportation authorization expires at the end of the month. We have to get this bill out of the Senate now. I urge my colleagues to work to achieve that, get it into conference, get it done, get it passed, get the President to sign it, and let's make sure that what APTA predicts doesn't happen, and that is, if we don't get this bill passed, we are going to lose 90,000 jobs.

Mrs. FEINSTEIN. Mr. President, I would like to take a few minutes today to talk about the Transportation reauthorization bill before us and why I believe it is necessary to pass a transportation bill before the authorization ends on May 31, 2005.

The Transportation reauthorization bill is a jobs bill. According to the U.S. Department of Transportation, each \$1 billion in new infrastructure investment creates 47,500 new jobs: 26,500 of these are directly related to construction, engineering, contracting, and other on-site employees, and 21,000 are indirect jobs resulting from the spending associated with the investment.

Improving our transportation infrastructure is one of the critical things we can do to create jobs.

My State, California, needs a robust transportation bill to help clean the air, ease congestion on the roads, and create jobs. However, I do have some concerns about this bill.

As a representative of a donor State, I am extremely disappointed that so many States are still being asked to give more than they receive in Federal transportation dollars. I believe that this bill does not adequately address the problems of donor States like my State of California.

California currently has a 90.5 percent rate of return. In other words, for every dollar California sends to Washington, it gets back only 90 ½ cents for maintenance and improvement of our highways.

Transportation is the backbone of California's economy. Our seaports handle about half of all cargo that comes into the United States, and the State is also home to two of the nation's busiest ports—Los Angeles/Long Beach and Oakland.

Three-quarters of all goods shipped from California's ports are now transported by truck along California's roads.

We need our roads to be equipped to handle the flow of these goods and the truck traffic that comes with it.

Regrettably, these roads are in desperate need of repair. More than 70 percent of California's major local and State road miles are rated in poor or mediocre condition—compared with a national average of 28 percent—and 38 percent of the State's overpasses and bridges are structurally deficient or functionally obsolete.

As a result, California's 21 million motorists pay an average of \$555 each, or a total of \$12 billion, in extra vehicle operating costs annually. These costs include wasted fuel, pothole damage, and shortened vehicle lifespan.

At the same time, travel on California's roads nearly doubled between 1980 and 2000, while the population increased only 42 percent.

We are all familiar with pictures of California's gridlock—cars sitting on our freeways, moving at a snail's pace.

The facts bear out the images. Out of the top five congested urban areas in the Nation, California has three. Los Angeles is the most congested, followed by San Francisco-Oakland. San Diego is the fifth most congested area in the country.

In LA County, 85 percent of freeway lane miles are congested, and Los Angeles motorists waste 177 hours a year per driver.

Traffic congestion in California costs motorists \$20.7 billion annually in lost time and fuel. And with rising fuel costs, that total is only going to increase.

I am also concerned with the Senate bill's changes to the Congestion Management and Air Quality Improvement Program, or CMAQ. The CMAQ formula currently apportions funds to states based on the severity of ozone and carbon monoxide pollution. The Senate bill proposes to change the formula so that CMAQ awards to areas with ozone pollution, regardless of the severity of that pollution.

The Los Angeles Metropolitan Transit Authority—LAMTA—estimates that this "one-size fits all" approach could cost California as much as \$160 million in CMAQ grants over 4 years.

This change is a huge problem for California. California has six non-attainment areas for air quality, and 70 percent of the State in the reformulated gasoline program because our air is so dirty.

In addition, according to a study by the American Lung Association in 2004, nine of the twenty smoggiest cities in the United States are located in my home State, California.

California needs the CMAQ funds to pay for highway enhancements to ease the flow of traffic and reduce the amount of time trucks and cars are idling and spewing pollution into the air.

California also relies heavily on public transportation, and the bill needs to adequately fund mass transit programs.

California has some of the largest regional transportation systems in the country including Bay Area Rapid Transit—BART, CalTrain—the rail service between San Francisco and San Jose, and Metrolink—Southern California's regional transit system.

These programs help reduce the number of cars on the road, which in turn, reduces air pollution, and decreases the amount of time my constituents have to spend commuting every day.

Californians are facing a serious dilemma. Without adequate Federal highway dollars, local communities will not be able to eliminate bottlenecks on highways and make necessary air quality improvements. As a result,

they will remain out of conformity with Federal air quality regulations, and will lose even more Federal highway dollars. This is a never-ending cycle and has failed to make any strides in helping reduce our air pollution.

That is why I support toll roads as an option to provide the needed revenue to make improvements to our roads. I am pleased that the Senate bill includes a toll road pilot program and hope that the program is flexible enough to allow the State to use the tolls to meet its goods movement infrastructure needs.

I would also ask the Environment and Public Works Committee to consider an amendment that would allow tolling revenue in extreme non-attainment areas to be used to mitigate air quality impacts that are imposed upon those communities by heavy duty trucks moving goods from California's ports to areas throughout the country.

I am also pleased that the bill will allow hybrid vehicles access to high occupancy vehicle—HOV—lanes. Without this authorization, California and other States, such as Arizona, Virginia, Colorado, and Georgia will lose their Federal highway dollars by implementing their own State laws to allow hybrids to access these lanes.

This provision would increase traffic mobility and also serves as an important incentive to get more hybrids on the road, an innovative solution to reduce our dependence on oil.

I would like to thank the Commerce Committee for including language in the bill that would require the Department of Transportation to conduct a study of predatory towing practices. Tow truck companies act without any local, State or Federal regulation. While most are good actors, there are a few that have taken advantage of the lack of regulation to prey on consumers. This has become a huge problem throughout California, and in other areas including Virginia and Arizona. This study will determine the impact of predatory towing practices and propose potential remedies to dealing with them.

While I have concerns about the fairness of the funding formulas, I also realize that without a transportation bill, California's communities will lack the money they need to plan major infrastructure projects. As a result, I plan to support this bill and hope that the conferees will keep in mind the needs of the donor States such as California.

Mr. HARKIN. Mr. President, I would like the RECORD to indicate that yesterday I was necessarily absent for the vote on the Talent amendment to the Highway bill, but had I been present I would have voted in favor of the amendment.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent to proceed in morning business.

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

JOHN BOLTON

Mr. SESSIONS. Mr. President, there have been a lot of complaints lately over John Bolton, the President's nominee to be United States Ambassador to the United Nations.

Mr. Bolton is an excellent choice for this position, as both his experience and leadership qualities prove. He graduated from Yale Law School, joined a prestigious firm, one of the country's great law firms, Covington & Burling. He worked there until 1981. He began his career in public service at the U.S. Agency for International Development, first as general counsel, then as assistant administrator for program and policy coordination. This was good training for him for his potential future role with the U.N.

From 1985 to 1989, he was an assistant attorney general in the U.S. Department of Justice. I got to know him at that time because I was a U.S. attorney in Alabama when he served in the Department of Justice in the prestigious office of legal counsel. From 1989 to 1993, he was again involved in international organizational issues when he served as Assistant Secretary of State for international organizational affairs. Mr. Bolton was confirmed by the Senate for both of those positions.

From 1993 to 1999, he was again in private practice, as a partner with the law firm of Lerner, Reed, Bolton, and McManus. In 2001, he became Under Secretary of State for Arms Control and International Security. I believe he was confirmed once again in that position by the Senate.

This was excellent experience for him. He dealt with issues relating to world security. Some say Mr. Bolton does not believe in the United Nations, multilateralism, and diplomacy. That statement is false.

The President of the United States recently stated in a television interview that he asked Bolton if he supported the U.N. before he, the President, agreed to nominate him. Mr. Bolton answered that he did. Despite what others have been alleging, the facts show—and Mr. Bolton has proven time and again—that he believes in the U.N. That is why he has been such an effective advocate for honest diplomacy and an effective U.N.

For example, he was a pioneer in helping to construct the G-8 global partnership to help keep secure dangerous technologies and materials, and to help stop the spread of dangerous weapons throughout the world. This global initiative will provide \$20 billion through 2012 to achieve these goals of making the world a safer place, by working with other nations.

Mr. Bolton was the President's point man in designing the Proliferation Security Initiative, the PSI. Over 60 nations are now working together, coordinated by John Bolton, to share intelligence, and are taking action to stop the transfer of dangerous weapons throughout the world. He has even

done pro bono work for the U.N. in Africa, giving of his time for free to help those in need.

He also worked closely and effectively with the U.N. when he served as Assistant Secretary of State in the State Department for International Organizations, from 1989 to 1992.

He has been instrumental in galvanizing U.N. agencies such as the IAEA, the International Atomic Energy Agency, to take concrete steps to actually make the world safer from weapons of mass destruction—not just to talk about it, but to do something about it. Isn't that effective multilateral leadership? I certainly think so.

He was the driving force in the U.N. Security Council Resolution 1540 to get countries to take meaningful steps to stop the spread of dangerous weapons.

He has clearly been instrumental in both diplomacy and multilateralism and has proven to be an advocate of a United Nations that fulfills its potential, its calling, to make the world safer, and to help people throughout the world develop to their fullest.

He will not, however, be an enabler of a dysfunctional U.N. John Bolton has supported reform within the U.N. to help make it a better organization. This reform effort should not be misconstrued as opposition to the U.N. but, rather, as constructive and effective criticism. When parents discipline their children, it is not because they don't support them or believe in them. In fact, it is exactly the opposite. Good parents set guidelines and high standards for their children to guide them in life and to make them more responsible adults. If you love your children, you want them to reach their highest and best potential. That is exactly what John Bolton has done with the U.N.

He has not come out against the U.N. He has not vehemently opposed the U.N., as some of my colleagues would have you believe. He has worked within the system to advocate reform in an effort to better the organization, to ensure that U.N. programs achieve their intended purpose.

Under Bolton's leadership at the United Nations, when he served as Assistant Secretary of State in the administration of the elder George Bush, the U.N. General Assembly repealed, by a vote of 111 to 25, a resolution that described Zionism as a form of racism. Resolution 3379 originally passed in 1975—72 votes for, 35 against—decreeing that Zionism was a form of racism. Sixty-seven percent of the nations at that time voted for it. It was widely recognized as a sad day for the U.N. Secretary of State Condoleezza Rice described Bolton as the "principal architect" of the 1991 reversal of that resolution. Bolton recently referred to resolution 3379 as "the greatest stain on the U.N.'s reputation" and called its reversal "one highlight of my professional career."

Thomas M. Boyd, a fine former official in the Department of Justice who

was Mr. Bolton's deputy when he was Assistant Attorney General in the U.S. Department of Justice, described the situation this way in a recent editorial in the *Boston Globe*:

Starting in the summer of 1991 and continuing well into the early fall, Bolton arrived at his office early each morning and began calling ambassadors around the world, as well as here in Washington, one by one, each time using his keen mind and reputation for bluntness to their full effect. Citing from memory Senator Moynihan's November 10, 1975, contention that "the United States declares that it does not acknowledge, and will not abide by, it will never acquiesce in this infamous act," Bolton refused to accept their excuses and their schedule conflicts and called repeatedly until he talked on multiple occasions to virtually every ambassador whose country would be called upon to cast a vote. In time, his perseverance began to winnow down the naysayers.

As a direct result of this effort, the hate-ridden resolution was overwhelmingly repealed on December 16, 1991. Let me point out an important aspect of this story. As Mr. Boyd noted, many in the State Department told him he should not pursue the repeal, that it could not be done, and that it wasn't worth the effort. But because John Bolton is a man of integrity, conviction, courage, and determination, he didn't see it that way. He didn't follow the advice of the professional bureaucrats and the State Department officials who said it could not be done. Instead, he worked tirelessly to do something that some people thought could not be done. He did the right thing, and he should be saluted for that. There is, indeed, a strength of character that is to be noted here.

A terrible wrong had been righted with this repeal, and Mr. Bolton had not only shown his skill in diplomacy, but his determination to do what is right. Isn't that what good diplomacy is? It is not just seeing if you can get along and agree with everybody's ideas, but holding forth good ideals, good values, fighting for them, and actually winning people over to vote for the right thing. That is what good diplomacy is, what leadership is—not blindly going along with people's ideas whether they are correct or not. He is a good man, a courageous man, who will make a tremendous ambassador to the U.N.

John Bolton realizes the benefits possible to the world through an effective U.N., and for that reason he has worked hard to make sure it stays a credible organization. You cannot blame him for being concerned about the United Nations. I certainly am. With the numerous allegations of corruption at the U.N., we need a frank and aggressive ambassador leading the American efforts there.

Last month, the *Washington Times* reported that two senior investigators with the U.N. committee probing corruption in the Oil for Food Program have resigned in protest. These investigators believe the report that cleared Kofi Annan of meddling in the \$64 billion operation was too soft on the Secretary General.

The investigators believed the so-called independent inquiry committee, which was appointed by Secretary General Kofi Annan in April of 2004, played down findings critical of Mr. Annan when it released an interim report in late March relating to his son. This scandal has only gotten more complicated this week as it now seems that one of the investigators has turned over potentially incriminating evidence against Kofi Annan to a House congressional committee.

This scandal has been described by some as the greatest scandal in the history of the world. Scandals such as these undermine the United Nations. They distract it from its intended purpose of promoting international peace and security. These scandals and mismanagement waste money that could be used for peacekeeping, medical care, economic development, and education in poor countries around the world. This money might help prevent hostilities, famine, and revolutions that disrupt these areas of the globe.

We need a U.S. ambassador to the U.N. who has both diplomacy and tenacity as leadership qualities. Mr. Bolton has both of these qualities.

One of my esteemed colleagues has alleged that Mr. Bolton blocked certain information from going to Secretary Powell and Secretary Rice. There is no basis for this claim. Richard Boucher, the spokesman for the State Department, has expressly refuted the allegation, calling it "silly" and stating that "nothing of that type occurred."

Another colleague said Mr. Bolton tried to skew weapons of mass destruction intelligence on Iraq, Syria, and Cuba. Again, false.

In every instance, whether talking about Iraq's weapons of mass destruction program, Cuba's biological weapons, or Syria's weapons program, Mr. Bolton's speeches were cleared by the U.S. intelligence community; that is, he submitted his comments to the intelligence community for them to review to make sure nothing he said was incorrect. They cleared those speeches. There is no evidence whatsoever that Mr. Bolton skewed anything. The allegations are false.

On the contrary, there are scores of highly credible individuals who testify to his honesty and excellent candidacy for the position. For instance, I have a letter from former Prime Minister Margaret Thatcher to John Bolton expressing her strong support for Mr. Bolton. It is fitting that she should support John Bolton, particularly in light of the comments that he is too tough, too outspoken, too frank, too blunt. Those same criticisms were made about Lady Thatcher in 1975, earning her the nickname the Iron Lady. She embraced that nickname, famously asserting:

If you lead a country like Britain, a strong country, a country which has taken a lead in world affairs in good times and in bad, a country that is always reliable, then you have to have a touch of iron about you.

She was absolutely right, and the same holds true in this case. If our ambassador is going to represent the world's great superpower in the United Nations, an organization, unfortunately, that has been riddled with corruption and strong opposition by certain members to the values we hold dear, he must have a touch of iron about him, and he does.

Say what you will about John Bolton, weakness is not one of his weaknesses.

I ask unanimous consent that the letter from Lady Thatcher be printed in the RECORD.

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

MAY 4, 2005.

Hon. JOHN R. BOLTON,
Undersecretary of State for Arms Control and International Security.

DEAR JOHN: I am writing this letter in order to let you know how strongly I support your nomination as U.S. ambassador to the United Nations. On the basis of our years of friendship, I know from experience the great qualities you will bring to that demanding post.

To combine, as you do, clarity of thought, courtesy of expression and an unshakable commitment to justice is rare in any walk of life. But it is particularly so in international affairs. A capacity for straight talking rather than peddling half-truths is a strength and not a disadvantage in diplomacy. Particularly in the case of a great power like America, it is essential that people know where you stand and assume that you mean what you say. With you at the UN, they will do both. Those same qualities are also required for any serious reform of the United Nations itself, without which cooperation between nations to defend and extend liberty will be far more difficult.

I cannot imagine anyone better fitted to undertake these tasks than you.

All good wishes,
Yours ever,

MARGARET.

Mr. SESSIONS. Mr. President, this letter of April 5, 2005, is signed by 13 giants of American diplomacy, including five Secretaries of State and two Secretaries of Defense in support of John Bolton. I ask unanimous consent that this letter be printed in the RECORD.

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

Washington, DC, April 5, 2005.

Senator RICHARD G. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We write to urge that the Senate act expeditiously to confirm John Bolton as our ambassador to the United Nations. This is a moment when unprecedented turbulence at the United Nations is creating momentum for much needed reform. It is a moment when we must have an ambassador in place whose knowledge, experience, dedication and drive will be vital to protecting the American interest in an effective, forward-looking United Nations.

In his position as Undersecretary of State, John Bolton has taken the lead in strengthening international community approaches to the daunting problem of the proliferation of nuclear and other weapons of mass destruction (WMD). As a result of his hard work, intellectual as well as operational, the

G-8 has supported U.S. proposals to strengthen safeguards and verification at the International Atomic Energy Agency and the Proliferation Security Initiative was launched and established within three months—a world speed record in these complex, multilateral matters. Moreover, Secretary Bolton led the successful effort to complete the negotiation of UN Security Council Resolution 1540, adopted unanimously in April, 2004. UN 1540 called on member states to criminalize the proliferation of WMD—which it declared to be a threat to international peace and security—and to enact strict export controls.

Secretary Bolton, like the Administration, has his critics, of course. Anyone as energetic and effective as John is bound to encounter those who disagree with some or even all of the Administration's policies. But the policies for which he is sometimes criticized are those of the President and the Department of State which he has served with loyalty, honor and distinction.

Strong supporters of the United Nations understand the challenges it now faces. With his service as assistant secretary of state for international organizations, where he was instrumental in securing the repeal of the repugnant resolution equating Zionism with racism, and as undersecretary for arms control and international security, we believe John Bolton will bring great skill and energy to meeting those challenges.

Sincerely yours,

Hon. David Abshire, former Assistant Secretary of State, Hon. Kenneth Adelman, former Director, Arms Control Disarmament Agency, Hon. Richard Allen, former Assistant to the President for National Security, Hon. James Baker, former Secretary of State, Hon. Frank Carlucci, former Secretary of Defense, Hon. Lawrence Eagleburger, former Secretary of State, Hon. Al Haig, former Secretary of State, Ambassador Max Kampelman, former Ambassador and Head of the U.S. Delegation to the Negotiations with the Soviet Union on Nuclear and Space Arms, Ambassador Jeane Kirkpatrick, former Ambassador to the United Nations, Hon. Henry Kissinger, former Secretary of State, Hon. James Schlesinger, former Secretary of Defense, Hon. George Shultz, former Secretary of State, Hon. Helmut Sonnenfeldt, former Counselor, Department of State.

Mr. SESSIONS. Mr. President, for over three decades, John Bolton has had an effective working relationship with foreign governments, international institutions, nongovernmental organizations, and the private sector. He is a man who gets results. As Secretary Rice said:

The President has nominated John Bolton because he gets things done.

That is exactly what we need for the U.N. ambassador. John Bolton is the man for the job.

Mr. President, I am proud to support him, and I do believe his nomination will be moving forward this week. I think this Senate should promptly move to confirm him in this important position.

