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Senate

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

PRAYER

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

Let us pray.

God of grace and God of mercy, You first loved us. You paid the debt for our transgressions that we might experience reconciliation. Lord, thank You for rescuing us from ourselves and for the power You give us daily to live victoriously.

You alone are worthy to receive power, riches, wisdom, might, honor, glory, and blessing. Nothing is accidental or incidental with You, for You are the author and finisher of our faith.

Be near our Senators today as they serve our Nation and freedom's cause. Reveal Yourself to them as they strive to make right decisions about complex issues. Empower each of us to move into the future with faith in the wisdom of Your providence.

Lord, bless our military people who daily sacrifice for freedom. We pray also for our enemies, as You have commanded us to do. Hasten the day when peace shall reign. We pray this in Your holy name. Amen.

PLEDGE OF ALLEGIANCE

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

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning, following the time set aside for the leaders, the Senate will begin a period of morning business for up to 60 minutes. Today the Republican side will control the first 30 minutes, to be followed by 30 minutes under the control of the other side of the aisle.

Following morning business, the Senate will resume the motion to proceed to the asbestos bill. During the last 2 days Senators came to the floor and engaged in debate on the asbestos issue. I appreciate that. However, we should now proceed to the bill itself in order to work through various issues.

Last night, in order to move forward with the bill, I filed a cloture motion on the motion to proceed. That cloture vote will occur tomorrow. Again, this procedural vote is to allow us to begin the process of deliberating and deciding on the issues surrounding the issue of asbestos. It is a beginning of the process. Therefore, I hope cloture will indeed be invoked tomorrow morning.

In addition, Senators KYL and FEINSTEIN have been discussing the victims' rights constitutional amendment which is on the calendar. My hope is to consider that legislation following the asbestos bill. There was an objection to beginning that bill as well, and it became necessary to file a cloture motion on the motion to proceed to that joint resolution. Depending on the outcome of the asbestos cloture vote, the cloture vote on the victims' rights amendment may also occur tomorrow.

On both of these matters, the Senate should be able to deliberate on the underlying issues, and ultimately the Senate should work its will on each of these bills. We will continue to press for consideration of the asbestos legislation and the victims' rights amendment this week in order for the Senate to ultimately vote on these two important pieces of legislation.

The leadership, Republican and Democratic, will continue to discuss among themselves the asbestos bill and the best way to proceed over the next several days.

I yield the floor.

RECOGNITION OF THE DEMOCRATIC LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

VICTIMS' RIGHTS CONSTITUTIONAL AMENDMENT

Mr. DASCHLE. Mr. President, could the majority leader clarify the circumstances involving the victims' bill of rights? As I understand it, there have been some discussions, as the majority leader alluded, to a statutory approach to the victims' bill of rights. As I understand it, last night some agreement was reached. If that is the current situation, I am wondering whether it is still the intention of the majority leader to move a motion to proceed on the constitutional amendment.

Mr. FRIST. Mr. President, the final decision will be made over the course of the day. If agreement has been reached—I know as of late last night, actually up until 6 o'clock, the decision was made to file the cloture motion. Discussions were still underway. If an agreement has been reached that is mutually agreeable to both sides, we will not proceed with the cloture motion. But rather than comment on that definitively now, I would like to talk to the parties involved.

Mr. DASCHLE. I thank the majority leader.

IRAQ AND THE NATIONAL GUARD

Mr. DASCHLE. Mr. President, I will take my leader time to comment on the privilege I had last week of spending some time with hundreds of South Dakota Guard members and their families.

I wanted to say a few words today about the selfless and courageous sacrifice of the South Dakota Guard and, indeed, all of our soldiers who are placing their lives on the line so that the

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

children of Iraq can inherit a nation safer, stronger, and freer than that of their parents.

Too often, the contributions of our Guard members and reservists have gone unrecognized. But today, the brace soldiers in our Guard and Reserve have become indispensable to protecting our national security.

With the end of the Cold War and the decision to draw down active duty forces, the Nation has dramatically increased its reliance on reservists. Guard and Reserve soldiers have been called up to active duty more frequently, and have been taken away from their families and communities for longer periods of time, than perhaps at any other time in our history. As a result, the line between active and reserve duty has become blurred.

The service of the South Dakota National Guard and Reserve provides a perfect illustration. Two-thirds of South Dakota's National Guard members have been called up since September 11. On a per capita basis, South Dakota has had more of its Guard members activated than any other State. These call-ups have fallen heavily on South Dakota's Army Guard units. According to Governor Michael Rounds, nearly 8 of every 10 South Dakota Army Guard members have already been called up for active duty.

The South Dakota National Guard has six units and 1,200 soldiers in the Iraq theater, including the 740th Transportation Company, the 842nd Engineer Company, the 2nd Battalion of the 147th Field Artillery, the 153rd Engineer Battalion, the 1742nd Transportation Company, and the 216th Engineer Detachment. These soldiers have the gratitude and admiration of our State and our Nation.

Late last week, we were reminded of the dangers they face each and every day. As I noted on the floor Monday, Army Specialist Dennis Morgan, a member of the South Dakota National Guard, was one of the 12 American soldiers killed in Iraq this past weekend. Specialist Morgan was the sixth South Dakota soldier to die in this war, and the first member of the South Dakota National Guard. While South Dakotans' thoughts and prayers are with Specialist Morgan's family and, indeed, the families of all of those who have lost loved ones in Iraq, we also pray for the safety of the soldiers who remain in Iraq.

Two South Dakota units have received the most public attention as of late—the 740th Transportation Company of Milbank and Brookings and the 842nd Engineer Company of Spearfish, Belle Fourche, and Sturgis.