60TH ANNIVERSARY OF V-E DAY

Mr. STEVENS. Mr. President, this past Sunday, the 8th of May, marked the 60th anniversary of the Allied victory in Europe during World War II. I have come to the floor today to honor those who served in that war and to

mention our colleagues who answered the call of duty then.

When I first came to the Senate, I think more than half of the Senate had served in World War II. There are few of us left who served during that war, and in the Senate only five: Senator AKAKA, Senator INOUE, Senator LAUTENBERG, Senator WARNER, and myself.

That war was an enormous effort that involved our Nation's total manpower. Sixteen million Americans answered the call to serve, and more than 400,000 of them gave what Lincoln once called "the last full measure of devotion."

Here at home, Americans of all walks of life supported the war effort. Children collected rubber, tin, and steel. Families rationed food and gasoline. And women, in unprecedented numbers, took their place in industry and produced the tools that enabled us to win the war. They joined fields which had once been closed to them, and they never looked back.

When I went into the service, as most of my generation did, I was fortunate to do what I wanted to do, which was to fly. Sixty years ago, for those of us who served, every day was a milestone. Every day marked another step toward victory.

Today, we only recognize a handful of those days: Pearl Harbor Day, D-day, V-J Day, and V-E Day—which is what I speak of today.

There were so many who stepped forward when our country needed us, who sacrificed on the battlefield and here at home so we could win that war. It was a time defined by heroism, and it is hard to single out any one person who did heroic things. But I am here to remind the Senate that my friend, Senator INOUE, was a hero.

In military history there is a select group of men who have suffered grave injuries on the battlefield, continued their military careers, and gone on to further greatness. Horatio Nelson, Joshua Chamberlain, and John Bell Hood are all men who were tested on and off the battlefield, and their legacies endure.

Among these men, Senator DAN INOUE stands out because he overcame so much more just to become a soldier and waited so long to have his heroism officially recognized with the Congressional Medal of Honor.

It is hard to sum up my respect and admiration for my great colleague and friend from Hawaii. Our friendship has spanned many decades now, and we call each other truly brothers. We are brothers. I can think of no man I respect more.

Last month, Senator REID came to the floor to honor Senator INOUE's service during World War II, also. Senator REID said:

Dan Inouye is a step above all of us.

I agree with Senator REID. As a World War II veteran, I am here to salute DAN INOUE. His courage and bravery and sense of duty are an inspiration to not only his Senate colleagues,

but I feel to all Americans. In a time when men made the extraordinary seem ordinary, DAN INOUE stood out as a hero among men.

I would like to read part of the citation for action that resulted in Senator INOUE's Congressional Medal of Honor. Senator INOUE was recognized for valor in combat in the Italian campaign in a battle just 17 days before V-E Day. The citation says:

With complete disregard for his personal safety, Second Lieutenant Inouye crawled up the treacherous slope to within five yards of the nearest machine gun and hurled two grenades, destroying the emplacement. Before the enemy could retaliate, he stood up and neutralized a second machine gun nest. Although wounded by a sniper's bullet, he continued to engage other hostile positions at close range until an exploding grenade shattered his right arm.

Despite the intense pain, he refused evacuation and continued to direct his platoon until enemy resistance was broken and his men were again deployed in defensive positions. In the attack, 25 enemy soldiers were killed and eight others captured. By his gallant, aggressive tactics and by his indomitable leadership, Second Lieutenant INOUE enabled his platoon to advance through formidable resistance, and was instrumental in the capture of the ridge. Second Lieutenant INOUE's extraordinary heroism and devotion to duty are in keeping with the highest traditions of military service and reflect great credit on him, his unit, and the United States Army.

On the battlefield and in Congress, DAN INOUE has faithfully served our country, his state of Hawaii, and the men and women of the military.

It is men such as DAN INOUE who inspired the phrase the "Greatest Generation." I hope we remember all of them today.

I thank the Chair.

Mr. BURNS. Mr. President, yesterday we introduced a bill that would bring relief to some of the folks in my State of Montana. As you know, in the 1950s, nuclear testing was held in Nevada. Of course, from this testing, there was some radiation drift. The major source of this radiation comes from nuclear explosions from a Nevada test site, which is located about 65 miles north of Las Vegas.

In studies by the National Cancer Institute, and a report that was recently released by the National Academy of Sciences, we find that the State of Montana was left out of any compensation that was given to victims of downwind exposure to radiation. In fact, according to the National Cancer Institute, certain areas of Montana have been exposed to the highest dose, ranging from 12 rads to 16 rads. The National Cancer Institute's charts give you some idea of the effects of the nuclear test site in Nevada. Of course, up in our part of the country, we fall victim to southwesterly winds. If you notice, my State of Montana shows up with more darker red areas on the chart than any other region of the

United States, which means that we received some of the highest doses of radiation.

Montana is home to 15 of the 25 counties with the highest radiation dosage nationwide and the county receiving the highest dose in the country is Meagher County, MT.

Individuals who were affected from this nuclear testing are often called downwinders—because the wind carried the poisonous Iodine-131 north, when the gravity finally kicked in and it settled to the ground. People can be exposed to radiation from nuclear testing fallout through external radiation like a plume or a cloud passing over a region. They can also be exposed by radioactivity deposited on the ground and remaining there for long periods of time, or by the internal exposure to radioactivity that accumulates in the body from inhalation or ingestion of plants, meat or milk. Milk is the primary source of Iodine-131 and disproportionately affects milk drinkers. Who drinks milk? Children and babies who are the most vulnerable of our society.

This discussion leads us to the topic of thyroid cancer. The thyroid gland will absorb about 30 percent of radioactive Iodine-131 in the human body. Thyroid cancer is slow in development as it takes 10 to 40 years to manifest itself. This means that radiation exposure in the late 1950s might not manifest as cancer until the 1990s.

This chart compares the rates of thyroid cancer nationwide and in my state of Montana. Between years 1989 and 2003, the rate of thyroid cancer diagnosis nationwide increased by 38 percent. At the same time, the thyroid cancer rate in my State of Montana increased by a whopping 127 percent.

The 1990 Radiation Exposure Compensation Act and RECA Amendments of 2000 offer lump-sum payments of \$50,000 to civilians who were living in States deemed as downwind from the nuclear testing in Nevada and who contracted a specific type of cancer. States where downwinders can currently receive compensation include Nevada, Utah, and Arizona. It is important to note that Montana was not included under this law. Yet a report just released by the National Academy of Sciences shows that Montana received the highest radiation dosage.

Accordingly, a most recent study on this issue shows the absorbed radiation dose to the thyroid of a person born in 1948 who resided for the entire period in Montana is 250 milligrays. This dosage is higher than most, if not all, regions presently eligible for compensation under RECA.

My bill, S. 977, would allow Montanans who were adversely affected by this nuclear testing to be counted among those folks currently eligible to receive \$50,000 in compensation. Those eligible for \$50,000 would also receive compensation in the form of free medical treatments for the diseases they have contracted from the exposure.

The fact is, Montanans were involuntarily subjected to increased risk of injury and disease in order to serve the national security interests of the United States, and they deserve our compassion and our support.

I strongly encourage my colleagues to support S. 977, to expand RECA to victims in the State of Montana.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank my colleague from Montana for doing something about this problem. It is a huge problem. He has identified it. He has some solutions, he has some ideas, and we will work with him, as I am sure other Senators will in States also affected by this problem. I compliment him for raising the issue and finding a solution.

ADLER PLANETARIUM'S 75TH ANNIVERSARY

Mr. DURBIN. Mr. President, on Thursday, May 12, 2005, the Adler Planetarium, the first planetarium in America and in the Western Hemisphere, will mark its 75th anniversary.

Max Adler recognized a need to exhibit artifacts from the history of astronomy to the public, and so he founded the Adler Planetarium and Astronomy Museum in 1930. Originally, it housed a collection of about 500 astronomical, navigational, and mathematical instruments that would become the foundation for Adler's History of Astronomy Collection. Today, this collection has grown to almost 2000 astronomical artifacts dating from the 12th to the 20th centuries. Included in this collection is the world's oldest known window sundial from 1529; a telescope made by William Herschel, the astronomer who discovered Uranus; and a collection of rare books comprising more than 2000 volumes, some of which were printed before the 1500s.

Over the past 75 years, the Adler's history has been marked by several milestones. In 1933, light from the star Arcturus was successfully converted into electrical signals that turned on the lights for the opening ceremonies of the 1933 Century of Progress Exposition. In 1964, the Adler Planetarium partnered with the National Science Foundation and began offering the Astro-Science Workshop, a program designed to challenge Chicago area high school students who demonstrate an exceptional aptitude for science.

In 1999, the Adler Planetarium underwent renovations that produced the Sky Pavilion, a 60,000 square-foot glass-enclosed addition that includes five new exhibit galleries and a café overlooking the lakefront and the Chicago skyline. The highlight of this renovation is the StarRider Theater, which, through the use of state-of-the-art computer projection technologies and a sophisticated audience participation system, creates a 3-D virtual reality experience for all those who visit.

Earlier this year, the Adler Planetarium was selected by NASA as the education partner for the Interstellar Boundary Explorer mission to be launched in 2008. This mission will examine the characteristics of the region of space between the solar system and deep space where the solar wind protects Earth and the rest of the solar system from cosmic radiation.

I know that my colleagues join me in congratulating the Adler Planetarium on this important day. I hope all who are involved with the Planetarium will take pride in their important work as they celebrate this anniversary, and I wish them continued success in the years to come.

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS ROBERT W. MURRAY JR.

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Westfield. Robert Murray, 21 years old, died on April 29 when a bomb exploded beside his vehicle during a reconnaissance mission in Tal Afar. With his entire life before him, Robert risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

After graduating from Westfield High School in 2002, Robert attended Indiana State University where he studied aviation management. He was a licensed pilot and a musician who decided to join the Army because of family history and a sense of patriotism and duty after the tragic events of 9/11. Friends and colleagues remember him as a determined and well-liked individual with a good sense of humor. His mother Katrina Murray released a statement praising her son's heroism, saying, "From an early age, Robert wanted to enter the military. This was the path he chose, and I want to honor his choice by remembering him as a hero who served his country proudly and made the ultimate sacrifice. He will be missed by our entire family and his many friends. He brought so much joy and laughter." I stand here today to express the same sentiments of pride in this young Hoosier and gratitude for his sacrifices and for those made by the Murray family on behalf of our country.

Robert was killed while serving his country in Operation Iraqi Freedom. He was assigned to the 2nd Squadron, 3rd Armored Cavalry Regiment, based in Fort Carson, CO. This brave young soldier leaves behind his father Robert W. Murray Sr. his mother Katrina and his two sisters.

Today, I join Robert'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 Robert, a memory that will burn

brightly during these continuing days of conflict and grief.

Robert was known for his dedication to his family and his love of country. Today and always, Robert 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 Robert'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 Robert's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Robert W. Murray, Jr. in the official record of the 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 Robert'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 Robert.

PRIVATE FIRST CLASS DARREN DEBLANC

Mr. BAYH. Mr. President, I also rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Evansville. Darren DeBlanc, 20 years old, died on April 29 when a roadside bomb exploded during his patrol in Baghdad. With his entire life before him, Darren risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

A 2003 graduate of Reitz High School, Darren was only 2 weeks away from returning home to Evansville when this tragedy occurred. In March, he had been decorated for his bravery in Iraq with a Purple Heart, after surviving an earlier bomb attack. Darren had a carefully laid plan for his life: he intended to finish his 3-year commitment to the Army, then take classes in law enforcement in the hopes of boosting his application to join the Evansville police force with his brother. Friends and family recount that he was an outgoing, driven, and personable young man with a promising future ahead of him. His mother Judy Woolard told a local television station, "I know if he

is looking down on us, he is very proud with the way his life ended because if he was to go, this was the way, trying to help other people." I stand here today to express Indiana's gratitude for Darren's sacrifices and for those made by his family on behalf of our country.

Darren was killed while serving his country in Operation Iraqi Freedom. He was assigned to the 10th Mountain Division, based out of Fort Drum, New York. This brave young soldier leaves behind his father Michael DeBlanc, Sr., his mother Judy Woolard, and his older brother Michael DeBlanc, Jr.

Today, I join Darren'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 Darren, a memory that will burn brightly during these continuing days of conflict and grief.

Darren was known for his dedication to his family and his love of country. Today and always, Darren 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 Darren'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 Darren's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Darren DeBlanc in the official record of the 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 Darren'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 Darren.

WOMEN'S HEALTH OFFICE ACT

Ms. SNOWE. Mr. President, this is National Women's Health Week, and it is certainly fitting to take stock of both our successes in promoting women's health while looking at the challenges ahead.

Historically, women's health care needs have been poorly understood. While the obvious differences between the sexes are indisputable, it was assumed that those differences had limited implications, resulting in women being systematically excluded from health research studies. Too often, only men were studied and considered the health care "norm" for both genders.

Of course, for a few diseases such as ovarian or breast cancer, the study of women was an absolute requirement. However, for so many others, women were excluded. Sometimes we heard that it would cost more to include women in trials because more participants would need to be enrolled—since research results would need to be analyzed separately for both men and women. That certainly sounds like a recognition that men and women can differ quite substantially.

As researchers have looked, they have found so many times where a single difference between the sexes has so many other ramifications for health and disease. For example, because every child is genetically unique and different from both parents, child-bearing requires the ability of a woman to have periods of lowered immunity in her reproductive tract. This is also a major contributor to her susceptibility to gynecologic infections, and it helps explain why women are much more susceptible to sexually transmitted diseases. This is critical knowledge when one is trying to protect women from HIV and that knowledge simply must be reflected in strategies for protecting women.

Remember that men and women differ genetically—that was obvious from our earliest study of genetics . . . an entire chromosome is different. As we learn more about the human genome, and how genes interact, we doubtless will discover more differences which must be reflected in health decisions. There can be no doubt that whenever we fail to see women properly represented in health research, we risk causing major harm. One recent example is so notable.

When one federally funded study examined the ability of aspirin to prevent heart attacks in 20,000 medical doctors, all of whom were men, physicians were left to assume that the protective effect may apply to women as well. So for years physicians have been left to assume that aspirin had the same effect in women but we simply didn't know. Yet we do know that the pattern of heart disease in women is different than in men. Heart disease develops a bit later about 10 years later. Despite this, heart disease kills more women than men, more than either breast or ovarian cancer! So in March of this year when we finally learned that aspirin does not have the same effect in women as in men, we saw more evidence that assuming there is no difference between men and women is no substitute for conducting proper research.

Sex differences in health are so numerous. Osteoporosis is far more common in women—as is depression. While women have the ability to modulate our immunity to bear a child, it is ironic that we suffer far more autoimmune disease than men. For example, 9 of 10 lupus sufferers are women! Drugs and alcohol affect us differently from men as well even a woman's response to anesthesia is different than a man's. So one can see it is a critical problem when we fail to discover such differences. It compromises the quality of health care for more than half of all Americans!

Many of us have worked for years to achieve equal representation of women in health research. Since 1990 when the Society for Women's Health Research was founded, we have had a voice to help us in our effort to promote the inclusion of women in health care research, and to educate all of us about sex differences in health and disease. The Society is to be commended for its tireless efforts to increase our understanding of sex differences.

Today we know that equity does not yet exist in health care, and we have a long way to go. Progress has been made—we have seen an Office of Women's Health established at the NIH, and the research at the Institutes has reflected that representation. In fact, we see that not only women but also children and minorities are being better represented in health research today.

I introduced the Women's Health Office Act to help address the sex-based disparities in research and policy. This legislation provides permanent authorization for offices of women's health in five Federal agencies: the Department of Health and Human Services; the Centers for Disease Control and Prevention; the Agency for Healthcare Research and Quality; the Health Resources and Services Administration; and the Food and Drug Administration. Currently, only two women's health offices in the Federal Government have statutory authorization: the Office of Research on Women's Health at the National Institutes of Health and the Office for Women's Services within the Substance Abuse and Mental Health Services Administration.

With some offices established, but not authorized, the needs of women could be compromised without the consent of Congress. We must create statutory authority for these offices, to ensure that health policy flows from fact, not assumption. Improving the health of American women requires a far greater understanding of women's health needs and conditions, and ongoing evaluation in the areas of research, education, prevention, treatment and the delivery of services and passage of this legislation will help ensure that.

I call on my colleagues to join me in supporting this legislation, which will ensure better health for our mothers, our sisters, our daughters, here and abroad.

Thank you, Mr. President.

NATIONAL HEPATITIS B AWARENESS WEEK

Mrs. FEINSTEIN. Mr. President, I rise today to recognize the week of May 9, 2005 as National Hepatitis B Awareness Week.

I thank Senator SANTORUM, who introduced this resolution with me, as well as Senators SPECTER, STABENOW, INOUE, and DURBIN who cosponsored it.

In the United States today, more than 1.25 million Americans are infected with hepatitis B. Chronic hepatitis B is often called a "silent disease" because more than two-thirds of patients infected with the disease have no symptoms or their symptoms go unrecognized.

Chronic hepatitis B infection is a potentially life threatening disease that may lead to cirrhosis of the liver, liver failure and liver cancer. More than half a million people worldwide die each year from primary liver cancer, and up to 80 percent of primary liver cancers are caused by chronic hepatitis B. In the United States, more than one million people have developed chronic hepatitis B infection and more than 5,000 Americans die from hepatitis B and hepatitis B-related liver complications each year.

Despite these alarming statistics, however, it is estimated that only a small percentage of chronic hepatitis B patients are currently receiving treatment for their disease. Approximately 15 to 40 percent of chronically infected hepatitis B patients will develop liver disease due to long-term exposure. Of chronic hepatitis B patients who develop cirrhosis, almost half of them may die within five years because of the high risk of liver cancer associated with the progression of the disease.

Upon closer examination of hepatitis B, researchers have found alarmingly disproportionate rates of infection among Asian Pacific Islanders and African Americans. In the U.S., as many as one out of ten Asian Pacific Islanders Americans are chronically infected with the hepatitis B virus.

California has initiated a number of programs to ensure that we are working to stop the transmission of Hepatitis B through vaccine programs and disease management programs intended to make living with the disease more comfortable.

I recognize the Association of Asian Pacific Community Health Organizations, AAPCHO, which is based in Oakland, CA, and the partners across the country with whom they are working to demystify and educate citizens about hepatitis B.

During National Hepatitis B Awareness Week, the "AIM for the B: Awareness, Involvement and Mobilization for Chronic Hepatitis B" campaign will consist of a series of local awareness forums and educational roundtables featuring doctors, patients and families and patient advocates. Two will be held in California—one in San Francisco and one in San Jose—in addition to

various other sites around the country to raise awareness and open the dialogue about chronic hepatitis B, prevention, disease management, and future advances.

It is my hope that National Hepatitis B Awareness Week will raise the profile of hepatitis B, facilitate open dialogue about what we can do in our families and communities to stop the transmission of this disease and arm ourselves with the knowledge to fight back against hepatitis B.

We possess the weapons to combat hepatitis B, including vaccination and treatment. For those infected, treatment options exist that are designed to stop the progression of liver disease and reduce liver damage. As we recognize National Hepatitis B Awareness Week, I encourage Americans who may be at risk for chronic hepatitis B to get tested for the disease, and physicians and patients to understand there is a large group of patients who do need treatment right now.