Unfortunately for the soldiers of these units and their families, the reason these units are in the news is not a happy one. Last week, nearly 300 soldiers from the 740th Transportation Company and the 842nd Engineer Company learned that they would not be coming home when they complete their year-long tour of duty.

According to Jay Brozik, husband of 1LT Sally Brozik who serves in the 740th, members of this unit had been informed they would be heading home soon. Their personal belongings had been packed for the trip home. The troops had completed the medical briefing required prior to leaving the Iraq theater. Their equipment had been transferred to a replacement unit. Their families were eagerly awaiting a joyous return.

All that came to a crashing halt late last week, when the Department of Defense announced that the tours of duty for this unit had been extended at least three months longer than promised.

The story is similar for the 842nd Engineering Company and about 20,000 other active and reserve troops who were in formed that the administration had broken its commitment of one-year, ''boots on the ground'' in Iraq.

Although I am confident all involved will continue to serve their country in the same exemplary fashion they have to date, the administration's decision was difficult to bear for the soldiers and families involved. In the words of Spearfish Mayor Jerry Krambeck, ''I don't know what I can say without putting tears in my eyes. All I can do is continue as we are and continue to support the families even more at this point.''

Jay Brozick said, ''I was thinking my wife would be back for our son's birthday, May 4. Now it's changed everything.'' And Ryan Lovrien spoke of his girlfriend, SGT April Semmler of the 740th: ''[April] had mentioned hoping after a year to be home and spend time with the family in the summertime and just be out of there. Now they're going to do three or four months.''

Mr. President, the cost of failure in Iraq is beyond comprehension. Given the stakes involved for the people of Iraq, the region, and the world, we have no choice but to maintain our commitment and do all we can to bring about a safe, secure, and democratic Iraq. But we do face a choice about how we fulfill this commitment.

I urge the President to redouble his efforts to expand the international presence on the ground. We have the finest forces in the world. Breaking our commitment to these forces is not only unfair, it is shortsighted. Already we see soldiers re-enlisting at lower rates than in the past. Considering that the demands placed on our already overextended forces are unlikely to fall in the future, failure to at least sustain current force levels would undermine our national security.

Mr. President, I know the Senate joins me in commending the service of the men and women in the South Dakota Guard and indeed all of our troops involved in the current conflict in Iraq. I particularly want to express my appreciation for the sacrifices made by the troops of the 740th and the 842nd and their families. They came when they were called, performed as requested, and, under any circumstances, will continue to perform magnificently.

But the burden should be shared—so that we can sustain our current forces and give those who've already sacrificed so much a well-deserved rest.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time not yet used will be reserved.

MORNING BUSINESS

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

ORDER OF PROCEDURE

Mr. REID. Mr. President, will my friend yield for a unanimous consent request?

Mr. MCCONNELL. Yes.

Mr. REID. Mr. President, I ask unanimous consent that, under the Democratic-controlled time, Senator BOXER be recognized for 15 minutes, Senator JEFFORDS be recognized for 7½ minutes, and Senator HARKIN be recognized for 7½ minutes.

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

The Senator from Kentucky is recognized.

PATRIOT ACT

Mr. MCCONNELL. Mr. President, in October of 2001, the Senate passed the PATRIOT Act by a near unanimous vote of 98 to 1. The PATRIOT Act has been a vital tool in our ongoing efforts to prevent future attacks of terrorism against Americans at home. Terrorist cells across the country have been broken up from Buffalo, to Detroit, to Seattle, to Portland. Over 300 criminal charges have been brought. Over 515 individuals linked to the 9/11 investigation have been deported. Hundreds more suspected terrorists have been identified and tracked throughout our country. It is no wonder, then, that the biggest hero to emerge from the hearings before the 9/11 Commission has been the PATRIOT Act. Witnesses from both the Clinton and Bush administrations, and from both political parties, have praised its efficacy in fighting the war on terror.

Unfortunately, we are in the middle of an election year and some Washington politicians would rather demagog the PATRIOT Act and the Attorney General for his use of it. For example, the junior Senator from Massachusetts voted for the act. But since becoming his party's presumptive nominee, he has taken an entirely different

tack. For example, last month, he said: It is time to end the era of John Ashcroft. That starts with replacing the PATRIOT Act with a new law that protects our people and our liberties at the same time.

It is quite puzzling how Senator KERRY and his Democratic colleagues who voted for the PATRIOT Act can now do an about-face and raise such serious questions about its effects on civil liberties. It is even more puzzling to make such charges in light of how instrumental the PATRIOT Act has been in safeguarding Americans, and in the absence of evidence that the PATRIOT Act is being misused.

Sixteen key provisions of the act will expire on December 31 of next year. It is crucial that law enforcement not be deprived of these tools. While I cannot prevent election year politics, I can try to disabuse my colleagues of erroneous assumptions about some of these provisions.

Let's take a look at section 201 of the act. That section allows law enforcement to use existing electronic surveillance authorities to investigate certain crimes that terrorists are likely to commit.

Now, the myth about section 201 is as follows: Some contend that the Government already has the authority to investigate cases of suspected terrorism and, therefore, section 201 is completely overkill. But the fact is, before section 201 of the PATRIOT Act, law enforcement had the authority to conduct some electronic surveillance when investigating ordinary nonterrorism crimes. But law enforcement could not use wiretaps to investigate all of the crimes that terrorists will commit.

Now, as an illustration of this odd dichotomy, law enforcement could use wiretaps to investigate mail fraud but not for chemical weapons offenses or cases involving the use of a dirty bomb or cases involving killing Americans abroad or cases of terrorism financing. Let's go over that one more time. Law enforcement could use wiretaps to investigate mail fraud but not for chemical weapons offenses or offenses related to dirty bombs, killing Americans overseas, or terrorism financing. That is an absurd position for the law to be in.