I ask my colleagues to join me in recognizing the great strides made in hepatitis B awareness and treatment and acknowledge the ongoing battle during National Hepatitis B Awareness Week.

IN MEMORY OF MIGUEL CONTRERAS

Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to my friend and fellow Californian Miguel Contreras, secretary-treasurer of the Los Angeles County Federation of Labor, AFL-CIO who died suddenly of a heart attack on Friday, May 6 at the age of 52.

Working families and the Latino community lost a great champion with the passing of Miguel Contreras.

As the son of migrant farmworkers Miguel also labored in the agriculture fields of California. Yet through his passion to ensure equity and fairness for workers, Miguel advanced to become one of the premier leaders in the local, State, and national labor movement.

As a young man Miguel worked with Cesar Chavez of the United Farm Workers Union to organize farm workers to secure improved working conditions and better wages.

In 1996, Miguel became the executive secretary-treasurer of the Los Angeles County Federation of Labor, AFL-CIO.

Under his leadership the Los Angeles County Federation of Labor grew to become a powerful voice for working men and women of Los Angeles County.

Miguel was the driving force behind the transformation of an organization that went from a union of 125,000 members to a multi-ethnic coalition of union workers now nearly 800,000 strong.

Through his leadership Miguel led a union-sponsored grass roots political drive that played a significant role in deciding the outcome of five Los Angeles congressional seats and countless state and local races.

Miguel tirelessly spent his life working to empower others, no matter their station in life.

While Miguel Contreras may be remembered most for his tenacity as a labor leader and role model for the Latino community, his efforts to secure a better future for American workers everywhere will live on.

My deepest sympathy goes out to his wife Maria Elena Durazo and their two sons, Michael and Mario.

Mrs. BOXER. Mr. President, I am deeply saddened to inform you of the passing of Miguel Contreras, secretary-treasurer for the Los Angeles County Federation of Labor, AFL-CIO. I would like to take a few moments to recognize the many important accomplishments of Miguel Contreras and the tremendous impact he made on the labor movement.

Miguel led the Los Angeles County Federation of Labor for nearly a decade. During his tenure, he continuously fought for the rights of laborers, and did so with great success. Through his guidance and leadership, The Los Angeles County Federation of Labor entered a period of unprecedented advancement and success.

Miguel Contreras was a man with humble beginnings. The son of farm workers, he began working in the fields of California's Central Valley at a very young age. With his early exposure to the difficult life of a farm worker, he quickly joined the ranks of political activists in labor as a volunteer with the United Farm Workers of America. He stood with Cesar Chavez and the UFW during their national grape boycott, and continued the fight for workers for the remaining years of his life.

In 1996, Miguel Contreras became the first Latino to win the post of secretary-treasurer for the Los Angeles County Federation of Labor, AFL-CIO—comprising 350 local unions and more than 800,000 members. Under his leadership, The Los Angeles County Federation of Labor had seen phenomenal growth. He coordinated many successful labor rights victories including the labor dispute of 2000 when 8,500 janitors from Service Employees International Union, SEIU, Local 1877 fought for and won a higher standard of living and better working conditions.

Fighting for the rights of laborers was at the core of Miguel Contreras' beliefs, an attribute which made him a great leader for laborers throughout the State of California. He cared about regular people and timelessly worked for their welfare.

I invite all of my colleagues to join me and the many mourning members of the labor community in recognizing and honoring Miguel Contreras for his guidance and life-long effort in fighting to improve the lives of laborers. He is survived by his wife Maria Elena Durazo and two sons, Michael and Mario.

RECOGNIZING LISA GUILLERMIN GABLE

Mr. ALLEN. Mr. President, I am pleased today to recognize and thank Ambassador Lisa Guillermin Gable of Virginia for her valued leadership as the United States Commissioner General to the 2005 World Exposition in Aichi, Japan.

The World Expo 2005 features national pavilions from 125 participating countries. Under the leadership of Ambassador Gable, the not-for-profit and privately funded organization, Aichi USA 2005, has successfully designed and built the U.S. Pavilion, which will be open to the public in Nagoya, Japan, through September 25, 2005. The showcase at the United States' pavilion honors America's first diplomat and innovator, Benjamin Franklin. The pavilion showcase promotes America's core values of hope, optimism, enterprise and freedom.

Under Ambassador Gable's stewardship, the U.S. Pavilion and related cultural activities were successfully and fully funded with 100 percent non-Federal financing. The hard work of this distinguished resident of the Commonwealth of Virginia will help promote U.S. economic development by fostering business relationships between Japan and the many participating countries and state sponsors.

I express my appreciation and thanks to Ambassador Lisa Guillermin Gable, U.S. Commissioner General to the World Expo, as named by President George W. Bush, for leading the way in making possible the United States' participation in the first world's fair of the 21st Century.

26 YEARS OF DEDICATED FEDERAL SERVICE

Mr. CRAPO. Mr. President, as Members of Congress, we have the unique opportunity to participate in special exchange programs in which talented individuals from other branches of government can work temporarily in our offices as legislative fellows or detailees. These initiatives promote efficiency in the business of government by developing mutually beneficial relationships between the executive and legislative branches of government.

As Members, we have the opportunity to meet these experts and benefit from their insight, knowledge and experience. One such expert in my office just celebrated 26 years of service to the USDA Forest Service. Kenneth Karkula is currently serving a 1-year fellowship in my office through the Brookings Institute. Building on his extensive experience, he has made invaluable contributions to several issues important to Idaho in the area of natural resources, the environment and energy. In the short time since his arrival, he has become an invaluable asset to my staff, filling in during recent permanent staff vacancies and being willing to do whatever is asked of him.

Ken is on detail from his position as National Concessions Program Manager for the Forest Service. His public service career started when he fought wildland fires in the late 1970s to the mid-1980s. He then served as a District Resource Staff Officer in Arizona and New Mexico and, in 1992, moved to the position of Forest Recreation Staff Officer in Lake Tahoe, CA. In 1996, he took his current position at the USDA Forest Service Headquarters, a tremendous culmination of many hard-working years. Ken's knowledge of U.S. environmental and Federal land management policies, coupled with his experience in on-the-ground implementation of these policies over the years, gives him a unique and critical perspective of Federal land management issues that benefit me as I help explore updating and enhancing decades-old environmental policies and practices.

I congratulate Ken on his many years of successful work and dedication to the American public.

ADDITIONAL STATEMENTS

IN RECOGNITION OF THE NEW ISLAMIC CENTER OF AMERICA

• Mr. LEVIN. Mr. President, I would like to take this opportunity to pay tribute to The Islamic Center of America, one of the first Islamic institutions in North America. On May 12, the Center will celebrate the completion of its new mosque complex in Dearborn, which will have the distinction of being the largest mosque in the United States. The festivities will continue with a grand banquet to be held on May 14. These events will bring together Muslims, as well as many others, from Michigan and around the country.

The Islamic Center of America traces its origin to the 1940s when Muslim immigrants from Lebanon and Syria began settling in Detroit and thus sought to bring a religious leader from the Middle East to the Detroit area to serve their community. A young author and scholar, Imam Mohammed Jawas Chirri, was the choice, arriving from Lebanon in February 1949. When the newly-formed Islamic Center Foundation Society was established in 1954, Imam Chirri became its new leader and soon after they decided to build a new religious center.

In his efforts to raise funds for the new center, Imam Chirri visited Egypt in 1959 and successfully secured support for the project. The Society purchased land owned by the Ford Motor Company located on Joy Road and Greenfield in Detroit. On September 20, 1963, the Islamic Center of America first opened its doors. The building consisted of a large domed prayer room, lecture hall, kitchen, offices, and two classrooms. Following the opening of the mosque, families of the Islamic Center began to move into the area. By 1967, the Center had already outgrown

this space. Additional classrooms, an enlarged social hall, and a minaret were added to serve the growing membership.

In 1997, Imam Hassan Al-Qazwini, his wife and their three children moved from California to Detroit to join The Islamic Center of America. Under his leadership and guidance, the Center has continued to flourish. Outgrowing the location on Joy Road, the Center began construction of a new religious center on Ford Road in Dearborn in 1999, near the Center's existing grade school, the Muslim American Youth Academy. The new mosque, which is located along a stretch of Ford Road that is home to several churches, including St. Sarkis Armenian Apostolic Church, St. Clement Ohridski Orthodox Church, Warrendale Community Church, St. Thomas Aquinas Roman Catholic Church, and Prince of Peace Lutheran Church, which is also home to People of the Book Arab Christian Church, will be the largest in the United States. At an estimated cost of between \$8,000,000 and \$10,000,000, the new mosque complex will accommodate 1,000 individuals at prayer time, and will house a large auditorium, social hall, and 14 additional rooms for the school.

I know my colleagues join me in congratulating The Islamic Center of America on this significant achievement and in recognizing its many years of service to the Muslim American community in Michigan.●

TRIBUTE TO DR. GERALD "CARTY" MONETTE

● Mr. President, I rise to pay tribute to an extraordinary scholar, leader, and friend, Dr. Gerald "Carty" Monette.

For more than 30 years, Dr. Monette, a member of the Turtle Mountain Band of Chippewa, has been a leader in the tribal college movement nationwide, and more specifically, at Turtle Mountain Community College in Belcourt, ND. When the college opened its doors on the reservation in 1972, Dr. Monette served as its director, and in 1978 he assumed the presidency of the institution.

During his tenure, Dr. Monette spearheaded an incredible transformation of the college with an added result of his determination being a remarkable increase in the ability of all American Indians to gain access to higher education opportunities. In 1973, under his leadership, Turtle Mountain Community College joined with five other tribal colleges to create the American Indian Higher Education Consortium—AIHEC—to provide a support network for member institutions. Today, AIHEC is composed of tribal colleges and universities located in 13 States, serving American Indian students from over 250 federally recognized tribes.

Prior to the opening of Turtle Mountain Community College, those living on the reservation had no access to higher education. Unemployment and

high school dropout rates were both very high. The college started from very humble beginnings, offering its first courses on the third floor of an abandoned Catholic convent, with less than 60 students and only three full-time faculty members. Today, it has grown to serve over 650 students, with more than 150 courses and 65 full- and part-time faculty members, which is due in large part to Dr. Monette's dedication and leadership.

One of the many highlights of Dr. Monette's professional life was realization of his vision for a new campus for the college. He led the effort to secure the needed funds to construct the facility, which is located on a 123-acre site. The 105,000 square-foot facility includes state-of-the-art technology, general classroom space, science and engineering labs, a library, learning resource center, and a gymnasium. This beautiful new campus stands as a shining testament to Dr. Monette's untiring dedication to the cause of increasing access to postsecondary opportunities in Indian Country.

Under Dr. Monette's leadership, Turtle Mountain Community College also expanded from an institution of higher learning to one of the community's pillars of economic development and opportunity through the creation of the Center for New Growth and Economic Development. Working with tribal leadership, the center has embarked on several projects to strengthen the community's ability to grow and become more economically independent. Some of the many projects taken on by the center include a very successful wind energy program, a review of the tribe's constitution, a school reform initiative designed to improve student performance, and a program to reintroduce traditional Native American foods into the diets of tribal members, which will yield tremendously positive health benefits.

Dr. Monette has been a true agent of positive change in the lives of thousands of students who have passed through Turtle Mountain Community College during his tenure. He has been a true champion for higher education and a powerful national advocate for the tribal colleges. His passion is infectious, and he has motivated everyone to reach to their goals no matter how small or large.

Dr. Monette has dedicated his life's work to the greater good. After 27 years as president of Turtle Mountain Community College, he has decided to commence his well-deserved retirement, but he leaves behind a lasting legacy that will stand for many generations. We owe Dr. Monette a debt of gratitude, and I wish him and his family all the very best.●

HONORING HAMILTON SOUTHEASTERN HIGH SCHOOL

● Mr. BAYH. Mr. President, today I pay tribute to an extraordinary class of students from Hamilton Southeastern

High School in Fishers. These outstanding young Hoosiers competed against 50 other schools from across the Nation and won honorable mention as one of the top ten finalists in the We the People: The Citizen and the Constitution national finals in Washington, D.C.

The motivation displayed by these students will no doubt lead them along the path to becoming some of our country's future leaders.

It is my honor to enter the names of Ryan Arnold, Natasha Arora, Kelsey Buckingham, Ricardo Doriott, Eddie Gillham, Worthe Holt III, Carolyn Homer, Kyle Lymberopoulos, Ashley Martin, Michael Matern, Allison Nimtz, Alex Orłowski, Laura Peregrin, Jennifer Wardell, Brian White and Marissa Wills in the official RECORD of the Senate for their remarkable understanding of the fundamental ideals and values of American government.

I also want to take a moment to salute Jill Baisinger, these students' teacher, for her clear commitment to encouraging the curiosity and development of our Hoosier youth and furthering their understanding of American Government.●

A TRIBUTE TO DR. GERALD "CARTY" MONETTE

● Mr. DORGAN. Mr. President, my colleagues have often heard me speak on this floor about tribal colleges that provide higher education to the residents of this country's Indian reservations. For over 30 years, these institutions have brought hope and opportunity to thousands of students who otherwise would not have had the chance to seek an education beyond high school.

There is a reason why the Nation's tribal colleges consistently manage to achieve more with less than any other educational institutions in the United States—talented and committed leadership. One of those leaders, Dr. Gerald "Carty" Monette, has been part of the tribal college movement since its inception. As the president of Turtle Mountain Community College since 1978, he has seen his institution grow from a handful of students gathering in an abandoned convent and a series of trailers in Belcourt, ND, to an enrollment of 650 meeting in a state-of-the-art building in a setting that reflects the sacred grounds of the Turtle Mountain Band of Chippewa.

Dr. Monette's modest and self-effacing manner belies a strong and determined leader who has inspired hundreds of graduates of Turtle Mountain Community College. He had an early understanding of the ... relationship between education, economic development, and community partnerships. As a result, the college today boasts the Center for New Growth that is a regional center for economic development; he wanted the College to have energy independence and today there is a wind and geothermal energy center at the College.

Not only has Dr. Monette been a leader at Turtle Mountain, he has been a national leader as one of the founders of the American Indian Higher Education Consortium, AIHEC, and has served several terms as presidents of the consortium. AIHEC has been the heart and soul of the tribal college movement and under Dr. Monette's leadership it began an aggressive telecommunications initiative that is enhancing communities throughout Indian country.

As Dr. Monette prepares to apply his leadership and vision to other educational pursuits, I wish him and his wife, Dr. Loretta DeLong, a Turtle Mountain Community College graduate, the very best. He has left a lasting legacy for his fellow members of the Turtle Mountain Band of Chippewa and their children. We join them honoring this exceptional man.●

THE MISSOURI MERCHANTS AND MANUFACTURERS ASSOCIATION 25TH ANNIVERSARY

● Mr. BOND. Mr. President, I rise today to pay a special tribute to the Missouri Merchants and Manufacturers Association. I am very pleased to recognize this organization for its 25 years of superior service to the Missouri business community.

The Missouri Merchants and Manufacturers Association was formed in 1980. With hard work and untiring commitment, the MMMA has grown into a strong, well respected voice in the legislative process representing over 5,000 small and mid-sized businesses across the State of Missouri. It is actively involved in educating MMMA members and serving as an advocate on State legislative issues impacting businesses.

While Governor of Missouri, I found that the MMMA's active involvement in State legislative issues provided a vital resource. As chairman of the Committee on Small Business, I highly value the insights they have shared on numerous issues of great importance to America's business. MMMA is a vital link in spearheading the causes of small business.

Over the past 25 years the MMMA has been instrumental in repealing the Merchants and Manufacturers Inventory Tax. The association has assisted in the passage of more than 35 bills in addition to winning three lawsuits before the Missouri Supreme Court. Collectively the MMMA's achievements have saved small and medium sized businesses more than \$400 million.

The quality individuals that comprise the MMMA epitomize the kind of dedication, work ethic and ideals necessary to meet the ongoing challenges and demands of the business community. Their leadership has influenced passage of important legislation and provided dependable resources in many court cases to benefit employers. The Missouri Merchants and Manufacturers Association celebrated its 25th anniversary on January 7, 2005. It is my great

pleasure to congratulate the MMMA for this significant accomplishment.●

HONORING RIVERSIDE MAYOR RON LOVERIDGE

● Mrs. BOXER. Mr. President, I rise today to recognize the leadership and service of Ronald O. Loveridge, mayor of the city of Riverside. Mayor Loveridge has been honored as the 2005 Distinguished Citizen of the Inland Empire by the Inland Empire Council of Boy Scouts of America.

As mayor of the city of Riverside, Ron Loveridge lends his time and leadership to many organizations committed to the vitality and progress of his community. Last year, he served the State of California as president of the League of Cities. Among the organizations that have honored him for his impressive record of service are the American Planning Association, the California Preservation Foundation, the United Way, and the Youth Service Center.

In addition to his thoughtful leadership as mayor, Ron Loveridge has given the city of Riverside his personal commitment for 40 years. A professor of political science at the University of California, Riverside, since 1965, Dr. Ron Loveridge has used his knowledge and expertise to enrich students' understanding of and interest in the inner workings of local government. He has provided a model of conscientious citizenship, volunteering his time to advance the endeavors of the Riverside Arts Foundation, the Riverside County Philharmonic, and the Dickens Festival.

In 1998, Mayor Ron Loveridge was meeting with council members and staff in City Hall when a man entered and shot his gun several times. Given the circumstances, it is a miracle that no one was killed. Mayor Loveridge was hit in the back of the neck, the bullet just missing his spinal cord. I met with him just after the shooting and was amazed at his grace and good will following such an event. He has gone on to lead his city in a similar manner, always showing grace and good will even in the toughest of times.

I applaud Ronald Loveridge for his lifetime of public service and am pleased to invite you to join me in congratulating him as he is honored as the Boy Scouts of America Inland Empire Council's 2005 Distinguished Citizen of the Inland Empire.●

RECOGNIZING THE 75TH ANNIVERSARY OF VFW POST 1881

● Mr. THOMAS. Mr. President, I would like to take a few moments today to recognize a very special milestone that will take place in my home State in the coming days. On June 18, 2005, the Veterans of Foreign Wars Post 1881 in Cheyenne, WY will celebrate its 75th anniversary. In 1930, veterans Harry Leon and Earnest Lissner founded VFW Post 1881. With 69 members and 7 hon-

orary members, the first meeting was conducted in a private home in Cheyenne. After a series of moves and 32 years later, VFW Post 1881 established and built its permanent facility at 2816 East 7th Street in 1962.

Since its founding, Post 1881 has grown in membership and has become a lasting positive fixture in the community. The veterans of the Post are a strong pillar of family support for the Active-Duty, Reserve and Guard personnel of F.E. Warren Air Force Base and the State of Wyoming. The members of VFW Post 1881 remain dedicated to our older and ailing veterans with a large contingency of volunteers who visit patients in the VA Medical Center in Cheyenne and Veterans Homes in Buffalo, Wyoming and Scottsbluff, NE. They are strong supporters of the Army Junior Reserve Officer Training Corps, and through private fundraising efforts have built two outstanding softball fields for the Cheyenne Thunder Girls Softball Association. As an exclusive project of the Post, these dedicated veterans offer new American flags to local businesses and individuals at no cost to replace frayed and damaged flags, while properly disposing of the exchanged flags. The Post's Ladies Auxiliary carries on numerous projects benefiting the environment and the community, and independently raises funds for homeless and hospitalized veterans. So it is a distinct honor to come before the Senate and congratulate the veterans of VFW Post 1881 on their 75th Anniversary. I thank them for their dedicated service to their fellow veterans and community and wish them continued success for many more years to come.●

MESSAGE FROM THE HOUSE

At 2:42 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 366. An act to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to strengthen and improve programs under that Act.