So it seems to me that if law enforcement can use a wiretap to bust up a failed mail-in sweepstakes ring, it should be able to use wiretaps to stop the use of a dirty bomb.

Let's make one final point about section 201. To obtain a wiretap under this section, all the preexisting safeguards for wiretaps must be complied with, including establishing probable cause before an impartial Federal judge and getting that judge to sign off on the use of a wiretap.

Another section that has been misunderstood is section 206. This provision allows roving wiretaps in national security investigations. But it only allows them when the FISA court finds that a suspect may thwart surveillance. In a roving wiretap, the tap attaches to a suspect rather than to a device so that the suspect cannot defeat surveillance simply by changing cell phones, for example. The myth is that section 206 is a broad expansion of power without privacy protections.

But the facts are that those assertions are incorrect. For over a quarter of a century, law enforcement has used roving wiretaps to solve ordinary crimes such as drug offenses. How can that be terribly expansive, to allow in national security matters what has been occurring in ordinary criminal matters for 25 years?

Second, as I said, a roving wiretap can only be obtained after a court finds that a suspect might thwart surveillance. A number of courts, including at least three circuit courts, have ruled that roving wiretaps are perfectly consistent—perfectly consistent—with the fourth amendment. So it is pretty clear that privacy protections are not being eviscerated.

In sum, we should renew the parts of the PATRIOT Act that will expire. We should not take away from law enforcement needed weapons in the war against terrorism.

THE 9/11 COMMISSION

Mr. MCCONNELL. Mr. President, I wish to make a couple of observations related to the proceedings of the 9/11 Commission, which have been in the news recently.

Specifically, I am troubled by the partisanship that some Commissioners have displayed, such as by cross-examining public officials as if they were common criminals.

I am not the only one who is troubled by the proceedings. Former National Security Adviser under President Clinton, Tony Lake, has said that the hearings are ''a sad spectacle that has become so partisan.'' That is the National Security Adviser under President Clinton.

Max Holland, a former fellow at the University of Virginia who is writing a history of the Warren Commission, notes that, ''in some respects,'' the proceedings of the Commission are ''definitely a new low.'' He added that ''this is a commission charged with establishing facts and the truth rather than posturing for political gain. But some of the hearings amounted to lecturing and posturing.''

Still others, such as Professor Juliette Kayyem of the Harvard's Kennedy School of Government who served on a congressional terrorism panel to investigate the 1998 African embassy bombings, have questioned why 9/11 Commission members have granted so many interviews. She notes that ''they have become too public'' and that ''tempts Commissioners into making assessments and conclusions prematurely,'' she suggests.

My understanding of the 9/11 Commission was that it was to impartially determine the facts and make nonpartisan recommendations on how to move forward. I am trying to be fairminded and positive about this, and I hope the Commission holds to its mission. I think it has strayed somewhat off into the political arena. It has received, I think, justified criticism for so doing. They still have an opportunity to move back in the direction they know and we know they should go and produce a report that we will all feel will pass the smell test and stick to the goal we all thought the 9/11 Commission had in the first place.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from New Mexico. Does the Senator yield time to himself under the standing order?

Mr. DOMENICI. I did not hear the Chair.

The PRESIDENT pro tempore. Does the Senator yield time under the existing order for allocation of time?

Mr. DOMENICI. Yes. I understood I was going to speak next. How much time do I have?

The PRESIDENT pro tempore. There are 20 minutes remaining.

Mr. DOMENICI. I thank the Chair.

Mr. President, I followed with interest the media comments and partisan criticism of the President in light of testimony from a variety of individuals before the 9/11 Commission. I find the criticism almost laughable, in some cases. Here is what I gather is the essence of the criticism prior to the attacks on 9/11:

One, President Bush didn't care about terrorism, didn't care about it enough, but if he did, he didn't want to know about it.

Second, President Bush didn't know about terrorism, but if he knew, he didn't know enough to do anything.

Third, President Bush didn't do anything about terrorism, but if he did, it wasn't enough.

Finally, President Bush and the agencies of Government knew about the pending attacks on September 11, 2001, but didn't do anything about it.

Or President Bush and the agencies of Government didn't know in advance about terrorism plans for September 11, but they should have.

Just laying out this summary of the charges shows the contradictory, almost ludicrous nature of these attacks. How outrageously partisan this all has become.

Let me talk a minute about the way I see it.

First, let's for a minute assume that 9/11 did not occur. Remember, I am going to talk for a minute about the President, America, and the Congress as if 9/11 did not occur.

Mr. President, 9/11 did not occur, but the President got a report from the CIA, FBI, NSA, and others, telling him al-Qaida was getting anxious, they were a little bit worried about things; the group is moving around a little bit too much; they may be thinking about attacking America. But no 9/11 has

ever occurred for my hypothesis about how I see it.

The President says: In light of this report, we better get ready and we better take this issue to the American people. So the President gets ready, and he makes a speech to the American people. There has been no 9/11, so he cannot talk about that.

He gets up and says: Things are a little dangerous. Al-Qaida is moving around too much. I am a little worried about America, so I think we ought to do something about it.

No 9/11 has ever occurred.

The President says to the American people: I want to set up a department, and I want 45,000 people hired so we can check on everybody who gets on an airplane in the United States.

Mr. President, 45,000 people and everybody who gets on an airplane in America is going to be checked is the first request.

The second request: The PATRIOT Act—which has been discussed this morning—I need that, I want that, says the President.

Third, I need a homeland security agency. It will be big because this is a big problem, says he; $26 billion will be put into one agency so they can work on homeland security.

Can we imagine the President of the United States taking that to the American people if we did not have 9/11? I can imagine it. In fact, I could ask the American people, What do you think would have happened? You know what they would say? Nothing would have happened. They would have laughed at the President. They would have said: Who does he think he is. He wants to search everybody who is getting on an airplane? He wants this new extraordinary power, some say, under the PATRIOT Act. He wants this new department.

Do you know what we would have said in the Senate: You will never get that, Mr. President. Who do you think you are, a dictator? You want to check everybody who gets on an airplane in the United States? Never heard of such a thing. That is the truth of the matter. That is what would have happened. He would have gotten nothing. I just do not believe that this Congress, especially with the attitude I am seeing now—which is totally obstructionist, a minority but a large minority is trying to stop everything—can you imagine what they would have done if the President of the United States, without 9/11, would have requested all these items? I cannot.

The point I am trying to make is, it is rather absurd to talk about which week did the President know, how much did he know, should he have known more; if he knew more, shouldn't he have done more? I have already gone through those, but I go through them again because, as a matter of fact, had he known a little more, had he known it sooner, had he had more reports from the CIA, nothing would have happened in terms of changing our laws.

I am going to carp on one of them. Can you imagine Congress giving the President of the United States the authority to check everybody who gets on an airplane in the United States because he had some reports showing that al-Qaida was dangerous, al-Qaida might be looking at some activity in the United States? Of course not. Anybody who believes we would have done that for this President or any President is just not facing reality.

As a matter of fact, it is my honest belief that if we did not have 9/11, we would have passed none—not one or two—none of the extraordinary measures that were passed because of 9/11.

It seems to me that for people to now run around and wonder and speculate about whether the President knew enough, whether he should have known more because if he did he could have gotten all these things that we are talking about, that is an absolute absurdity.

Remember, we had a Senator from the State of Georgia. Remember what he did on the Senate floor? He resisted homeland security. He resisted it on the basis that he was not sure whether they should put unions in as a mandatory notion with reference to those people who were going to be part of this new agency of our Government. He lost an election on the basis that he favored unions over the Department of Homeland Security. We then got a sufficient vote to pass it. It was that tough, even after 9/11.

I close by repeating that this Senator does not believe it is possible that we would have passed this legislation that everybody is saying the President should have worked on, he should have done more on, he should have worked on this, he should have gotten America more prepared, when as a matter of fact this Senate would probably have done nothing had we not had 9/11.

So is it not ludicrous, is it not rather outrageous that we are spending time trying to figure out if he knew, when did he know, he should have known more, when the facts are that it would not have made any difference because we would not have done anything? We would not have done anything unless and until al-Qaida had attacked the United States.

If anybody would like to argue that point, I would be delighted. Does anybody believe we would have said we are going to check every American who gets on an airplane if we had not had 9/11? Imagine what they would have called the President. They would have called him every name under the Sun and probably would have ended up asking, Who does he think he is, a dictator? He wants to take over the airlines and inspect every American? Americans would be saying to their Congressmen, Do not let him do that. It is crazy that they are going to search us before we get on an airplane.

The point is, there is no question that we acted after 9/11. The President acted after 9/11. Whether he did something before 9/11 or not seems to me to border—as a question, it seems to be one that we know the answer to. Even if he knew more, even if he knew sooner, we would have done nothing.

So why is so much being made about that period of time and talking about the 1 or 2 weeks and was there a breakdown in communication or not? Look, we all understand we were not on a war footing. We did not get there until we had been attacked. I do not think America would have gotten ready before the attacks. Maybe after this al-Qaida attack we might, but, frankly, I believe any President, and in particular this one, would have been attacked viciously had he been talking about searching every citizen, every person, who was planning to go on an airplane, or if he would have said, I want to amend the rules and I want to call it the PATRIOT Act and we are going to have a lot more authority to track people, to listen to their conversations, and do the kinds of things the PATRIOT Act provides.

So it seems to me we ought to get on with the report and a study that says how were we deficient—not whether this President knew, when did he know, what did he do—with reference to our laws, our rules, and our ability to do something about a terrorist attack.

I am sorry to say we did what we did only because we got attacked. But we would not have done it otherwise. Whatever the President knew or did not know or whenever he knew it, we would not have responded with the kinds of things we ultimately responded with. Some of them took a little longer than one might expect, but nonetheless the truth of the matter is we do not need a group of partisans to take over that Commission that was appointed in honesty and with earnest intentions. We do not need a commission spending all of its time trying to get to the President politically about what he did or did not do, when he did it, when he should have, when if we looked inward we would say, Well, Congress most probably would have done nothing had we not had 9/11.

I hope the Commission thinks about that when they are writing their report. I hope they think about the reality of preparing ourselves for terrorism. I believe, as I have said this morning, we would have done nothing had we not had 9/11. I do not think any President would have succeeded in getting anything done if we did not have 9/11.

It would be interesting for the Commission to look at the matter that way, to look at it from the standpoint of what would have happened, what could we have done, what is the reality of getting anything done prior to 9/11 actually happening.

I yield the floor.

The PRESIDING OFFICER. Without objection the majority's time is reserved.

The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I listened to the Senator's very eloquent and well-prepared speech of the problems that occurred prior to 9/11. We all understand and know how bad they were.

EARTH DAY

Mr. JEFFORDS. I rise to speak about an issue that has been with us for a long time and for which we have had responsibility and have done a pretty good job at making sure everything would turn out all right. I want to talk about clean air, the environment, and areas where we have made tremendous progress.