MEASURES REFERRED

The following bill was read the second time and referred as indicated:

S. 981. A bill to ensure that a Federal employee who takes leave without pay in order to perform services as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred; to the Committee on Homeland Security and Governmental Affairs.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 989. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

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-2042. A communication from the Inspector General, Selective Service System, transmitting, pursuant to law, a semi-annual report relative to the Selective Service System's compliance with the Inspector General Act of 1978; to the Committee on Homeland Security and Governmental Affairs.

EC-2043. A communication from the Acting Director, Office of Personnel Management, transmitting, pursuant to law, a report entitled "Chief Human Capital Officers Council Fiscal Year 2004"; to the Committee on Homeland Security and Governmental Affairs.

EC-2044. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "NARA Facility Locations and Hours" (RIN3095-AB47) received on May 5, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-2045. A communication from the Senior Procurement Executive, National Aeronautics and Space Administration, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2005-03" (FAC 2005-03) received on May 3, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-2046. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16-70, "Carver 2000 Low-Income and Senior Housing Project Temporary Amendment Act of 2005"; to the Committee on Homeland Security and Governmental Affairs.

EC-2047. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16-69, "Finance and Revenue Technical Corrections Temporary Amendment Act of 2005"; to the Committee on Homeland Security and Governmental Affairs.

EC-2048. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16-68, "Fiscal Year 2005 Operating Cash Reserve Allocation Temporary Act of 2005"; to the Committee on Homeland Security and Governmental Affairs.

EC-2049. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16-67, "Closing, Dedication, and Designation of Public Streets and Alleys in Squares 5246, 5272, 5273, 5276, 5277, 5279, 5280, and 5281, S.O. 02-4088 Act of 2005"; to the Committee on Homeland Security and Governmental Affairs.

EC-2050. A communication submitted jointly from the Secretary of Energy and the Secretary of Agriculture, transmitting, pur-

suant to law, a report entitled "Biomass Research and Development Initiative for Fiscal Year 2003"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2051. A communication from the Acting Administrator, Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "7 CFR Part 1770, Accounting Requirements for RUS Telecommunications Borrowers" (RIN0572-AB77) received on May 4, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2052. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Dimethenamid: Pesticide Tolerance" (FRL No. 7713-4) received on May 8, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2053. A communication from the Chairman, Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled "Borrower Rights" (RIN3052-AC24) received on May 3, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2054. A communication from the Acting Administrator, Agriculture Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Olives Grown in California; Increased Assessment Rate" (Docket No. FV05-932-1 FR) received May 4, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2055. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Add Malaysia to List of Regions in Which Highly Pathogenic Avian Influenza Subtype H5N1 is Considered to Exist" (APHIS Docket No. 04-091-1) received on May 4, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2056. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Brucellosis in Swine; Add Florida to List of Validated Brucellosis-Free States" (APHIS Docket No. 05-009-1) received on May 4, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2057. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the national emergency with respect to Syria that was declared in Executive Order 13338 of May 11, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-2058. A communication from the General Counsel, Office of the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Conversion of Insured Credit Unions to Mutual Savings Banks" (12 CFR Part 708a) received on May 8, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-2059. A communication from the Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting, pursuant to law, the Egypt Economic Report for 2004; to the Committee on Foreign Relations.

EC-2060. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC-2061. A communication from the U.S. Global AIDS Coordinator, Department of

State, transmitting, pursuant to law, a report entitled "Engendering Bold Leadership: The President's Emergency Plan for AIDS Relief"; to the Committee on Foreign Relations.

EC-2062. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of an interim rule entitled "Aliens Inadmissible Under the Immigration and Nationality Act—Unlawful Voters" ((RIN1400-AC04) (22 CFR Part 40)) received on May 3, 2005; to the Committee on Foreign Relations.

EC-2063. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled "Cuban Emigration Policies"; to the Committee on Foreign Relations.

EC-2064. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled "The Operation of the Enterprise for the Americas Facility and the Tropical Forest Conservation Act"; to the Committee on Foreign Relations.

EC-2065. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Tobacco Prevention and Control Activities in the United States, 2000-2002"; to the Committee on Health, Education, Labor, and Pensions.

EC-2066. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Fiscal Year 2004 Medical Device User Fee and Modernization Act Financial Report"; to the Committee on Health, Education, Labor, and Pensions.

EC-2067. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Performance Improvement 2004: Evaluation Activities of the U.S. Department of Health and Human Services"; to the Committee on Health, Education, Labor, and Pensions.

EC-2068. A communication from the Chair, Barry M. Goldwater Scholarship and Excellence in Education Foundation, transmitting, pursuant to law, the Annual Report of the activities of the Goldwater Foundation; to the Committee on Health, Education, Labor, and Pensions.

EC-2069. A communication from the Railroad Retirement Board, transmitting a report of proposed legislation relative to the Railroad Retirement Act; to the Committee on Health, Education, Labor, and Pensions.

EC-2070. A communication from the Director, Office of White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, received on May 4, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-2071. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Color Additives Certification; Increase in Fees for Certification Services" (Docket No. 2005N-0077) received on May 3, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-2072. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Additives Permitted for Direct Addition to Food for Human Consumption; Glycerol Ester of Gum Rosin" (Docket No. 2003F-0471) received on May 3, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-2073. A communication from the Regulations Coordinator, Office for Civil Rights, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Amending the Regulations Governing Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, Sex, and Age to Conform to the Civil Rights Restoration Act of 1987" (RIN0991-AB10) received on May 8, 2005; to the Committee on Health, Education, Labor, and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions:

Report to accompany S. 250, a bill to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act (Rept. No. 109-65).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Ms. SNOWE:

S. 984. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. CLINTON (for herself, Ms. SNOWE, Mr. JOHNSON, and Mr. COCHRAN):

S. 985. A bill to establish kinship navigator programs, to establish kinship guardianship assistance payments for children, and for other purposes; to the Committee on Finance.

By Mr. NELSON of Nebraska:

S. 986. A bill to authorize the Secretary of Education to award grants for the support of full-service community schools, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 987. A bill to restore safety to Indian women; to the Committee on Indian Affairs.

By Mr. SESSIONS (for himself, Mr. ENSIGN, Mr. MARTINEZ, Mr. CORNYN, Mr. ALLEN, Mr. HATCH, Mrs. HUTCHISON, Mr. LOTT, Mr. ISAKSON, Mr. COCHRAN, Mr. BUNNING, Mr. BURNS, Mr. COBURN, Mr. CHAMBLISS, Mr. INHOFE, Mr. ENZI, Mr. CRAPO, Mr. CRAIG, Mr. GRAHAM, Mr. VITTER, Mr. THUNE, Mr. ALEXANDER, Mr. SUNUNU, and Mr. ALLARD):

S. 988. A bill to permanently repeal the estate and generation-skipping transfer taxes; to the Committee on Finance.

By Mr. DURBIN (for himself and Ms. MIKULSKI):

S. 989. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred; read the first time.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 990. A bill to provide a grant program to support the establishment and operation of

Teachers Professional Development Institutes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself, Mr. DURBIN, Mr. HARKIN, and Mr. AKAKA):

S. 991. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to limit the availability of benefits under an employer's nonqualified deferred compensation plans in the event that any of the employer's defined benefit pension plans are subjected to a distress or PBGC termination in connection with bankruptcy reorganization or a conversion to a cash balance plan, to provide appropriate funding restrictions in connection with the maintenance of nonqualified deferred compensation plans, and to provide for appropriate disclosure with respect to nonqualified deferred compensation plans; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN:

S. 992. A bill to amend the Tariff Act of 1930 to eliminate the consumptive demand exception relating to the importation of goods made with forced labor; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 993. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on amounts received under certain insurance policies in which certain exempt organizations hold an interest; to the Committee on Finance.

By Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. LEAHY, Mr. BROWNBACK, Mr. OBAMA, Ms. MURKOWSKI, and Mr. ALEXANDER):

S.J. Res. 18. A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003; 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. INHOFE (for himself, Mr. BOND, Mr. BAUCUS, and Mr. JEFFORDS):

S. Res. 135. A resolution congratulating the National Asphalt Pavement Association on its 50th anniversary and recognizing the contributions of members of the Association to the United States; considered and agreed to.

By Mrs. HUTCHISON:

S. Con. Res. 31. A concurrent resolution to correct the enrollment of H.R. 1268; considered and agreed to.

ADDITIONAL COSPONSORS

S. 21

At the request of Ms. COLLINS, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 21, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 45

At the request of Mr. LEVIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 45, a bill 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. 151

At the request of Mr. SANTORUM, his name was added as a cosponsor of S.

151, a bill to amend title 38, United States Code, to require an annual plan on outreach activities of the Department of Veterans Affairs.

S. 224

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 224, a bill to extend the period for COBRA coverage for victims of the terrorist attacks of September 11, 2001.

S. 260

At the request of Mr. INHOFE, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 260, a bill to authorize the Secretary of the Interior to provide technical and financial assistance to private landowners to restore, enhance, and manage private land to improve fish and wildlife habitats through the Partners for Fish and Wildlife Program.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 337

At the request of Mr. GRAHAM, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 337, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service, to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

S. 347

At the request of Mr. NELSON of Florida, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 347, a bill to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care operations and legal rights for care near the end of life, to promote advance care planning and decision-making so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

S. 365

At the request of Mr. COLEMAN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 365, a bill to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign centers and programs for the treatment of victims of torture, and for other purposes.

S. 372

At the request of Mr. LEAHY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 372, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literacy, musical, artistic, or scholarly compositions created by the donor.

S. 380

At the request of Ms. COLLINS, the names of the Senator from Indiana (Mr. BAYH) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 380, a bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

S. 392

At the request of Mr. SANTORUM, his name was added as a cosponsor 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. 441

At the request of Mr. SANTORUM, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 441, a bill to amend the Internal Revenue Code of 1986 to make permanent the classification of a motor-sports entertainment complex.

S. 467

At the request of Mr. DODD, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 484

At the request of Mr. WARNER, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 515

At the request of Mr. BYRD, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 515, a bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Youth Challenge Program, and for other purposes.

S. 520

At the request of Mr. SHELBY, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Oklahoma (Mr. INHOFE) and the Senator

from Kentucky (Mr. BUNNING) were added as cosponsors of S. 520, a bill to limit the jurisdiction of Federal courts in certain cases and promote federalism.

S. 558

At the request of Mr. REID, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors 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. 576

At the request of Mr. BYRD, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 576, a bill to restore the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros.

S. 601

At the request of Mr. CONRAD, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 601, a bill to amend the Internal Revenue Code of 1986 to include combat pay in determining an allowable contribution to an individual retirement plan.

S. 603

At the request of Ms. LANDRIEU, the name of the Senator from North Dakota (Mr. DORGAN) 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. 619

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 619, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 621

At the request of Mr. CONRAD, the names of the Senator from New York (Mrs. CLINTON) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 621, a bill to amend the Internal Revenue Code of 1986 to permanently extend the 15-year recovery period for the depreciation of certain leasehold improvements.

S. 627

At the request of Mr. HATCH, the names of the Senator from Wyoming (Mr. THOMAS), the Senator from Indiana (Mr. BAYH), the Senator from

Idaho (Mr. CRAPO) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 627, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 647

At the request of Mrs. LINCOLN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 647, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 650

At the request of Mr. LUGAR, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 650, a bill to amend the Clean Air Act to increase production and use of renewable fuel and to increase the energy independence of the United States, and for other purposes.

S. 675

At the request of Mr. DORGAN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 675, a bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes.

S. 722

At the request of Mr. SANTORUM, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 722, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 737

At the request of Mr. CRAIG, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 737, a bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

S. 751

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 751, a bill to require Federal agencies, and persons engaged in interstate commerce, in possession of data containing personal information, to disclose any unauthorized acquisition of such information.

S. 770

At the request of Mr. LEVIN, the names of the Senator from Maryland

(Mr. SARBANES) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 770, a bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act.

S. 784

At the request of Mr. THOMAS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 784, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

S. 792

At the request of Mr. DORGAN, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 792, a bill to establish a National sex offender registration database, and for other purposes.

S. 806

At the request of Mr. CRAIG, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 806, a bill to amend title 38, United States Code, to provide a traumatic injury protection rider to servicemembers insured under section 1967(a)(1) of such title.

S. 811

At the request of Mr. DURBIN, the names of the Senator from Illinois (Mr. OBAMA), the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. LUGAR) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 811, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln.

S. 843

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 843, a bill to amend the Public Health Service Act to combat autism through research, screening, intervention and education.

S. 859

At the request of Mr. SANTORUM, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 859, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 936

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 936, a bill to ensure privacy for e-mail communications.

S. 962

At the request of Mr. BAUCUS, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 962, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued to finance certain energy projects, and for other purposes.

S. 967

At the request of Mr. LAUTENBERG, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 967, a bill to amend the Communications Act of 1934 to ensure that prepackaged news stories contain announcements that inform viewers that the information within was provided by the United States Government, and for other purposes.

S. RES. 33

At the request of Mr. LEVIN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. Res. 33, a resolution urging the Government of Canada to end the commercial seal hunt.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 984. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Ms. SNOWE. Mr. President, I rise today to speak on the issue of currency policies and to offer a bill, the Fair Currency Practices Act of 2005, that will address key concerns regarding the Treasury Department's statutory review and reporting requirements on currency manipulation. In particular, this bill strengthens Treasury's hand in addressing currency manipulation, including the current practices of countries such as China.

Through the practice of pegging its currency to the dollar, China artificially maintains the yuan, at 8.28 per dollar. While economists differ over the extent that China's currency is undervalued, it is often estimated to be undervalued by as much as fifteen to forty percent, rendering Chinese manufactured goods cheaper in the U.S.—and U.S. manufactured goods more expensive in China.

China's deliberate and unfair currency practices have contributed to our Nation's trade deficit with China, reaching a record \$162 billion last year. The yuan's undervaluation has had a profound impact on our Nation's manufacturing sector—particularly on U.S. manufacturing employment.

As Chair of the Senate Committee on Small Business and Entrepreneurship, Co-Chair of the Senate Task Force on Manufacturing, and a Senator from a State with a rich history in manufacturing, I am keenly aware of this issue's importance. Indeed, our manufacturers—who are integral to our economic security and national defense—unjustifiably struggle to compete with countries that disregard their international obligations.

The U.S.-China Economic and Security Review Commission released a report today, which focuses on China's exchange rate problem. In the report,

the Commission notes that foreign exchange markets are sending clear signals that China should revalue its yuan, and that in recent years all major currencies have adjusted upward with the exception of China's. The Commission explains that an appreciation of foreign currencies is needed to help correct the U.S. current account deficit.

In the report, the Commission discusses the value of improving the process by which the Treasury Department assesses and reports upon the issue of foreign countries' currency manipulation. The legislation that I offer today, which is cosponsored by Senator DOLE, makes substantial improvements to that process.

Chair MANZULLO, my counterpart in the House of Representatives is offering this bill today in the House. I thank him for his leadership on issues affecting our Nation's small businesses, and particularly for his efforts on behalf of our Nation's manufacturers.

Specifically, the legislation amends the Exchange Rates and Economic Policy Coordination Act of 1988, to clarify that a country is manipulating its currency if it is engaged in "protracted large-scale intervention in one direction in the exchange market."

The legislation also amends the 1988 Act to eliminate the necessity that a country have both a material global current account surplus and a significant bilateral trade surplus with the United States, before the Secretary of the Treasury is required to enter into negotiations with the offending country to end its unfair practices. The change requires such negotiations if there is either a material global current account surplus or a significant bilateral trade surplus with the United States.

Currently, the Treasury Department, the International Monetary Fund, and others rely largely upon suspect Chinese data in determining China's trade balance with other countries. The legislation's final provision instructs the Treasury Department to undertake an exercise examining China's trade surplus. The investigation would include an analysis of why China's reported trade surplus with the U.S. and other countries differs from that reported by China's trading partners. The legislation requires that the Treasury Department submit a report of its investigation to Congress.

Representative MANZULLO and I will continue to collaborate on addressing unfair currency practices by offending countries. We are both well aware of the negative effects these practices have on our Nation's small businesses. One of our combined efforts commissioned a General Accounting Office study which examined issues related to foreign government manipulation of world currency markets. That study is expected to be released soon.

As in the past, I will continue to strive to draw greater attention to the effects of China's currency practices

and to find solutions that enable our domestic industries to compete on a level and fair playing field.

I ask unanimous consent that the text of the bill and that a section-by-section summary of the bill be printed in the RECORD.

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

S. 984

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 "Fair Currency Practices Act of 2005".

SEC. 2. AMENDMENTS RELATING TO INTERNATIONAL FINANCIAL POLICY.

(a) BILATERAL NEGOTIATIONS.—Section 3004(b) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5304(b)) is amended in the second sentence by striking "and (2)" and inserting "or (2)".

(b) DEFINITION OF MANIPULATION.—Section 3006 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5306) is amended by adding at the end the following:

"(3) MANIPULATION OF RATE OF EXCHANGE.—For purposes of this Act, a country shall be considered to be manipulating the rate of exchange between its currency and the United States dollar if there is a protracted large-scale intervention in one direction in the exchange markets. The Secretary may find that a country is manipulating the rate of exchange based on any other factor or combination of factors."

(c) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury shall undertake an examination, and submit a report to Congress, regarding the trade surplus of the People's Republic of China. The Secretary shall examine why the trade surplus with the United States and other countries reported by the People's Republic of China differs from the trade surplus reported by the other countries. The report shall also quantify the differences between the trade surplus reported by the United States and other countries and what is reported by the People's Republic of China.

LEGISLATION ADDRESSING CHINA'S CURRENCY MANIPULATION

Background: The Exchange Rates and International Economic Policy Coordination Act of 1998 (the 1998 Act) requires that Treasury regularly make a determination of whether countries are manipulating the rate of exchange between their currency and the U.S. dollar for purposes of preventing effective balance of payments adjustments or gaining an unfair competitive advantage in international trade. If the Secretary of Treasury considers that such manipulation is occurring with respect to countries that (1) have material global current account surpluses; and (2) have significant bilateral trade surpluses with the United States, the Secretary is required to take action to initiate negotiations with such foreign countries on an expedited basis.

Section 1—Short Title—This Act will be known as the Fair Currency Practices Act of 2005.

Section 2—Amendments Relating to International Financial Policy.

(a)—Amends the Trade Act to eliminate the necessity that a country have both a material global current account surplus AND a significant bilateral trade surplus with the United States, before the Secretary of the

Treasury is required to enter into negotiations with the offending country to end its unfair practices. The change requires such negotiations if there is either a material global current account surplus OR a significant bilateral trade surplus with the United States.

Reasoning: Under current law, even if manipulation was found, Treasury would not be required to act unless the offending country has a significant bilateral trade surplus with the U.S. AND a material global current account surplus. The U.S.-China Economic and Security Review Commission recommended in its 2004 Report to Congress that the material global current account surplus condition not be required.

(b)—Amends the 1988 Act to clarify that a country engaged in "protracted large-scale intervention in one direction in the exchange market" is manipulating its currency. This language derives from the International Monetary Fund's (IMF) Principles for Fund Surveillance Over Exchange Rate Policies.

Reasoning: Treasury repeatedly fails to make a determination that China is manipulating its currency and the Trade Act does not specifically define "manipulating." This provision clarifies that a country engaged in "protracted large-scale intervention in one direction in the exchange market" is manipulating its currency. The provision does not preclude the Secretary of Treasury from finding a country to be manipulating its rate of exchange based on any other factor or combination of factors.

(c)—Requires that Treasury undertake an examination of China's trade surplus and report on its findings. The Department of Treasury should investigate why China's reported trade surplus with the U.S. and other countries differs from that reported by the trading partner countries. The report should quantify these differences so that policy makers will be better able to understand the facts behind China's trade surplus.

Reasoning: Treasury and the IMF use official Chinese statistics when determining China's global current account and trade balances. China's global current account and trade balance statistics differ markedly from the aggregate statistics of its trading partners. This results in an inaccurate depiction of China's true surplus, which is presumably much larger than reported by China.

By Mrs. CLINTON (for herself, Ms. SNOWE, Mr. JOHNSON, and Mr. COCHRAN):

S. 985. A bill to establish kinship navigator programs, to establish kinship guardianship assistance payments for children, and for other purposes; to the Committee on Finance.

Mrs. CLINTON. Mr. President, I rise today to re-introduce the Kinship Caregiver Support Act with my friend and colleague, Senator OLYMPIA SNOWE. I would like to acknowledge Senators TIM JOHNSON and THAD COCHRAN who are original co-sponsors of this legislation.

Over the weekend, America celebrated Mother's Day, a special day when we honored our mothers, whose love and nurturing sustains us throughout our lives. Mother's Day offers a wonderful opportunity to honor the millions of mothers who offer the gifts of love and nurturing for children in need. They give so much to the most vulnerable among us, and too often they go unnoticed and unthanked. Many of these women earn the title of

Mother not through biology, but by their unconditional love for children.

In New York alone, more than 500,000 children are cared for by non-parent relative caregivers. Nationwide, grandparents head 4.5 million households and other relatives head another 1.5 million households. Linda James of Rochester, NY is one such mother. She became a second-time mother at the age of 41 when her granddaughter Jasmine was born prematurely and her daughter, Jasmine's mother, was unable to care for her daughter. When the hospital needed authorization to perform an emergency operation on tiny Jasmine, Linda stepped in and assumed responsibility. Since that day, Linda has been Jasmine's only resource for stability and happiness.

Over time, Linda, like many relative caregivers, faced many challenges as she tried to raise Jasmine. Simple tasks such as enrolling her in school and securing health insurance were daunting because she had trouble finding basic information about how to approach the process. Linda made many sacrifices to ensure Jasmine's success, even taking a leave of absence from her job so she could give Jasmine the constant medical attention she required, but she often felt like the cards were stacked against her. Emotionally, physically, and financially, the experience of raising little Jasmine was nothing short of exhausting.

Kinship caregivers like Linda are often the best chance for a loving and stable childhood for the children in their care, but Federal law does little to support these families. In fact, unless a child's parents relinquish their parental rights, and the relative caregivers become adoptive parents, kinship caregivers are no different from strangers in the eyes of Federal law.

In these sad cases, children often linger in foster care unnecessarily while a stable, permanent, loving option is overlooked.

That is why Senator SNOWE and I are introducing The Kinship Caregiver Support Act. This proposal will provide relative caregivers with the information and assistance they need to thrive as non-traditional families. This bill will link kinship families with localized information about the services and support available to them. By creating one-stop centers for kinship caregivers, this bill will provide essential support that will keep these families afloat. This legislation will also allow States to use their Federal foster care funds to provide kinship caregiver assistance payments for children languishing in foster care while a kinship caregiver stands ready to step in.

At this time of year, when we remember and honor our mothers, let us also remember the contributions that unconventional mothers make, mothers who each and every day go above and beyond the call of duty to help some of the most vulnerable of our children.

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 987. A bill to restore safety to Indian women; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, today I am introducing "The Restoring Safety to Indian Women Act" and I look forward to working with the Committee on the Judiciary to ensure that the provisions of this bill are given consideration, particularly as the reauthorization of the Violence Against Women Act moves forward. I also wish to thank Senator BYRON DORGAN for cosponsoring this legislation and for his dedication to addressing the health and welfare needs of Indian tribes.

This legislation creates a new Federal criminal offense authorizing Federal prosecutors to charge repeat domestic violence offenders before they seriously injure or kill someone and to use tribal court convictions for domestic violence for that purpose. It authorizes the creation of tribal criminal history databases to document these convictions and protection orders for use by all law enforcement. The bill authorizes BIA and tribal officers to make arrests for domestic violence assaults committed outside of their presence and would authorize a comprehensive study of domestic violence in Indian Country to determine its impact to Indian tribes.

The 1994 Violence Against Women Act has had a tremendous impact on raising the national awareness of domestic violence and providing communities, including Indian tribes, the resources to respond to the devastating impact of domestic violence. National studies show that one in four women are victims of domestic violence. Since 1999, the Department of Justice has issued various studies which report that Indian women experience the highest rates of domestic violence compared to all other groups in the United States. These reports state that one out of every three Indian women are victims of sexual assault; that from 1979 to 1992, homicide was the third leading cause of death of Indian females between the ages of 15 to 34 and that 75 percent of those deaths were committed by a family member or acquaintance. These are startling statistics that require our close examination and a better understanding of how to prevent and respond to domestic violence in Indian Country.

Domestic violence is a national problem and not one that is unique to Indian Country. Yet, due to the unique status of Indian tribes, there are obstacles faced by Indian tribal police, Federal investigators, tribal and Federal prosecutors and courts that impede their ability to respond to domestic violence in Indian Country. This bill is intended to remove these obstacles at all levels and to enhance the ability of each agency to respond to acts of domestic violence when they occur.

The division of criminal jurisdiction between Federal and tribal law en-

forcement and prosecutors working in Indian Country present challenges. For example, Federal prosecutors prosecute acts of domestic violence in Indian Country using the Assault or, unfortunately, the Murder statutes in the Major Crimes Act. These statutes require the prosecutor to prove beyond a reasonable doubt that the victim was disfigured, suffered a serious risk of death or was killed before these felony charges can be filed. Meanwhile, the research has shown that perpetrators of domestic violence become increasingly more violent over time. Under the existing statutory scheme, these perpetrators may escape felony charges until they seriously injure or kill someone.

This bill would create a new Federal offense aimed at the habitual domestic violence offender and allow tribal court convictions to count for purposes of Federal felony prosecution when the perpetrator has at least two separate Federal, State or tribal convictions for crimes involving assault, sexual abuse or a violent felony against a spouse or intimate partner. This provision is similar to many state laws that apply a felony penalty to an individual who commits multiple offenses. It will empower Indian tribal prosecutors and courts to document domestic violence cases at the local level and give federal prosecutors the ability to intervene in the cycle of violence by charging repeat offenders before they seriously injure or kill someone.

The bill would also encourage the use of existing grants authorized by the Violence Against Women Act to create tribal criminal history databases for use by Indian tribes and tribal, State and Federal law enforcement agencies to document final convictions, stay away orders and orders of protection issued by tribal courts. As I understand it, no such database exists today. This database would be used solely as a law enforcement and court tracking tool. It would enable tribal, State and Federal law enforcement officers to determine whether an individual is a habitual domestic violence offender and therefore subject to the felony crime described above. It also would enhance the implementation of the criminal provisions that already exist in the Violence Against Women Act.

All manner of law enforcement agencies report that responding to domestic violence disturbances are among the most dangerous situations that a police officer faces. Therefore, many States have enacted immediate arrest or removal policies that enable responding officers to diffuse these dangerous situations. Currently, the primary law enforcement authority for Indian tribes, the BIA police, are only authorized to make an arrest without a warrant for an offense committed in Indian Country if the offense is committed in the presence of the officer or the offense is a felony. This legislation would expand the authority of the BIA police, and tribal police agencies that

derive their arrest authority by contract with the BIA, to make an arrest without a warrant for a domestic violence offense when the officer has reasonable grounds to believe the person arrested committed the offense. This arrest authority will enable a responding officer to diffuse the dangerous situation by arresting the perpetrator. This will go a long way toward improving public safety for both the officer and the domestic violence victim.

Finally, while the national data on the rates of violence affecting Indian women are astounding, we do not know the full extent to which Indian women residing in Indian Country are impacted by domestic violence or the impact of domestic violence on Indian tribes. For example, we know that nationally, domestic violence costs \$4.1 billion each year for direct medical and mental health services and in my own State of Arizona, last year, police received approximately 100,000 domestic violence calls, but we do not know the extent to which tribal prevention programs, law enforcement, court or medical intervention resources are similarly impacted. Therefore, this bill would require that a comprehensive study be done on the scope of the domestic violence problem in Indian Country.

I look forward to working with my colleagues on the Indian Affairs Committee and the Judiciary Committee to ensure that these statistics become a record of the past. I urge my colleagues to support this important 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. 987

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 "Restoring Safety to Indian Women Act".

SEC. 2. FINDINGS.

Congress finds that—

- (1) national studies indicate that Indian women experience domestic and sexual assaults at a far greater rate than other groups of women in the national population;
- (2) there is relatively little data on the rate of domestic violence perpetrated upon Indian women in Indian country or the costs associated with responding to acts of domestic violence in Indian country;
- (3) Indian tribes have criminal jurisdiction to prosecute Indians who commit violations of tribal law;
- (4) the Federal Government has jurisdiction to prosecute specific enumerated crimes that arise in Indian country under section 1153 of title 18, United States Code (commonly known as the Major Crimes Act);
- (5) the Major Crimes Act does not include provisions to provide Federal prosecutors the ability to prosecute domestic violence assaults unless they rise to the level of serious bodily injury or death;
- (6) national studies conducted by law enforcement organizations show that domestic violence disturbance calls are the most dangerous situations and pose the highest risk to responding law enforcement officers;

(7) the limited arrest authority of the Bureau of Indian Affairs and Indian tribal law enforcement agencies impacts the ability of law enforcement to properly respond to acts of domestic violence; and

(8) Federal and tribal prosecutors and law enforcement services are hampered in their efforts to address domestic violence by the lack of available criminal history information for tribal ordinance offenders.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To obtain data on the rates of domestic violence perpetrated upon Indian women in Indian country.

(2) To close existing gaps in Federal criminal laws to enable Federal, State, and tribal law enforcement, prosecution agencies, and courts to address incidents of domestic violence.

(3) To address the public safety concerns experienced by tribal police officers that arise in responding to incidents of domestic violence.

(4) To prevent the serious injury or death of Indian women subject to domestic violence.

SEC. 4. DEFINITIONS.

In this Act:

(1) ATTORNEY GENERAL.—The term “Attorney General” means the Attorney General of the United States.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Department of the Interior.

(3) INDIAN TRIBE.—The term “Indian Tribe” has the same meaning as in section 4 of the Indian Self-determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 5. DOMESTIC VIOLENCE HABITUAL OFFENDER.

Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

“§ 117. Domestic assault by a habitual offender

“(a) Any person who commits a domestic assault within the special maritime and territorial jurisdiction of the United States or Indian country and who has a final conviction on at least two separate prior occasions in Federal, State, or Indian tribal court proceedings for offenses that would be, if subject to Federal jurisdiction—

“(1) any assault, sexual abuse, or serious violent felony against a spouse or intimate partner; or

“(2) an offense under chapter 110A,

shall be fined under this title, imprisoned for a term of not more than 5 years, or both, except that if substantial bodily injury results from a violation under this section, the offender shall be imprisoned for a term of not more than 10 years.

“(b) For purposes of this section—

“(1) the term ‘domestic assault’ means an assault committed by a current or former spouse, parent, child, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, child, or guardian, or by a person similarly situated to a spouse, parent, child, or guardian of the victim;

“(2) the term ‘final conviction’ means the final judgment on a verdict of finding of guilty, a plea of guilty, or a plea of nolo contendere, but does not include a final judgment which has been expunged by pardon, reversed, set aside, or otherwise rendered void;

“(3) the term ‘order of protection’ has the meaning given to such term by section 2265(b);

“(4) the term ‘serious violent felony’ has the meaning given to such term by section 3559(c)(2)(F);

“(5) the term ‘State’ has the meaning given to such term by section 3559(c)(2)(G);

“(6) the term ‘substantial bodily injury’ has the meaning given to such term by section 113(b)(1); and

“(7) the term ‘sexual abuse’ has the meaning given to such term by section 2242.”.

SEC. 6. ENHANCED ARREST AUTHORITY.

Section 4 of the Indian Law Enforcement Reform Act (25 U.S.C. 2803) is amended—

(1) in paragraph (2)(A), by striking “, or” and inserting “; or”; and

(2) in paragraph (3)—

(A) in subparagraph (A), by striking “, or” and inserting a semi-colon;

(B) in subparagraph (B), by adding “or” at the end; and

(C) by adding at the end the following:

“(C)(i) the offense is a misdemeanor offense of domestic violence (as defined in section 117 of title 18, United States Code); and

“(ii) the employee has reasonable grounds to believe that the person to be arrested has committed, or is committing, the offense.”.

SEC. 7. CRIMINAL RECORDS DATABASE PILOT PROJECT.

(a) IN GENERAL.—The Attorney General shall make grants available pursuant to section 2001(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) to Indian tribes for the development of tribal criminal history databases to document final convictions of tribal domestic violence court adjudications, orders of protection, stay away orders, and such other domestic violence criminal history.

(b) REQUIREMENTS.—A database developed under subsection (a) shall include—

(1) final convictions by a tribal court order;

(2) orders of protection that are currently in effect and meet the requirements of section 2265(b) of title 18, United States Code;

(3) a means to provide tribal, Federal, and State law enforcement agencies with access to the information in the database; and

(4) safeguards to prevent the dissemination of the information contained therein for other than a criminal justice or law enforcement purpose.

SEC. 8. STUDY OF DOMESTIC VIOLENCE IN INDIAN COUNTRY.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary, the Director of the Indian Health Service, and Indian tribes, shall conduct a study on the incidents of domestic violence in Indian country.

(b) CONTENTS.—The study conducted under subsection (a) shall—

(1) determine the extent of domestic violence in Indian country and its causes; and

(2) identify obstacles to—

(A) the prevention of incidents of domestic violence;

(B) the appropriate response to incidents of domestic violence;

(C) adequate treatment for victims of domestic violence; and

(D) criminal prosecution of domestic violence offenders.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall transmit to Congress a report regarding the study conducted under this section. This report shall include recommendations, including legislative recommendations, to address domestic violence in Indian country.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 9. CONFORMING AMENDMENTS.

Section 2001(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) is amended—

(1) in paragraph (10), by striking “and” after the semicolon;

(2) in paragraph (11), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(12) to develop tribal domestic violence criminal history databases for use by Indian tribal courts and tribal, State, and Federal law enforcement officers engaged in a law enforcement function”.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 990. A bill to provide a grant program to support the establishment and operation of Teachers Professional Development Institutes; to the Committee on Health, Education, Labor, and Pensions.

Mr. LIEBERMAN. Mr. President, I rise today to introduce, along with my colleague from Connecticut, Mr. DODD, legislation that will bolster the content and pedagogical knowledge of our K-12 teacher workforce. This measure provides resources and incentives to enlist college and university faculties in partnerships with public school districts throughout the Nation in an effort to strengthen public school instruction.

My proposal will establish, over the next five years, forty new Teacher Professional Development Institutes in locales throughout the Nation. Based on the model which has been operating at Yale University and the City of New Haven for over 25 years, Teacher Professional Development Institutes consist of partnerships between one or more institutions of higher education and local, economically disadvantaged public school systems. These Institutes will strengthen the present teacher workforce by giving participants an opportunity to gain more sophisticated content knowledge and instructional skills, and will provide them a chance to develop—in conjunction with their Institute colleagues—practical curriculum units that they can implement in their classrooms and share with their schools and districts.

Since 1978, the Yale-New Haven Institute has offered five to seven thirteen-session seminars each year, led by Yale faculty, on topics that teachers have selected to enhance their teaching mastery. To begin the process, teacher representatives from the Institute solicit teachers throughout the school district for ideas on how to help meet their perceived needs—for example, improving content area knowledge, preparing instructional materials, managing the classroom, or addressing accountability standards. As a consensus emerges regarding seminar content, the Institute director identifies and enlists university faculty members with the appropriate expertise, interest, and desire to lead the seminar. Because the topics are ultimately determined by the teachers who participate, seminars offer content which teachers believe is pertinent, valuable, and practical for both themselves and their students.

It is, in fact, the cooperative and emergent nature of the Institute seminar planning process that ensures its success—rigorous topical instruction

and relevant materials are provided based on participants' self-identified needs. Granted the opportunity to examine and act on their own skills and knowledge, teachers gain a sense of self-sufficiency, and are more enthusiastic about their participation. Teachers gain further confidence as they practice using the materials they obtain and develop among their peers, ensuring that the experience not only increases their subject-matter proficiency, but also provides immediate hands-on active learning materials that can be transferred to the classroom. In short, by allowing teachers to determine the seminar subjects and providing them the resources to develop curricula relevant to their classroom and their students, the Institutes empower teachers. Teachers are the front line—they are the interface between the educational system and the students it aspires to shape and inform—and they know what should be done to improve their schools and increase student achievement. The Teacher Professional Development Institutes promote this philosophy.

From 1999–2002, the Yale-New Haven Teachers Institute conducted a National Demonstration Project to create comparable Institutes at four diverse sites with large concentrations of disadvantaged students. These demonstration projects were located in Pittsburgh, PA; Houston, TX; Albuquerque, NM; and Santa Ana, CA. Based on the success of that Project, the Institute has launched the Yale National Initiative—a long-term endeavor to establish exemplary Teachers Institutes in states throughout the nation, just as the legislation I have introduced would do.

Follow-up evaluations have garnered encouraging reactions from teachers who have participated both in the Yale-New Haven Institute and in the demonstration Institutes. These data strongly support the conclusions that virtually all teachers felt substantially strengthened in their mastery of content knowledge and that they developed increased expectations for students' achievement. Further, because of their personal involvement in the course selection and curriculum development process, teacher participants have found these seminars to be especially relevant and useful in their classroom practices—in fact, ninety-five percent of all participating teachers reported them to be beneficial. Finally, study results have found that these Institutes foster teacher leadership, develop supportive teacher networks, heighten university faculty commitments to improving K–12 public education, and create more positive partnerships between school districts and institutions of higher education—something I believe is essential to improving students' readiness for college.

Several studies assert that teacher quality is the single most important school-related factor in determining student achievement. Accordingly, the

No Child Left Behind Act requires a "highly qualified" teacher to be in every classroom by the end of the 2005–2006 academic year. Effective teacher professional development programs that focus on content area and pedagogical knowledge are proven means of enhancing the success of classroom teachers and helping to meet the "highly qualified" criteria. Yet, a 2003 Government Accountability Office Report on Teacher Quality found that many state and local school districts view shortcomings in their current professional development practices as a significant barrier to meeting this requirement. These local agencies are looking for innovative, research-proven alternatives to their current programs, and this is precisely what Teacher Professional Development Institutes will provide.