As we mark Earth Day tomorrow, rather than celebrating the environmental legacy, I am afraid we are fighting harder than ever to protect our progress. Since the day he came into office, President Bush has worked to gut more than 34 years of hard work by weakening many of our Nation's standing environmental laws, some of which were signed into law by his father.

Air pollution is causing 70,000 premature deaths a year in the United States. Yet this Bush administration has proposed one of the biggest rollbacks of the Clean Air Act in history. Science tells us more than 600,000 women and children are at risk from mercury contamination. Yet this Bush administration has proposed to violate a legal requirement to reduce mercury emissions from powerplants.

As we approach another summer, 40 percent of the U.S. rivers and lakes remain too polluted for fishing or swimming. In spite of this fact this Bush administration has proposed fewer bodies of water to be protected by the Clean Air Act. Toxic waste sites continue to be added to the Superfund while the Bush administration continues to cut funding for the program and refuses to reauthorize the ''polluter pays'' law.

The Earth continues to warm and this Bush administration refuses to act to reduce the greenhouse gas emissions. This Bush administration has a growing credibility gap, maybe even a credibility chasm, on environmental policy. The President has lost the trust of the American people when it comes to the environment.

As the ranking member of the Senate Environment and Public Works Committee, I believe we have an obligation to maintain and enforce the environmental laws already on the books and also to strengthen them. Unfortunately, our President is moving us backward instead of leading us forward. I hope we can once again celebrate Earth Day by showing more respect for our environment.

I yield the floor.

Mrs. BOXER. Mr. President, I am proud to be here with my friend and colleague Senator JEFFORDS, who is the ranking member on the Environment and Public Works Committee on which I serve. His leadership has been extraordinary on a whole range of issues, as has been his dedication to the environment, to protecting people and their environment.

When we hear protection of the environment, some people think of wildlife, which is true, and fisheries, which is true, and forests. It is all true. It is all about preserving these things—first of all, because they are God's gift to us and that is our moral obligation, but it also protects the people of our country because we know when species get endangered, we know when oceans get polluted, we know when we lose the wetlands, we know when the air is smoggy, it hurts the people we represent—particularly the children, who are the most vulnerable, the people who are ill, and the elderly.

If we take our position seriously, what could be more fundamental than protecting our people? Protecting the environment is protecting our people. It is what we must do. It is the moral thing to do.

I say to my friend Senator JEFFORDS—and I see my colleague Senator REID of Nevada has come to the floor. I serve with both of them on that committee. It is a joy to be on that committee—we have a lot of work to do. We know Earth Day is a time for us to reflect on what our work should be. Gaylord Nelson and Denis Hayes founded Earth Day in 1970 to ensure environmental protection would be a major national issue. It has been. Tomorrow is the 34th anniversary of Earth Day.

One thing I find when I go home is people are so—I don't like to use this word, but it is true—they are disgusted with partisanship. They have had it with partisanship. They want us to work together. On what better issue could we work together than a clean and healthy environment? Whether you are a Democrat or Republican or whatever, you still have to breathe the air; you still have to drink the water; you still want to take your family to the beach or to the park. It is our job to protect the environment so you can do that.

We know this issue has been very much a bipartisan issue. When I think back, what comes to mind is President Nixon founded the EPA. We look at each President and we see progress has been made across party lines. Yet with this Presidency—and I think Senator JEFFORDS has touched on it and it has to be very painful for him to touch on it—we see a reversal of years of bipartisan progress. I want to get into that.

In today's paper there is a big story. The U.S. Commission on Ocean Policy has given its preliminary report on the state of our oceans. Happily, they gave us a blueprint for a new, comprehensive, national ocean policy. This happens to be a Presidentially-appointed commission composed of academics, naval officers, and members of the business community. This group, appointed by our President, is telling us our oceans are in crisis and we need to take action now if we are to reverse declines. The Commission stated we need to start taking an ecosystem-based management approach to protect our oceans and marine species. That means we need to look at the whole environment of the ocean and not take small steps, but make sure we have policies that protect the entire ocean.

We need to improve the governance of our oceans by strengthening and coordinating decisionmaking. The Commission highlighted the need for greater Federal investment in ocean research and exploration for better scientific information.

I am someone who has worked for a long time to stop oil drilling off the coast of California because that is a precious environment we must protect, and it is an economic asset as it is. I am someone who wrote the tuna labeling bill which turned out, happily, to save tens of thousands of dolphins every year. I so welcome this report. I call on the President to embrace the findings of this report. I call on the President to work with us and let us know how he wants to implement this report.

I hope I am wrong in what I am about to say, but given the history of this administration I am very worried we will not hear much from the President about steps he is going to take with us to invest in our environment, to make sure America is the model for the world when it comes to protecting its natural resources.

Half a billion people participate in Earth Day campaigns every year, half a billion people across this world. I urge the President to take a look at this report, to step out on Earth Day and say I embrace this and we are going to work together to protect the oceans. While he is at it, I think Earth Day would be a perfect day for him to say he has seen the light and he is going to reverse all of the environmental rollbacks he is perpetrating on the American people.

I have a scroll I cannot bring into the Senate Chamber because there are rules against bringing the scroll in. When I unroll that scroll—and it goes out 30 feet—we see the more than 350 laws and regulations that have been rolled back unilaterally by this administration. No one has been immune from these attacks: not children with asthma, not communities faced with toxic waste sites, not parents who worry about what comes out of their faucets.

I couldn't possibly go through every rollback. I don't have enough time in the day. But what I want to give a sense of is what these rollbacks look like when they are written down, so I do have a whole series of charts. It is very hard to read, I know. Each one has a date. It starts January 20, 2001,

When the White House Chief of Staff, Andrew Card, issued the memo to all Federal agencies ordering the 60-day suspension of all rules finalized by the Clinton administration, including numerous important regulations to protect the environment and public

health, that is how they started. It was barely a day that they were in office. It started then—unrelenting—the same day the administration held up rules announced by the EPA to minimize raw sewage discharges and to require those discharges be placed in the public record so that the public was notified.

To give you a sense of it, last year alone there were 40,000 discharges of untreated sewage carrying bacteria, viruses, and fecal matter into basements, streets, playgrounds, and waterways across the country.

My God, who would ever want to stop a rule that said you need to notify the public and minimize raw sewage into people's basements?

Earth Day is coming. What are we doing here?

That is just the first two on the list.

On February 12, just a couple weeks after he was inaugurated, the Department of Energy delayed implementation of a new energy-efficient standard for residential and commercial appliances and equipment.

Again, I come from a State that has an electricity crisis. The best way to deal with it is to make sure we conserve as much as we can. Why would anyone think it is in the public interest not to move ahead with those standards?

This goes on. Here I go. I just landed on this one, August 8, 2001: In a reversal of President Bush's Earth Day pledge to preserve wetlands, the Corps of Engineers proposed relaxing a series of rules designed to protect streams and other wetlands. The Forest Service granted authority to review road building and timber sale prices, removing protections for the most pristine and largest roadless national forests.

We have national forests. We protected them. And the administration wants to go and build roads in these most precious areas.

It goes on. December 2001, Interior Secretary Norton reverses her agency's denial of a Canadian company's proposal to locate a major open pit gold mine in an area of the Southern California desert that is of great cultural and religious importance. Former Interior Secretary Babbitt denied it because of the devastating impact it would have had on the resources of this site.

Wasn't that a cyanide mine? They used cyanide on a beautiful precious area that is a religious holy site.

My eyes are just landing on different items here.

December 14, right before Christmas, 2001, the Department of Energy says the Government no longer must prove the Yucca Mountain's underground rock formations would leak radioactive contamination into the environment.

Can you imagine dumping radioactive waste and not making sure that it wouldn't leak into the environment? What are they doing over there? It is shocking, absolutely shocking.

This upcoming Earth Day is a chance for the President to embrace his own ocean commission's recommendations and then to step to the plate and reverse some of these.

Here are some more: January 2002 through May 2002. President Bush releases the fiscal year 2003 Federal budget that eliminates the EPA's budget for graduate student research in the environmental sciences. Funding for the EPA's Star Grant Program, which provides highly motivated doctoral students with 3 years of funding to do environmental research, amounts to a little more than one-tenth of 1 percent of the EPA's budget.

Here is a program where young people who are dedicated to the environment can continue their education. Oh, no. This is something that is going to be cut from the budget.

May 10, 2002, EPA documents reveal that the Federal Office of Surface Mining is pushing to halt reforms that would ensure coal companies have plans to restore mining development before they can obtain mountain top removal permits.

Here is a coal mine that wants to go on the top of the mountain. And we always said you have to have a plan for how you are going to restore the mountaintop. They say it is OK; go ahead, destroy the mountains; we really do not care.

How could people understand all of this that is going on?

I am just picking a few.

Let us look at another chart. All of this is on the scroll.

The Bush anti-environmental record, May 2002 through August 2002: This is something Senator JEFFORDS talked about.

An Assistant Secretary at the Commerce Department testified that the Bush administration needs between 2 and 5 years to develop a national strategy to minimize global warming, and they will seek volunteer reductions instead of mandatory emission reductions.

The announcement came despite recent civilian employee reports confirming what most scientists have long believed—greenhouse gases generated by human activity are a major cause of climate change.

The Commerce Department says, Well, even though the scientists say this is global warming—and we have had hearings that show that slopes where people go skiing may not be there in the near future—they are just going to take their time about it and they are not going to require companies to clean up their act. They are going to use voluntary methods. This is just one more example. It goes on and on.

Here is August 2002 through December 2002. Can you imagine all of these rollbacks by one administration? It is shocking. Any one of these, I say, deserve days of discussions because of their ramifications.

Here is one, September 7, 2002: An investigation reveals that under the Bush administration the number of EPA personnel assigned to enforce air quality laws has fallen by 12 percent, the lowest level on record. In addition, the number of EPA civil enforcement employees also has been cut in the past year by 5.7 percent.

What does that mean? It means the people who are enforcing the laws we pass are being laid off or transferred out. The polluters understand it. They are not dumb; they know. If they are not being watched, they are not going to live up to their obligations.

It is a reversal of years of bipartisan progress. That is what hurts so much.

As I listened to my friend, Senator JEFFORDS, who made a very heartfelt decision to become an independent, one of the reasons he decided was the environment and that he was perplexed and discouraged and dismayed at what had happened to his party—his former party. I understand why he is perplexed.

We just looked at some of these. Let us go ahead. This doesn't stop. It goes on and on.

Here is 2002 through July 2003. The administration has reversed a Federal policy that protects public lands while Federal land managers are assessing possible designations of wilderness areas.

Let me explain that. In the past, if someplace is under consideration for wilderness designation, you don't go in there with mining companies and drills. You don't go in there and destroy it while the land is under consideration for wilderness designation. Once you destroy the wilderness, this pristine gift from God, it is gone. Never before have we seen where you go in there and disturb these beautiful areas. But that is what they do.

Here is one, June 6, clean water: The EPA has racked up an abysmal record of enforcing Federal water pollution standards, according to its own study. In the broadest effort to date to document the failure of the EPA and State to enforce the 30-year-old Clean Water Act, the Agency's Office of Enforcement and Compliance found that at one time roughly 25 percent of all large industrial plants and water treatment facilities were in violation of Federal law, and in all but a handful of cases EPA failed to take action against the polluters.