Nationwide, projects developed to conform to the Yale-New Haven Institute model have proven to be successful in providing innovative teacher professional development. Virtually all teacher participants felt substantially strengthened in their mastery of content knowledge and their teaching skills. My proposal would open this opportunity to many more urban teachers and would provide high quality professional development to educators and policy makers throughout the Nation. In this way, we can set high standards for effective teacher professional development as we have done for student achievement outcomes.

I ask unanimous consent that the text of the Teachers Professional Development Institutes Act be printed in the RECORD.

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

S. 990

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

SECTION 1. TEACHERS PROFESSIONAL DEVELOPMENT INSTITUTES.

Title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.) is amended by adding at the end the following:

"PART C—TEACHERS PROFESSIONAL DEVELOPMENT INSTITUTES

"SEC. 241. SHORT TITLE.

"This part may be cited as the 'Teachers Professional Development Institutes Act'.

"SEC. 242. FINDINGS AND PURPOSE.

"(a) FINDINGS.—Congress makes the following findings:

"(1) Ongoing, subject-specific teacher professional development is essential to improved student learning.

"(2) The No Child Left Behind Act of 2001 calls for a highly qualified teacher in every core-subject classroom; attaining this goal will require innovative and effective approaches to improving the quality of teaching.

"(3) The Teachers Institute Model is an innovative and proven approach that encourages collaboration between urban school teachers and university faculty. The model focuses on teachers' continuing academic preparation and on the personal and collaborative application of their studies in their classrooms, schools, and districts.

"(4) The Teachers Institute Model has a proven record, as demonstrated by the success of a 3-year national demonstration pilot project (referred to in this part as the 'National Demonstration Project') in several United States cities.

"(b) PURPOSE.—The purpose of this part is to provide Federal assistance to support the establishment and operation of Teachers Professional Development Institutes for local educational agencies that serve significant low-income populations in States throughout the Nation—

"(1) to improve student learning; and

"(2) to enhance the quality of teaching by strengthening the subject matter mastery and pedagogical skills of current teachers through continuing teacher preparation.

"SEC. 243. DEFINITIONS.

"In this part:

"(1) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.

"(2) SIGNIFICANT LOW-INCOME POPULATION.—The term 'significant low-income population' means a student population of which not less than 25 percent are from families with incomes below the poverty line.

"(3) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(4) TEACHERS PROFESSIONAL DEVELOPMENT INSTITUTE.—The term 'Teachers Professional Development Institute' means a partnership or joint venture between or among 1 or more institutions of higher education, and 1 or more local educational agencies serving a significant low-income population, which partnership or joint venture—

"(A) is entered into for the purpose of improving the quality of teaching and learning through collaborative seminars designed to enhance both the subject matter and the pedagogical resources of the seminar participants; and

"(B) works in collaboration to determine the direction and content of the collaborative seminars.

"SEC. 244. GRANT AUTHORITY.

"(a) IN GENERAL.—The Secretary is authorized—

"(1) to award grants to Teachers Professional Development Institutes to encourage the establishment and operation of Teachers Professional Development Institutes; and

"(2) to provide technical assistance, either directly or through existing Teachers Professional Development Institutes, to assist local educational agencies and institutions of higher education in preparing to establish and in operating Teachers Professional Development Institutes.

"(b) SELECTION CRITERIA.—In selecting a Teachers Professional Development Institute for a grant under this part, the Secretary shall consider—

"(1) the extent to which the proposed Teachers Professional Development Institute will serve a community with a significant low-income population;

"(2) the extent to which the proposed Teachers Professional Development Institute will follow the Understandings and Necessary Procedures that have been developed following the National Demonstration Project;

"(3) the extent to which the local educational agency participating in the proposed Teachers Professional Development Institute has a high percentage of teachers who are unprepared or under prepared to teach the core academic subjects the teachers are assigned to teach; and

“(4) the extent to which the proposed Teachers Professional Development Institute will receive a level of support from the community and other sources that will ensure the requisite long-term commitment for the success of a Teachers Professional Development Institute.

“(c) CONSULTATION.—

“(1) IN GENERAL.—In evaluating applications under subsection (b), the Secretary may request the advice and assistance of existing Teachers Professional Development Institutes.

“(2) STATE AGENCIES.—If the Secretary receives 2 or more applications for new Teachers Professional Development Institutes that propose serving the same State, the Secretary shall consult with the State educational agency regarding the applications.

“(d) FISCAL AGENT.—For the purpose of this part, an institution of higher education participating in a Teachers Professional Development Institute shall serve as the fiscal agent for the receipt of grant funds under this part.

“(e) LIMITATIONS.—A grant under this part—

“(1) shall be awarded for a period not to exceed 5 years; and

“(2) shall not exceed 50 percent of the total costs of the eligible activities, as determined by the Secretary.

“SEC. 245. ELIGIBLE ACTIVITIES.

“(a) IN GENERAL.—A Teachers Professional Development Institute that receives a grant under this part may use the grant funds—

“(1) for the planning and development of applications for the establishment of Teachers Professional Development Institutes;

“(2) to provide assistance to existing Teachers Professional Development Institutes established during the National Demonstration Project to enable the Teachers Professional Development Institutes—

“(A) to further develop existing Teachers Professional Development Institutes; or

“(B) to support the planning and development of applications for new Teachers Professional Development Institutes;

“(3) for the salary and necessary expenses of a full-time director to plan and manage such Teachers Professional Development Institute and to act as liaison between the participating local educational agency and institution of higher education;

“(4) to provide suitable office space, staff, equipment, and supplies, and to pay other operating expenses for the development and maintenance of Teachers Professional Development Institutes;

“(5) to provide stipends for teachers participating in collaborative seminars in the sciences and humanities, and to provide remuneration for those members of the higher education faculty who lead the seminars; and

“(6) to provide for the dissemination through print and electronic means of curriculum units prepared in conjunction with Teachers Professional Development Institutes seminars.

“(b) TECHNICAL ASSISTANCE.—The Secretary may use not more than 50 percent of the funds appropriated to carry out this part to provide technical assistance to facilitate the establishment and operation of Teachers Professional Development Institutes. For the purpose of this subsection, the Secretary may contract with existing Teachers Professional Development Institutes to provide all or a part of the technical assistance under this subsection.

“SEC. 246. APPLICATION, APPROVAL, AND AGREEMENT.

“(a) IN GENERAL.—To receive a grant under this part, a Teachers Professional Development Institute shall submit an application to the Secretary that—

“(1) meets the requirement of this part and any regulations under this part;

“(2) includes a description of how the Teachers Professional Development Institute intends to use funds provided under the grant;

“(3) includes such information as the Secretary may require to apply the criteria described in section 244(b);

“(4) includes measurable objectives for the use of the funds provided under the grant; and

“(5) contains such other information and assurances as the Secretary may require.

“(b) APPROVAL.—The Secretary shall—

“(1) promptly evaluate an application received for a grant under this part; and

“(2) notify the applicant within 90 days of the receipt of a completed application of the Secretary's approval or disapproval of the application.

“(c) AGREEMENT.—Upon approval of an application, the Secretary and the Teachers Professional Development Institute shall enter into a comprehensive agreement covering the entire period of the grant.

“SEC. 247. REPORTS AND EVALUATIONS.

“(a) REPORT.—Each Teachers Professional Development Institute receiving a grant under this part shall report annually on the progress of the Teachers Professional Development Institute in achieving the purpose of this part and the purposes of the grant.

“(b) EVALUATION AND DISSEMINATION.—

“(1) EVALUATION.—The Secretary shall evaluate the activities funded under this part and submit an annual report regarding the activities to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.

“(2) DISSEMINATION.—The Secretary shall broadly disseminate successful practices developed by Teachers Professional Development Institutes.

“(c) REVOCATION.—If the Secretary determines that a Teachers Professional Development Institute is not making substantial progress in achieving the purpose of this part and the purposes of the grant by the end of the second year of the grant under this part, the Secretary may take appropriate action, including revocation of further payments under the grant, to ensure that the funds available under this part are used in the most effective manner.

“SEC. 248. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part—

“(1) \$4,000,000 for fiscal year 2006;

“(2) \$5,000,000 for fiscal year 2007;

“(3) \$6,000,000 for fiscal year 2008;

“(4) \$7,000,000 for fiscal year 2009; and

“(5) \$8,000,000 for fiscal year 2010.”.

By Mr. KENNEDY (for himself,
Mr. DURBIN, Mr. HARKIN, and
Mr. AKAKA):

S. 991. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to limit the availability of benefits under an employer's non-qualified deferred compensation plans in the event that any of the employer's defined benefit pension plans are subjected to a distress or PBGC termination in connection with bankruptcy reorganization or a conversion to a cash balance plan, to provide appropriate funding restrictions in connection with the maintenance of non-qualified deferred compensation plans, and to provide for appropriate disclosure with respect to nonqualified deferred compensation plans; to the Com-

mittee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, the Pension Fairness and Full Disclosure Act we are introducing today is urgently needed to end the nightmare that the current pension system is becoming for millions of families across the Nation.

Thousands of flight attendants and machinists from United Airlines have suffered heavily in pay and job security in recent years, and now they're losing their pensions, too. Yet corporate CEO's are still receiving bonuses worth millions of dollars a year.

This nightmare is happening to workers all across America. Companies are cutting employees' pensions by switching to cash balance plans, or even going into bankruptcy. But executive retirement is still going through the roof. A recent report found over 20 percent of America's top 500 largest companies have promised pensions worth more than \$1 million a year for their CEOs.

President Bush has said that what is good for the top floor is good for the shop floor. It's wrong for it to be business as usual on the top floor when so much pain is spreading on the shop floor.

Polaroid in Massachusetts filed for bankruptcy in 2001 and terminated its pension plan in 2002. Its pension plan was underfunded by over \$300 million dollars. Thousands of retirees had their benefits cut when the Pension Benefit Guaranty Corporation took over. Yet the principal executives of the company received millions of dollars in bonuses. Last week, the company was sold again, and the chairman and CEO received golden parachutes of nearly \$10 million each.

The bill we are introducing will end that injustice. It prohibits companies from lining executives' pockets and ignoring commitments to rank-and-file workers. It will require companies to inform employees about executive compensation.

These changes are long overdue. It's an issue of basic fairness, and only Congress can solve this.

By Mr. HARKIN:

S. 992. A bill to amend the Tariff Act of 1930 to eliminate the consumptive demand exception relating to the importation of goods made with forced labor; to the Committee on Finance.

Mr. HARKIN. Mr. President, today, I am proposing to strike the consumptive demand clause from Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307). Section 307 prohibits the importation of any product or good produced with forced or indentured labor including forced or indentured child labor.

The consumptive demand clause creates an exception to this prohibition. Under the exception, if a product is not made in the United States, and there is a demand for it, then a product made with forced or indentured child labor may be imported into this country.

Let us be clear: forced or indentured labor means work which is extracted from any person under the menace of penalty for nonperformance and for which the worker does not offer himself voluntarily. Let us be really clear: this means slave labor. In the case of children, it means child slavery.

Some examples of goods that are made with child slave labor include cocoa beans, hand-knotted carpets, beedis, which are small Indian cigarettes, soccer balls and cotton.

Throughout my Senate career, I have worked to reduce the use of forced child labor worldwide.

In 2003, my staff was invited by Customs to meet with field agents on Section 307 to discuss what appropriations were needed to enforce the statute. At the meeting, the field agents reported that the consumptive demand clause was an obstacle to their ability to enforce the law that is supposed to prevent goods made with slave labor from being imported into the United States.

The consumptive demand clause is outdated. Since this exception was enacted in the 1930s, the U.S. has taken numerous steps to stop the scourge of child slave labor. Most notably, the United States has ratified International Labor Organization's Convention 182 to Prohibit the Worst forms of Child Labor. Currently, 152 other countries have also ratified this ILO Convention.

Retaining the consumptive clause contradicts our international commitments to eliminate abusive child labor. Maintaining the consumptive demand clause says to the world that the United States justifies the use of slave labor, if US consumers need an item not produced in this country. There should be no exception to a fundamental stand against the use of slave labor. It is my hope that Congress will act.

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. 992

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

SECTION 1. GOODS MADE WITH FORCED OR INDENTURED LABOR.

(a) IN GENERAL.—The second sentence of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended by striking “; but in no case” and all that follows to the end period.

(b) EFFECTIVE DATE.—The amendment made by this section applies to goods entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 993. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on amounts received under certain insurance policies in which certain exempt organizations hold an interest; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, the bill imposes an excise tax, equal to 100 percent of the acquisition costs, on the taxable acquisition of any interest in an applicable insurance contract. An applicable insurance contract is any life insurance, annuity or endowment contract in which both an applicable exempt organization and any person that is not an applicable exempt organization have, directly or indirectly, held an interest in the contract (whether or not the interests are held at the same time).

An applicable exempt organization generally includes an organization that is exempt from Federal income tax by reason of being described in section 501(c)(3) (including one organized outside the United States), a government or political subdivision of a government, and an Indian tribal government.

The bill provides that an interest in an applicable insurance contract includes any right with respect to the contract, whether as an owner, beneficiary, or otherwise. An indirect interest in a contract includes an interest in an entity that, directly or indirectly, holds an interest in the contract.

Exceptions apply under the bill. An exception is provided if each person (other than the exempt organization) with an interest in the contract has an insurable interest in the insured person independent of any interest of the exempt organization. Another exception is provided if each person, other than an exempt organization, has an interest solely as a named beneficiary. An exception is also provided for a person, other than the exempt organization, with an interest as a trust beneficiary, if the beneficiary designation is purely gratuitous, or with an interest as a trustee who holds in a fiduciary capacity for an applicable exempt organization or another permitted beneficiary.

The bill provides reporting rules requiring an applicable exempt organization or other person that makes a taxable acquisition of an applicable insurance contract to file a return showing required information. A statement is required to be furnished to each person whose taxpayer identification information is required to be reported on the return. Penalties apply for failure to file the return or furnish the statement, including, in the case of intentional disregard of the return filing requirement, a penalty equal to the amount of the excise tax that has not been paid with respect to the items required to be included on the return.

The bill is effective for contracts issued after May 3, 2005. The bill requires reporting of existing life insurance, endowment and annuity contracts issued on or before that date, in which an applicable exempt organization holds an interest and which would be treated as an applicable insurance contract under the bill. This reporting is required within one year after the date of enactment.

By Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. MCCAIN,

Mr. LEAHY, Mr. BROWNBACK, Mr. OBAMA, Ms. MURKOWSKI, and Mr. ALEXANDER):

S.J. Res. 18. A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003; to the Committee on Finance.

Mr. MCCONNELL. Mr. President, along with my colleagues from California, Arizona, Vermont, Kansas and Illinois, I come to the floor to introduce legislation to renew sanctions against the illegitimate and repressive State Peace and Development Council (SPDC) in Burma.

I do not intend today to recount the litany of abuses committed by the military junta in Rangoon against the Burmese people and their neighbors given the extensive documentation of these violations by credible sources, including the U.S. Department of State, the United Nations and numerous non-governmental organizations, my colleagues are undoubtedly familiar with many of the SPDC's heinous crimes—from the production and trafficking of illicit drugs, to the use of rape as a weapon of war against ethnic minority women and girls and the forced conscription of children into military service.

Instead, I urge my colleagues to act quickly—as we have in the past—in considering and passing the renewal of sanctions, which include an import ban on Burmese goods and visa restrictions on officials from the SPDC and affiliated organizations.

We must act quickly as the SPDC poses an immediate danger to the entire region, whether through the trafficking of illicit drugs, the unchecked spread of HIV/AIDS, or the forced movement of people who seek refuge and safety in neighboring countries.

There is no more definitive expression of support for democracy and human rights—for solidarity with those struggling for freedom—than an import ban. As Archbishop Desmond Tutu has eloquently pointed out on several occasions, sanctions worked in South Africa, and they can work in Burma, too.

We must act resolutely as the junta continues to imprison those who non-violently struggle for freedom and justice, including Nobel laureate and Burmese democracy leader Daw Aung San Suu Kyi. Burma has a rising prisoner of conscience population, with over 1,300 political prisoners. I renew my call that Suu Kyi and other prisoners of conscience be immediately and unconditionally released.

Just last month, the European Union renewed sanctions against the SPDC that restrict members of the junta and their families from entering the EU, and bans EU companies from doing business in Burma. While I applaud this action, I call upon the EU and other multilateral organizations, including the United Nations, to do more in support of freedom in Burma.

Specifically, the EU, along with the United States, should not participate

in any Association of Southeast Asian Nations (ASEAN) related meetings should the SPDC assume chairmanship of that Association next year. It is worth noting that some ASEAN member states are now publicly discussing the junta's possible leadership with growing concern. This increased attention—and a growing chorus for political reform in Burma in the region by likeminded lawmakers—is also appreciated.

Finally, while I welcome UN Secretary-General Kofi Annan's personal comments in support of freedom in Burma, the time for talk is over. The UN must act on Burma—in New York. It is past time for the UN to discuss and debate the myriad threats Burma poses to the region. What are they waiting for?

The people of Burma must know that they have no better friends in this body than Senators FEINSTEIN, MCCAIN, LEAHY, BROWNBACK and OBAMA. There is an unofficial Burma Caucus in the Senate, and I am proud to stand shoulder-to-shoulder with my dedicated colleagues on this issue.

To them—and to Suu Kyi and all who nonviolently struggle for freedom in Burma—I say “we will prevail.”

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 18

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress approves the renewal of the import restrictions contained in section 3(a)(1) of the Burmese Freedom and Democracy Act of 2003.

Mrs. FEINSTEIN. Mr. President, I rise today in support of a resolution introduced by myself, Senator MCCONNELL, Senator LEAHY, Senator MCCAIN, Senator BROWNBACK, and Senator OBAMA to renew the sanctions imposed on Burma by the Burmese Freedom and Democracy Act of 2003.

Last year, in response to the failure by the military junta—the State Peace and Development Council, SPDC—to take any meaningful steps towards restoring democracy and releasing Nobel Peace Prize winner and National League for Democracy, NLD, leader Aung San Suu Kyi, Congress overwhelmingly renewed a complete ban on all imports from Burma for another year.

One year later, it is clear that Rangoon has once again failed to make “substantial and measurable progress” toward putting Burma on an irreversible path of national reconciliation and democracy.

Suu Kyi remains under house arrest. On her 60th birthday on June 19, 2005, she will have spent a total of 2,523 days in detention.

NLD Vice Chairman Tin Oo has also remained in custody since May 2003. And 1,400 political prisoners are still in jail.

The military junta's “road map” to democracy and national convention to draft a new constitution has produced no timetable for restoring democracy and shut out the participation of Suu Kyi and the NLD, the legitimate winners of the 1990 elections.

The United Nations Commission on Human Rights passed a resolution last month highlighting continued human rights abuses by Rangoon including “extrajudicial killings,” rape, torture, sex trafficking and forced labor.

And let us not forget that Congress passed the original “Burmese Freedom and Democracy Act of 2003” in response to a brutal coordinated assault by progovernment paramilitary thugs on Suu Kyi and other members of the NLD. Is anyone surprised that no one has been brought to justice for these crimes?