The Clean Water Act is 30 years old, and now we are not enforcing it. The first Clean Water Act was passed under Harry Truman. It has been amended since then.

We have the Clean Water Act and they decided not to enforce it.

Here is one, March 19, 2004: The Federal Government has issued its first-ever warning that certain people should limit their consumption of canned albacore white tuna due to a risk of mercury poisoning. Under new guidelines issued by the U.S. FDA and EPA, pregnant and nursing women and young children should eat no more than 6 ounces of white tuna per week. According to experts on the FDA advisory panel, the recommendations do

not reflect the groups' view that children and pregnant women should completely eliminate albacore tuna from their diets and eat significantly less chunk light tuna than the Government suggests.

Vas Aposhian, a toxicology professor at the University of Arizona, resigned from the panel after the FDA did not heed its warnings.

Mercury is a serious problem, and Senator JEFFORDS has been a leader on that. Even though we know how harmful it is, they have even tried to downplay the impact of mercury on women and children.

This will complete more than 350 rollbacks. This is where we are as we approach this Earth Day.

I am happy to yield for a question.

Mr. JEFFORDS. I thank the Senator for illuminating, pointing out all of the problems created by this administration. As we go forward, the challenge we now have is to make sure no more occur.

Many Members on both sides of the aisle are deeply concerned about what is happening to our environment on this Earth Day. We know that all Members have to continue to alert this Nation of what the policies are doing to this Nation.

Mrs. BOXER. I thank my friend for his comments. He is right.

My goodness, at the minimum, we should do no harm. In other words, let's do no harm. We should do a lot more. We should clean up. We should do better. We should set ourselves a standard of achievement on the environment so that areas get cleaner and the water gets purer. At the minimum, we have to stop bad things from happening.

As we look at more than 350 rollbacks made by this administration, going around the Congress, going through the executive branch by Executive order, and rules and interpretations, I tell you who has been protecting the people. The only way the people have been protected from some of these things is the courts. We are winning some of these battles in the courts.

Speaking of the courts, we are still fighting with the Bush-Cheney administration over the Vice President's desire to keep secret who sat in on his meetings as he put together the energy policies for this country which, as my friend knows, very much weigh heavily on the state of the environment, particularly the quality of the air.

I will be calling on the Vice President, and I might as well start now, to cease and desist in these lawsuits and turn over the records of who was in those meetings. Why should the Vice President not want to reveal this? Instead, it has taken years and thousands of hours of attorneys' time that the taxpayers are paying for, to keep all this secret.

I say to my friend, this is an open government, by and for the people. I don't see any reason why the Vice President needs to keep all of this secret. That is another issue on which we will be working.

I wish to talk about the Superfund. How much time remains?

The PRESIDING OFFICER. A minute and fifteen seconds.

Mrs. BOXER. I will conclude, and I assume my friend would like to speak again.

Mr. JEFFORDS. I would like to add that we have both witnessed all this. I don't know how the Senator feels, but I feel perhaps I have not done as much as I could have, as much as I would like to do.

We have to work together to make sure this terrible onslaught of destroying our environmental laws stops. And I know the Senator joins me in that pledge. And that we will do what we can to not get weaker but hopefully get stronger.

Mrs. BOXER. I say to the Senator, those words mean a lot to me. With all the other issues we face, and we face some very harsh issues, not the least of which is that this month alone I have lost 45 people in Iraq who either were from California or based in California—that weighs heavy on my heart—we have to do it all. There are no excuses.

This is only one environment. It is hard to bring it back when you destroy it.

I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Would that be 5 minutes for each side?

Mrs. BOXER. Absolutely.

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

Mrs. BOXER. Yes, despite all of our other pressures, we have to become tougher, stronger. We have to do everything we can.

I try to give out the Toxic Trophy Awards every time one of these things happens to try to draw attention to what is going on.

I return to my Earth Day comments and the Superfund Program. One in every four Americans, 70 million people, including 10 million children, lives within 4 miles of a Superfund site as we sit here today.

During its tenure in office, this administration has cut cleanups of those sites from 87 per year to 40 per year while refusing to fully fund the program.

Superfund is experiencing a funding shortfall of up to $800 million. This President Bush is the first President in history to oppose the ''polluter pays'' fee. His dad supported it, Ronald Reagan supported it, and Bill Clinton supported it. This was a consensus until now.

What does it mean when you do not have the polluter fee? It means the taxpayers, not the polluters, pay for the cleanup.

I will show how many Superfund sites we have in the United States: 1,239. As this chart shows, the sites are in almost every single State. Maybe a State or two escapes, but not many.

In 1995, polluters contributed 82 percent to the Superfund trust fund. As of October 1, 2003, the trust fund had no money collected from polluters. This means we will never be able to clean up the most hazardous wastesites. Do you know what has happened to this budget. When the keys were handed over in the Oval Office from Bill Clinton to George Bush, he had a surplus as far as the eye could see. It has been reckless over there. We now have deficits as far as the eye can see. It is a very anxious time in our country. Is this the time to now say to polluters, ''Don't worry, you don't need to pay a fee. We have enough money in the tax coffers to cover your problems?''

We all love to tell people, ''You don't have to pay taxes.'' That is the greatest thing for any of us to do. But of all the times to tell polluters, ''You don't have to clean up your room anymore,'' this is not the time.

My mother taught me: If you make a mess, you clean it up. I find myself quoting my mother more and more the older I get. She said other things like: Don't go where you're not wanted. She said a lot of smart things to me that I hold close to my heart. One thing is: Clean up your mess. She was talking about me when I was a kid in my room. I am talking about polluters, the messes they have made.