The generals who run the country have shown a remarkable ability to ignore the demands of their own people and the international community. The simple truth is that as long as the SPDC remains in power the democratic hopes and aspirations of the Burmese people will continue to be denied.

Now is not the time to let the sanctions expire and try to “engage” the military junta.

Doing so without any meaningful steps toward democracy taken by Rangoon would only serve to bolster the regime's campaign against democratic government, the rule of law, and basic human rights.

I point out that the democratic movement in Burma continues to support sanctions against the SPDC. We must give them more time to effect change in Burma.

Let us not fall into the trap of thinking true representative democracy cannot come to Burma and the Burmese people. I agree with Deputy Secretary of State Robert Zoellick when he said recently:

What we see throughout the world, even in places where people don't expect it, like the Middle East, is a process of openness and democracy. There's no reason it can't happen in Burma as well.

As champions of freedom and respect for human rights, we must stand in solidarity with Suu Kyi, the people of Burma, and the international community in once again calling on the SPDC to release Suu Kyi, relinquish power, and respect the 1990 elections. Archbishop Desmond Tutu has rightly said:

As long as [Suu Kyi] remains under house arrest, none of us is truly free.

In the face of human rights abuses and terror, approximately 300,000 Burmese citizens have already defied the military junta and signed their names on a petition calling for true democratic change in Burma. We must back their courage. I urge my colleagues to support the resolution.

Mr. McCain. Mr. President, I would like to thank Senators MCCONNELL and FEINSTEIN for their efforts to renew again the sanctions contained in the 2003 Burmese Freedom and Democracy

Act. I am proud to join along with Senators LEAHY, BROWNBACK, and OBAMA as sponsors of this resolution.

As we take action to renew this legislation, the situation inside Burma grows ever dimmer. The military junta in that country controls the population through a campaign of violence and terror, and the lack of freedom and justice there is simply appalling. The Burmese regime has murdered political opponents, used child soldiers and forced labor, and employed rape as a weapon of war. Political activists remain imprisoned, including elected members of parliament, and Aung San Suu Kyi remains a captive.

Aung San Suu Kyi's courageous and steadfastness in the face of tyranny inspires me and, I believe, every individual who holds democracy dear. Because she stands for freedom, this heroic woman has endured attacks, arrest, captivity, and untold sufferings at the hands of the regime. Burma's rulers fear Aung San Suu Kyi because of what she represents—peace, freedom and justice for all Burmese people. The thugs who run the country have tried to stifle her voice, but they will never extinguish her moral courage. Her leadership and example shine brightly for the millions of Burmese who hunger for freedom and for those of us outside Burma who seek justice for its people.

The work of Aung San Suu Kyi and the members of the National League for Democracy must be the world's work. We must continue to press the junta until it is willing to negotiate an irreversible transition to democratic rule. The Burmese people deserve no less. And I see encouraging signs that the world is no longer content to sit on the sidelines.

The U.S. Congress has been in the forefront, and we stepped up our pressure significantly in 2003 with the Burmese Freedom and Democracy Act. In doing so, we took active steps to pressure the military junta, and we sent a signal to the Burmese people that they are not forgotten—that the American people care about their freedom and will stand up for justice in their country.

Now the Europeans and the countries of Southeast Asia are finally stepping up their own pressure. While they can and should do more, the signs are encouraging. I have recently seen a report that 78 Thai senators have sponsored a motion opposing Burma's chairmanship of ASEAN, scheduled for next year. Similar moves by governments of other Southeast Asian nations suggest that opposition to Burma's rotation is becoming widespread, as it should—ASEAN's credibility would crumble under Burmese leadership. A unified message from all ASEAN countries that Burma's behavior is simply unacceptable would make clear to its leaders that they cannot practice repression forever.

For our part, I support today the joint resolution that will renew the import restrictions—sanctions that are

supported by the National League for Democracy. These restrictions must remain until Burma embarks on a true path of reconciliation—a process that must include the NLD and Burmese ethnic minorities.

The picture today in Burma is tragically clear. So long as a band of thugs rules Burma, its people will never be free. They will remain mired in poverty and suffering, cut off from the world, with only their indomitable spirit to keep them moving forward. With our action today, we will support this spirit.

Mr. BROWNBACK. Mr. President, I rise with several of my colleagues to speak about the importance of the renewal of the Burma sanctions. I also wish to speak candidly about the Burmese Military Junta's continued oppression of their people through rape, torture and other severe human rights abuses.

As the world's only imprisoned Nobel Peace Prize recipient, Aung San Suu Kyi continues to inspire the democracy movement and seek support for their peaceful cause. It has been reported that the National League for Democracy has collected more than 300,000 signatures on a petition calling for change in the country. Those who sign are actively putting their lives in danger by publicly stating that they seek democratic change and some 1,400 political prisoners are locked up for supporting human rights and democracy.

The human rights abuses in Burma continue daily against ethnic minorities, political activists and others who simply suffer as innocent bystanders. A 2002 Human Rights Watch report found that Burma has nearly 70,000 child soldiers in its army, more than any other country in the world. Up to 2 million people have been forced to flee the country as refugees and migrants and the burning of villages continues in eastern Burma, especially in the Karen and Karenni states. Last year I drew to your attention a report titled "Shattering Silences", in which the Karen Women's Organization carefully investigated and recorded the Burmese military regime's use of rape as a weapon of war against ethnic minority women, revealing a shockingly brutal and calculating practice.

For the past two years, I have joined my colleagues in reauthorizing the Burmese Freedom and Democracy Act, which bans mainly textile and garment imports from Burma. When I chaired the East Asia and Pacific Subcommittee I held a hearing on this very subject. In that hearing I spoke about the importance of a multilateral isolation policy. I urge my colleagues to consider the strides that have been made in just two years of promoting such a policy.

In a major and important move, the European Union, in October 2004, followed the lead of the United States and significantly strengthened its sanctions on Burma, including a ban on investments in enterprises of the ruling

regime and a strengthened visa ban. The EU also pledged to join the United States in opposing loans to Burma's regime from the International Monetary Fund and World Bank. The European Parliament passed a resolution calling "on the UN Security Council to address the situation in Burma as a matter of urgency." Additionally, 289 members of the British parliament tabled a motion calling on the UN Security Council to address the situation in Burma.

After both houses of Congress passed resolutions in October 2004 calling on the UN Security Council to address the situation in Burma, the parliament of Australia followed suit. The Australian motion called on the government to, "support the Burmese National League for Democracy's call for the UN Security Council to convene a special session to consider what further measures the UN can take to encourage democratic reform and respect for human rights in Burma."

Support at the United Nations is growing as well. Burma was one of only a few countries on which resolutions were passed by the United Nations Commission on Human Rights. This was led by the European Union with strong support from the United States as well as support from Japan. The resolution strongly condemned what it called "the systematic ongoing violation of human rights" in Burma.

There has been unprecedented action on Burma within ASEAN. Whereas in the past ASEAN refused to even comment on what it deemed Burma's "internal affairs", many members of the organization are now publicly pressuring Burma to step aside as the chair of the association in 2006.

The tough approach maintained by the United States towards Burma, including import sanctions and a possible boycott of 2006 meetings, is for the first time encouraging many Asian nations to rethink whether the Burmese regime should assume the rotating chairmanship. There is widespread belief within the leadership of ASEAN countries that Burma has failed to deliver on its promises to the region.

In all of the above-mentioned instances, the strong stand of the United States has influenced countries around the world. The movement at the EU, UN, and within ASEAN is unprecedented. We must keep up the tough pressure by the United States.

I urge my colleagues to reauthorize the sanctions as a strong and clear signal that the United States will not support this brutal regime and their continued oppression of activists and minorities.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 135—CONGRATULATING THE NATIONAL ASPHALT PAVEMENT ASSOCIATION ON ITS 50TH ANNIVERSARY AND RECOGNIZING THE CONTRIBUTIONS OF MEMBERS OF THE ASSOCIATION TO THE UNITED STATES

Mr. INHOFE (for himself, Mr. BOND, Mr. BAUCUS, and Mr. JEFFORDS) submitted the following resolution; which was considered and agreed to:

S. RES. 135

Whereas in 2005, the National Asphalt Pavement Association (incorporated on May 17, 1955, as the National Bituminous Concrete Association) celebrates its 50th anniversary;

Whereas the members of the National Asphalt Pavement Association play a key role in strengthening the economy of the United States and promoting the mobility of citizens of the United States by providing hot-mix asphalt used in the construction of the 41,000-mile Interstate Highway System and other highways, streets, roads, parking lots, and airports;

Whereas the National Asphalt Pavement Association has focused on continually improving the quality of asphalt pavement by establishing a quality improvement program;

Whereas the National Asphalt Pavement Association has facilitated technology transfer and advanced new asphalt pavement technologies through partnerships, scanning tours, publications, and presentations;

Whereas the National Asphalt Pavement Association, through members of the Association, has fostered and encouraged young people to pursue careers in civil engineering by establishing the National Asphalt Pavement Association Research and Education Foundation to provide scholarships, sponsor educational exhibitions, and fund research of national significance relating to hot-mix asphalt;

Whereas the National Asphalt Pavement Association, through members of the Association, endowed the National Center for Asphalt Technology, the world's premier institution for asphalt research, and continues to fund the activities of the Center; and

Whereas the National Asphalt Pavement Association will continue to contribute to research to ensure that the Interstate Highway System will be designed and constructed for perpetual use in order to meet the growing economic and national security needs of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the National Asphalt Pavement Association on its 50th anniversary; and

(2) recognizes and celebrates the achievements of the members of the National Asphalt Pavement Association for their contributions to the economic well-being of the citizens of the United States.

SENATE CONCURRENT RESOLUTION 31—TO CORRECT THE ENROLLMENT OF H.R. 1268

Mrs. HUTCHISON submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 31

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of H.R. 1268, an Act making emergency

supplemental appropriations for the fiscal year ending September 30, 2005, and for other purposes, the Clerk of the House of Representatives is hereby authorized and directed to correct section 502 of title V of division B so that clause (ii) of section 106(d)(2)(B) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106-313; 8 U.S.C. 1153 note), as amended by such section 502, reads as follows:

“(ii) MAXIMUM.—The total number of visas made available under paragraph (1) from unused visas from the fiscal years 2001 through 2004 may not exceed 50,000.”.

AMENDMENTS SUBMITTED AND PROPOSED

SA 606. Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table.

SA 607. Mrs. HUTCHISON (for herself, Mr. NELSON of Nebraska, Mr. BURNS, Mr. PRYOR, and Mr. SHELBY) submitted an amendment intended to be proposed by her to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 608. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 609. Mr. DEWINE (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 610. Mr. FEINGOLD (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 611. Mr. ALLEN (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 612. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 613. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 614. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 615. Mr. SCHUMER (for himself, Mr. KENNEDY, Mrs. CLINTON, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 616. Mrs. CLINTON (for herself, Mr. SCHUMER, Mr. CRAIG, and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 617. Mrs. HUTCHISON (for herself, Mr. NELSON, of Nebraska, Mr. BURNS, Mr. SHELBY, Mr. PRYOR, and Mr. GRAHAM) proposed an amendment to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra.

SA 618. Mr. HARKIN (for himself, Mr. KENNEDY, Mr. OBAMA, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS— (CORRECTION)

SA 605. On page S4748 of the RECORD of May 9, 2005, Vol. 151, No. 59, correct

the amount shown under “(c) MAJOR CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(i)(2)(A)—“(3). . .” to read “\$1,697,663,000 for fiscal year 2008; and . . .”

TEXT OF AMENDMENTS

SA 606. Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

After section 1703, insert the following:

SEC. 17. . . LETTING OF CONTRACTS.

Section 112 of title 23, United States Code, is amended by adding at the end the following:

“(g) EFFECT OF SECTION.—Nothing in this section prohibits a State from enacting a law or issuing an order that limits the amount that an individual that is a party to a contract with a State agency under this section may contribute to a political campaign.”.

At the end of subtitle G in title I, add the following:

SEC. 17. . . DUTIES OF THE SECRETARY OF TRANSPORTATION.

Section 5323(h) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and identifying appropriately;

(2) by striking “A grant or loan” and inserting the following:

“(1) IN GENERAL.—A grant or loan”; and

(3) by adding at the end the following:

“(2) PROCUREMENT REQUIREMENTS.—The enactment of a law or issuance of an order by a State that limits the amount of money that may be contributed to a political campaign by an individual doing business with a grantee shall be considered to be in accordance with Federal competitive procurement requirements.”.

SA 607. Mrs. HUTCHISON (for herself, Mr. NELSON of Nebraska, Mr. BURNS, Mr. PRYOR, and Mr. SHELBY) submitted an amendment intended to be proposed by her to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1609(a) and insert the following:

(a) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212) is repealed.

SA 608. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . . GRANT PROGRAM FOR COMMERCIAL DRIVER TRAINING.

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a program for

making grants to commercial driver training schools and programs for the purpose of providing financial assistance to entry level drivers of commercial vehicles (as defined in section 31301 of title 49, United States Code).

(b) FEDERAL SHARE.—The Federal share of the cost for which a grant is made under this section shall be 80 percent.

(c) FUNDING.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the purpose of carrying out this section \$5,000,000 for each of the fiscal years 2006 through 2009.

SA 609. Mr. DEWINE (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . . PRESIDENTIAL COMMISSION ON ALCOHOL-IMPAIRED DRIVING.

(a) FINDINGS.—Congress finds that—

(1) there has been considerable progress over the past 25 years in reducing the number and rate of alcohol-related highway fatalities;

(2) the National Highway Traffic Safety Administration projects that fatalities in alcohol-related crashes declined in 2004 for the second year in a row;

(3) in spite of this progress, an estimated 16,654 Americans died in 2004, in alcohol-related crashes;

(4) these fatalities comprise 39 percent of the annual total of highway fatalities;

(5) about 250,000 are injured each year in alcohol-related crashes;

(6) the past 2 years of decreasing alcohol-related fatalities follows a 3-year increase;

(7) drunk driving is the Nation's most frequently committed violent crime;

(8) the annual cost of alcohol-related crashes is over \$100,000,000,000, including \$9,000,000,000 in costs to employers;

(9) a Presidential Commission on Drunk Driving in 1982 and 1983 helped to lead to substantial progress on this issue; and

(10) these facts point to the need to renew the national commitment to preventing these deaths and injuries.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that, in an effort to further change the culture of alcohol impaired driving on our Nation's highways, the President should consider establishing a Presidential Commission on Alcohol-Impaired Driving—

(1) comprised of—

(A) representatives of State and local governments, including state legislators;

(B) law enforcement;

(C) traffic safety experts, including researchers;

(D) victims of alcohol-related crashes;

(E) affected industries, including the alcohol, insurance, and auto industries;

(F) the business community;

(G) labor;

(H) the medical community;

(I) public health; and

(J) Members of Congress; and

(2) that not later than September 30, 2006, would—

(A) conduct a full examination of alcohol-impaired driving issues; and

(B) make recommendations for a broad range of policy and program changes that would serve to further reduce the level of deaths and injuries caused by drunk driving.

SA 610. Mr. FEINGOLD (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 179(a) of title 23, United States Code (as added by section 7139(a)), insert “previously verified as accurate” after “other information”.

In section 179(a) of title 23, United States Code (as added by section 7139(a)), strike “with a system using scoring models and algorithms”.

In section 179(d)(1) of title 23, United States Code (as added by section 7139(a)), strike “use multiple sources” and insert “ensure accurate sources”.

In section 179(d)(3) of title 23, United States Code (as added by section 7139(a)), strike “and” at the end.

In section 179(d) of title 23, United States Code (as added by section 7139(a)), strike paragraph (4) and insert the following:

“(4) incorporate a comprehensive program ensuring administrative, technical, and physical safeguards to protect the privacy and security of means of identification (as defined in section 1028(d) of title 18, United States Code), against unauthorized and fraudulent access or uses;

“(5) impose limitations to ensure that any information containing means of identification transferred or shared with third-party vendors for the purposes of the information-based identity authentication described in this section is only used by the third-party vendors for the specific purposes authorized under this section;

“(6) include procedures to ensure accuracy and enable applicants for commercial driver’s licenses who are denied licenses as a result of the information-based identity authentication described in this section, to appeal the determination and correct information upon which the comparison described in subsection (a) is based;

“(7) ensure that the information-based identity authentication described in this section—

“(A) can accurately assess and authenticate identities; and

“(B) will not produce a large number of false positives or unjustified adverse consequences;

“(8) create penalties for knowing use of inaccurate information as a basis for comparison in authenticating identity; and

“(9) adopt policies and procedures establishing effective oversight of the information-based identity authentication systems of State departments of motor vehicles.”.

SA 611. Mr. ALLEN (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 7216(a) of the bill and insert the following:

(a) IN GENERAL.—Section 405 is amended to read as follows:

“§ 405. Safety belt performance grants

“(a) IN GENERAL.—The Secretary of Transportation shall award grants to States in accordance with the provisions of this section to encourage the use of safety belts in passenger motor vehicles.

“(b) GRANTS FOR SAFETY BELT USE.—

“(1) IN GENERAL.—The Secretary shall make a single grant to each State that has a

State safety belt use rate for the immediately preceding calendar year of 85 percent or more, as measured by the National Center for Statistics and Analysis.

“(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) of this subsection is equal to 500 percent of the amount apportioned to the State for fiscal year 2003 under section 402(c).

“(3) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, then the Secretary shall make grants under this subsection to States in the order in which the State’s safety belt use rate was 85 percent or more for 2 consecutive calendar years, as measured by the National Center for Statistics and Analysis.

“(4) CATCH-UP GRANTS.—The Secretary shall award a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because its safety belt use rate is 85 percent or more for the calendar year preceding such next fiscal year.

“(c) ALLOCATION OF UNUSED GRANT FUNDS.—The Secretary shall award additional grants under this section from any amounts available for grants under this section that, as of July 1, 2009, are neither obligated nor expended. The additional grants awarded under this subsection shall be allocated among all States that, as of July 1, 2009, have a seatbelt usage rate of 85 percent for the previous calendar year. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c).

“(d) USE OF GRANT FUNDS.—

“(1) IN GENERAL.—Subject to paragraph (2), a State may use a grant awarded under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—

“(A) intersection improvements;

“(B) pavement and shoulder widening;

“(C) installation of rumble strips and other warning devices;

“(D) improving skid resistance;

“(E) improvements for pedestrian or bicyclist safety;

“(F) railway-highway crossing safety;

“(G) traffic calming;

“(H) the elimination of roadside obstacles;

“(I) improving highway signage and pavement marking;

“(J) installing priority control systems for emergency vehicles at signalized intersections;

“(K) installing traffic control or warning devices at locations with high accident potential;

“(L) safety-conscious planning;

“(M) improving crash data collection and analysis; and

“(N) increasing road or lane capacity.

“(2) SAFETY ACTIVITY REQUIREMENT.—Notwithstanding paragraph (1), the Secretary shall ensure that at least \$1,000,000,000 of amounts received by States under this section are obligated or expended for safety activities under this chapter.

“(e) CARRY-FORWARD OF EXCESS FUNDS.—If the amount available for grants under this section for any fiscal year exceeds the sum of the grants awarded under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.

“(f) FEDERAL SHARE.—The Federal share payable for grants awarded under this section is 100 percent.

“(g) DEFINITION.—In this section, the term ‘passenger motor vehicle’ means—

“(1) a passenger car;

“(2) a pickup truck; or

“(3) a van, minivan, or sport utility vehicle, with a gross vehicle weight rating of less than 10,000 pounds.”.

SA 612. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18. DESIGNATION OF HIGH DESERT CORRIDOR AS HIGH PRIORITY CORRIDOR.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

“(46) The High Desert Corridor/E-220 from Los Angeles, California to Las Vegas, Nevada via Palmdale and Victorville, California.”.

SA 613. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18. DESIGNATION OF ECONOMIC LIFELINE CORRIDOR AS HIGH PRIORITY CORRIDOR.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

“(46) The Economic Lifeline Corridor along I-15 and I-40 in California, Arizona, and Nevada, including I-215 south from near San Bernardino to Riverside and State Route 91 from Riverside to its intersection with I-15 near Corona in California.”.

SA 614. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18. DESIGNATION OF CROSS VALLEY CONNECTOR AS HIGH PRIORITY CORRIDOR.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

“(46) The Cross Valley Connector linking Interstate 5 and State Route 14 in Santa Clarita Valley, California.”.

SA 615. Mr. SCHUMER (for himself, Mr. KENNEDY, Mrs. CLINTON, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 628, line 23, strike “\$155” and insert “\$155 (\$170 for 2007, \$185 for 2008 and \$200 for 2009 and thereafter)”.

On page 629, line 5, strike "2008" and insert "2009".

On page 629, line 7, strike "2007" and insert "2008".

SA 616. Mrs. CLINTON (for herself, Mr. SCHUMER, Mr. CRAIG, and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 357, line 5, strike "and".

On page 357, line 8, strike the period at the end and insert "; and".

On page 357, between lines 8 and 9, insert the following:

"(3) support the planning, development, and construction of high priority corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2032).

On page 357, strike lines 12 through 14 and insert the following:

"(C) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for—

"(1) multistate highway and multimodal planning studies and construction; and

"(2) coordinated planning, development, and construction of high priority corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2032).

SA 617. Mrs. HUTCHISON (for herself, Mr. NELSON of Nebraska, Mr. BURNS, Mr. SHELBY, Mr. PRYOR, and Mr. GRAHAM) proposed an amendment to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

On page 250, strike lines 17 through 19 and insert the following:

(B) by striking paragraph (2) and inserting the following:

"(2) LIMITATION.—The Secretary may permit the collection of tolls under this subsection on 1 facility in the State of Virginia.";

SA 618. Mr. HARKIN (for himself, Mr. KENNEDY, Mr. OBAMA, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. ____ NONMOTORIZED TRANSPORTATION SAFETY.

Section 120(c) of title 23, United States Code, is amended—

(1) in the first sentence, by striking "The Federal" and inserting the following:

"(1) IN GENERAL.—The Federal"; and

(2) by adding at the end the following:

"(2) STATEMENT OF POLICY BY STATE TRANSPORTATION DEPARTMENTS.—

"(A) IN GENERAL.—Each State transportation department shall adopt a statement of policy ensuring that the needs and safety of all road users (including the need for pedestrian and bicycle safety) are fully integrated

into the planning, design, operation and maintenance of the transportation system of the State transportation department.

"(B) BASIS.—In the case of bicycle and pedestrian safety, the statement of policy shall be based on the design guidance on accommodating bicyclists and pedestrians of the Federal Highway Administration adopted in February 2000.

"(C) REPORTS.—Not later 1 year after the date of enactment of this paragraph, and each year thereafter, the Secretary shall submit to Congress a report on the statements of policy adopted under this paragraph.

"(3) NONMOTORIZED TRANSPORTATION GOAL.—

"(A) IN GENERAL.—The Secretary shall take such actions as are necessary to, to the maximum extent practicable, increase the percentage of trips made by foot or bicycle while simultaneously reducing crashes involving bicyclists and pedestrians by 10 percent, in a manner consistent with the goals of the national bicycling and walking study conducted during 1994.

"(B) ADMINISTRATION.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall establish such baseline and completion dates as are necessary to carry out subparagraph (A).

"(4) RESEARCH FOR NONMOTORIZED USERS.—

"(A) FINDINGS.—Congress finds that—

"(i) it is in the national interest to meet the goals of the national bicycling and walking study by the completion date established under paragraph (3)(B);

"(ii) research into the safety and operation of the transportation system for nonmotorized users is inadequate, given that almost 1 in 10 trips are made by foot or bicycle and 1 in 8 traffic fatalities involves a bicyclist or pedestrian; and

"(iii) inadequate data collection, especially on exposure rates and infrastructure needs, are hampering efforts to improve bicycle and pedestrian safety and use to meet local transportation needs.

"(B) ALLOCATION OF RESEARCH FUNDS FOR NONMOTORIZED USERS.—

"(i) IN GENERAL.—The Secretary shall submit to Congress an annual report on the percentage of research funds that are allocated (for the most recent fiscal year for which data are available) to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users—

"(I) by the Department of Transportation; and

"(II) by State transportation departments.

"(ii) NATIONAL COOPERATIVE HIGHWAY RESEARCH PROGRAM.—The Transportation Research Board of the National Academy of Sciences shall submit to Congress an annual report on the percentage of research funds under the National Cooperative Highway Research Program that are allocated (for the most recent fiscal year for which data are available) to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users.

"(iii) DEPARTMENT OF TRANSPORTATION ALLOCATION.—Effective beginning with the third full fiscal year that begins after the date of enactment of this paragraph, the Secretary shall allocate at least 10 percent of the research funds that are allocated by the Department of Transportation for each fiscal year to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users.

"(5) METROPOLITAN PLANNING ORGANIZATIONS.—

"(A) BICYCLE/PEDESTRIAN COORDINATORS.—A metropolitan planning organization that

serves a population of 200,000 or more shall designate a bicycle/pedestrian coordinator to coordinate bicycle and pedestrian programs and activities carried out in the area served by the organization.

"(B) CERTIFICATION.—A metropolitan planning organization described in subparagraph (A) shall certify to the Secretary, as part of the certification review, that—

"(i) the needs of bicyclists and pedestrians (including people of all ages, people who use wheelchairs, and people with vision impairment) have been adequately addressed by the long-range transportation plan of the organization; and

"(ii) the bicycle and pedestrian projects to implement the plan in a timely manner are included in the transportation improvement program of the organization.

"(C) LONG-RANGE TRANSPORTATION PLANS.—

"(i) IN GENERAL.—Except as provided in clause (ii), a metropolitan planning organization described in subparagraph (A) shall develop and adopt a long-range transportation plan that—

"(I) includes the most recent data available on the percentage of trips made by foot and by bicycle in each jurisdiction;

"(II) includes an improved target level for bicycle and pedestrian trips; and

"(III) identify the contribution made by each project under the transportation improvement program of the organization toward meeting the improved target level for trips made by foot and bicycle.

"(ii) APPLICATION.—Clause (i) does not apply to a metropolitan planning organization that adopts the design guidance described in paragraph (3)(B) for all transportation projects carried out by the organization.

"(D) LOCAL JURISDICTIONS.—A metropolitan planning organization described in subparagraph (A) shall work with local jurisdictions that are served by the organization to maximize the efforts of the local jurisdictions to include sidewalks, bikepaths, and road intersections that maximize bicycle and pedestrian safety in the local transportation systems of the local jurisdictions."

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, May 11, 2005, at 9:30 a.m. in room 106 of the Dirksen Senate Office Building to conduct an Oversight Hearing on Federal Recognition of Indian Tribes.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, May 10, 2005, at 2:30 p.m., on Identity Theft.

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

COMMITTEE ON THE JUDICIARY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Continued Oversight of the USA PATRIOT

Act" on Tuesday, May 10, 2005 at 9:30 a.m. in Dirksen Senate Office Building Room 226.

Panel I: The Honorable Larry E. Craig, United States Senator, R-ID, The Honorable Richard J. Durbin, United States Senator, D-IL.

Panel II: The Honorable Bob Barr, Former Member of Congress, Chairman, Patriots to Restore Checks and Balances, Atlanta, GA; David Cole, Professor of Law, Georgetown University Law Center, Washington, DC; Daniel P. Collins, Partner, Munger, Tolles & Olsen LLP, Los Angeles, CA; James X. Dempsey, Executive Director, Center for Democracy & Technology, Washington, DC; Andrew C. McCarthy, Attorney and Senior Fellow, The Foundation for the Defense of Democracies, Washington, DC; Suzanne E. Spaulding, Managing Director, The Harbour Group, LLC, Washington, DC.

The PRESIDING OFFICER. Without objections it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 10, 2005, at 2:30 p.m. to hold a hearing.

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

SUBCOMMITTEE ON AIRLAND

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Airland be authorized to meet during the session of the Senate on Tuesday, May 10, 2005, at 3:30 p.m. in closed session to mark up the Airland Programs and provisions contained in the National Defense Authorization Act for fiscal year 2006.

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

SUBCOMMITTEE ON EMPLOYMENT AND WORKPLACE SAFETY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Workplace Safety be authorized to hold a hearing during the session of the Senate on Tuesday, May 10, 2005, at 2 p.m. in SD-430.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on National Parks be authorized to meet during the session of the Senate on Tuesday, May 10, 2005, at 2:30 p.m.

The purpose of the hearing is to review the National Park Service's funding needs for administration and management of the National Park System.

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

SUBCOMMITTEE ON SEAPOWER

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Seapower be authorized to meet during the session of the Senate on Tuesday, May 10, 2005 at 2:30 p.m. in closed session to mark up the

Seapower programs and provisions contained in the National Defense Authorization Act for fiscal year 2006.

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

SUBCOMMITTEE ON THREATS AND CAPABILITIES

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities be authorized to meet during the session of the Senate on Tuesday, May 10, 2005 at 5 p.m. in closed session to mark up the emerging threats and capabilities programs and provisions contained in the National Defense Authorization Act for fiscal year 2006.

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

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. I ask unanimous consent the following fellows of the Finance Committee be granted the privilege of the floor for the duration of the debate on the Transportation reauthorization bill: Mary Baker and Stuart Sirkin.

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

RECOGNIZING THE 13TH ANNUAL NATIONAL ASSOCIATION OF LETTER CARRIERS FOOD DRIVE

Mr. SESSIONS. Mr. President, on behalf of the leader, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 133, and that the Senate then proceed to its immediate consideration.

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

The legislative clerk read as follows:

A resolution (S. Res. 133) recognizing the 13th Annual National Association of Letter Carriers Food Drive.

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

Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc that the motions to reconsider be laid upon the table en bloc and that any statements relating to the resolution be printed in the RECORD, with no intervening action or debate.

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

The resolution (S. Res. 133) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 133

Whereas in 2003, 3,900,000 men, women, and children went hungry every day, a troubling statistic that has steadily increased in recent years;

Whereas 23,000,000 men and women and more than 9,000,000 children rely on food banks to survive every year;

Whereas in 1992, the National Association of Letter Carriers recognized this crisis and began the "Stamping Out Hunger" national food drive;

Whereas 1,400 National Association of Letter Carriers branches in more than 10,000 cities in all 50 States have collected millions of pounds of food every year since 1992;

Whereas in 2004, the National Association of Letter Carriers collected a record-breaking 70,900,000 pounds of food;

Whereas the National Association of Letter Carriers provides desperately needed resources to food banks in the spring and summer months, the time when donations levels are at their lowest;

Whereas the National Association of Letter Carriers has created much needed bridges between its hard working members, residents in their communities, and those in need;

Whereas the National Association of Letter Carriers Food Drive will take place on May 14, 2005;

Whereas the National Association of Letter Carriers will send nearly 150,000,000 postcards to postal customers to urge donations for the Food Drive; and

Whereas letter carriers will be collecting food, as well as mail, at mailboxes across the country, performing their daily job, and collecting food for the hungry, come rain or shine: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the members of the National Association of Letter Carriers for their hard work on behalf of the millions of people who go hungry each day; and

(2) encourages the people of the United States to follow the example of the members of the National Association of Letter Carriers by donating food to local food banks and participating in the National Association of Letter Carriers Food Drive on May 14, 2005, by placing nonperishable food by their mailboxes.

50TH ANNIVERSARY OF THE NATIONAL ASPHALT PAVEMENT ASSOCIATION

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 135, 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. 135) congratulating the National Asphalt Pavement Association on its 50th anniversary and recognizing the contributions of members of the Association to the United States.

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

Mr. INHOFE. Mr. President, I wish to speak about S. Res. 135 which recognizes the outstanding accomplishments of the National Asphalt Pavement Association, NAPA, as it celebrates its 50th Anniversary on May 17, 2005. I am joined by my colleagues, Senators BOND, JEFFORDS and BAUCUS. NAPA is the only national association that exclusively represents an industry comprised of 1,500 asphalt companies nationwide, employing over 300,000 men and women.

Today when we think of highways and roads, we think of the cars and trucks that use these facilities. We think of the agricultural products being shipped from farm to market, or packages being shipped from factories right to our homes. We think of mothers picking up their children after

school, and families taking trips to the beach during the summer. Of course, we also think of commutes to and from work.

What I have just described is our American economy in motion, and none of it would be possible without quality highway pavements of which asphalt is one. Just 50 years ago, the country faced a transportation crisis. In 1955, it was not easy to travel from city to city because the Interstate Highway System did not exist. The roads were unsafe, slow, and difficult to use. Traveling from city to city, which today could be done in hours took days.

In the early 20th century, asphalt pavements helped get America out of the mud. In the latter half of that century, the new Interstate Highway System improved our mobility and helped sustain our country's economic growth. The Interstate Highway System's pavements literally were the foundation upon which the United States and her people were able to emerge as the leaders of the world.

It was no accident that NAPA was formed just as the Federal-Aid Highway Act of 1956 was winding its way through Congress. The industry was challenged by the need to construct long lasting pavements that could meet the tougher standards of the Interstate Highway System. In rising to that challenge, the first ambitious program announced by the association was the Quality Improvement Program. Ever since then, dedication to helping its members deliver the best quality asphalt pavement has been a top priority.

I am very proud of the fact that the late John W. Kelly, of the firm Amis & Kelly Construction Company in Oklahoma City, was one of the founding fathers of NAPA. From 1958 to 1960, John W. Kelly served as the second president of the Association. NAPA has also enjoyed 50 years of strong partnership with the Oklahoma Asphalt Pavement Association which was formed in 1952.

I congratulate NAPA and its members for 50 years of leadership and involvement in constructing a world-class road system.

Mr. SESSIONS. 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. 135) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 135

Whereas in 2005, the National Asphalt Pavement Association (incorporated on May 17, 1955, as the National Bituminous Concrete Association) celebrates its 50th anniversary;

Whereas the members of the National Asphalt Pavement Association play a key role in strengthening the economy of the United States and promoting the mobility of citi-

zens of the United States by providing hot-mix asphalt used in the construction of the 41,000-mile Interstate Highway System and other highways, streets, roads, parking lots, and airports;

Whereas the National Asphalt Pavement Association has focused on continually improving the quality of asphalt pavement by establishing a quality improvement program;

Whereas the National Asphalt Pavement Association has facilitated technology transfer and advanced new asphalt pavement technologies through partnerships, scanning tours, publications, and presentations;

Whereas the National Asphalt Pavement Association, through members of the Association, has fostered and encouraged young people to pursue careers in civil engineering by establishing the National Asphalt Pavement Association Research and Education Foundation to provide scholarships, sponsor educational exhibitions, and fund research of national significance relating to hot-mix asphalt;

Whereas the National Asphalt Pavement Association, through members of the Association, endowed the National Center for Asphalt Technology, the world's premier institution for asphalt research, and continues to fund the activities of the Center; and

Whereas the National Asphalt Pavement Association will continue to contribute to research to ensure that the Interstate Highway System will be designed and constructed for perpetual use in order to meet the growing economic and national security needs of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the National Asphalt Pavement Association on its 50th anniversary; and

(2) recognizes and celebrates the achievements of the members of the National Asphalt Pavement Association for their contributions to the economic well-being of the citizens of the United States.

HONORING TUSKEGEE AIRMEN FOR THEIR BRAVERY IN FIGHTING FOR OUR FREEDOM IN WORLD WAR II

Mr. SESSIONS. I ask unanimous consent that the Armed Services Committee be discharged from further consideration of H. Con. Res. 26, and the Senate now proceed to its consideration.

The PRESIDING OFFICER. 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. 26) honoring the Tuskegee Airmen for their bravery in fighting for our freedom in World War II, and for their contribution in creating an integrated United States Air Force.

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

Mr. SESSIONS. I ask unanimous consent that the concurrent 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 concurrent resolution (H. Con. Res. 26) was agreed to.

The preamble was agreed to.

Mr. SESSIONS. Mr. President, I note that I am extremely proud, as all of

our Nation is, of the Tuskegee Airmen. Recently, I had the privilege to be in Iraq and visit the airbase where the unit, still known as the Tuskegee Airmen, was deployed. They had their banners up and it was an honor to be with them. Their heritage of excellence lives on.

CALLING ON GOVERNMENT OF FEDERAL REPUBLIC OF NIGERIA TO TRANSFER CHARLES GHANKAY TAYLOR, FORMER PRESIDENT OF REPUBLIC OF LIBERIA, TO SPECIAL COURT FOR SIERRA LEONE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 127, which we received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 127) calling on the Government of the Federal Republic of Nigeria to transfer Charles Ghankay Taylor, former President of the Republic of Liberia, to the Special Court for Sierra Leone to be tried for war crimes against humanity, and other serious violations of international humanitarian law.

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

Mr. SESSIONS. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 127) was agreed to.

The preamble was agreed to.

MEASURE READ THE FIRST TIME—S. 989

Mr. SESSIONS. I understand there is a bill at the desk. I ask for its first reading.

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

The legislative clerk read as follows:

A bill (S. 989) to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

Mr. SESSIONS. I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

MEASURE PLACED ON THE
CALENDAR—S. 981

Mr. SESSIONS. I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (S. 981) to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

The PRESIDING OFFICER. There being no objection to further proceeding, the bill will be referred to the appropriate committee.

ORDERS FOR WEDNESDAY, MAY 11,
2005

Mr. SESSIONS. Mr. President, on behalf of the leader, I ask unanimous

consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, May 11. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee and the final 30 minutes under the control of the majority leader or his designee; provided that following morning business, the Senate resume consideration of H.R. 3, the highway bill.

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

PROGRAM

Mr. SESSIONS. On behalf of the leader, I have the following announcement. Tomorrow, following morning business, the Senate will resume consideration of the highway bill. We need to make significant progress on the highway

bill during tomorrow's session. Moments ago, cloture was filed on the pending substitute and the underlying bill. This will allow a full day of consideration tomorrow, and if cloture is invoked on Thursday, there will be an additional 30 hours available for consideration. Therefore we expect votes throughout the day on Wednesday. Also, in accordance with rule XXII, all first-degree amendments should be filed by 1 p.m. tomorrow.

ADJOURNMENT UNTIL 9:30 A.M.
TOMORROW

Mr. SESSIONS. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:24 p.m., adjourned until Wednesday, May 11, 2005, at 9:30 a.m.