So where are we now? We are in a situation where we have reduced the cleanups. Let's look at it graphically on this chart. Through 2005, we are going to see 40, if we are lucky—and no money. And when Bill Clinton took office, the cleanups increased. But George Bush has radically decreased the pace of cleanup from former administrations, that is for sure. He has not gotten back to this level as shown on the chart.

But look at where we are now. Whether you look at the Superfund sites, whether you look at air pollution, whether you look at safe drinking water, whether you look at mercury, whether you look at global warming, whether you look at deep cuts in enforcement, whether you look at perchlorate, which they refuse to set a standard for, whether you look at the changes of the Sierra Nevada framework, we are hurting the environment and the people of this country.

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

Mrs. BOXER. Mr. President, I yield the floor and hope all of us can work together on this Earth Day to change things around here.

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. REID. 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. REID. Mr. President, will the Chair notify this Senator as to how

much time is left on both sides for morning business?

The PRESIDING OFFICER. On the Democratic side, the time has expired. On the Republican side, the time is 5 minutes 45 seconds, and counting.

Mr. REID. I say to the Chair, I will just wait until we get to the motion to proceed. I assume, because I certainly cannot yield back the Republican time. It is my understanding the Presiding Officer wishes to speak at some time.

The PRESIDING OFFICER. The Presiding Officer was going to speak if somebody was going to relieve him.

Mr. REID. I would be happy to relieve the Presiding Officer.

The PRESIDING OFFICER. I appreciate the offer, but I will continue to preside until our time runs out.

Mr. REID. I will just let the time wind down then, and we will get to the bill in 5 minutes.

I suggest the absence of a quorum, Mr. President. I understand the time would run evenly, but if we have no time left, it would just run; is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Mr. President, I withhold that. Probably it would be best to ask unanimous consent that the Republican time be reserved and I be allowed to speak for whatever time I may consume.

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

Mr. REID. If the majority wants more time, consent could be easily obtained.

GASOLINE PRICES

Mr. REID. Mr. President, I want to talk about gasoline prices in the country and in Nevada. This is a terribly difficult situation. It is a story about the wild west, but it is not about Wild Bill Hickock or cowboys or mining or claim jumping. It is about gasoline. Some refer to it as black oil.

This chart illustrates how the gasoline prices in Nevada have skyrocketed. The prices are as of April 5. Prices now are at least 5 cents higher. I was in Nevada last week. Gas prices were approaching $2.50 a gallon in some locations. This has been a burden on the people of Nevada and visitors who come there. The average price on January 5 of this year in Nevada was $1.64 a gallon, which was pretty high compared to the rest of the country. But now it is much higher. This chart, as I have indicated, is as of April 5. We have had an increase in the State of Nevada of about 50 cents a gallon. We can't keep up with the increases in the price with our charts.

This is outrageous. Let me put it into perspective. In a truly bipartisan spirit, the Senate passed a $318 billion highway bill. The bill would create at least 1 million jobs, rebuild and improve our transportation system, and provide a tremendous boost to the economy. In the House of Representatives, Chairman YOUNG proposed a highway bill with a price tag of $375 billion. The White House opposes Chairman YOUNG's proposal to add 5 cents in taxes to a gallon of gasoline and to index future tax increases to inflation.

Meanwhile, the oil companies have gouged—I use that word purposely—consumers by 10 times the amount of what Chairman YOUNG proposed for an increase in the tax, a half dollar a gallon.

This is ironic. The President doesn't want Americans to pay more at the pump, does he? There is no way the administration can shake the mantle they have assumed of being close to the oil industry. Both the Vice President and the President have been in the oil business. We have been litigating for 3 years whether the Vice President has to disclose who he met with, when he met with them, and what he talked about; that is, the oil companies. He has fought this every step of the way. He has fought it through the court system. It is still going on.

Then there is the fact the President won't call upon Saudi Arabia to increase their supply unless, according to Bob Woodward and his book, the President makes a deal with Prince Bandar to do this in September when it would have more of an impact on the elections. Time will only tell. I would hope if they have made an arrangement with the Saudis, they will start doing it now rather than wait until September.

Nevada gets all of its gasoline from California, so any problem with supply in California is a problem for Nevada. There has been a lot of talk and a lot written about the tight California gasoline market, where prices are typically 20 to 30 cents above the national average. We hear about the lack of refineries. We hear about boutique fuels and reduced inventories contributing to higher prices. I am sure each one of these has some bearing on higher prices. All of these things I have talked about need to be addressed.

I met with the Chairman of the Federal Trade Commission. There are reports there are as many as 300 separate boutique fuels. He thinks there are around 100. But there are lots of them, and that could be a problem. We realize the need to reduce the number of specialty fuels.

We also hear about supply and demand. One thing I have been pushing is something the first President Bush did and President Clinton did, and that is to release oil out of our petroleum reserve to bring up the supply to reduce prices. I know the law of supply and demand cost Nevada ratepayers nearly $1 billion during the western electricity crisis 3 years ago. While Enron was reaping windfall profits—and there must be a better name for that than windfall profits; it was even bigger than windfall profits—it told consumers it was all a matter of supply and demand. But, of course, it turned out Enron was really manipulating the supply. So it wasn't supply and demand.

Based on this bitter experience which is still being litigated in the courts, I was concerned Nevadans might be getting ripped off again when gasoline prices went through the roof this year. I asked the Federal Trade Commission, along with Senator ENSIGN, to investigate these wild price increases, particularly with an eye toward any possible manipulation in gasoline markets. I needed to assure the citizens of Nevada that gasoline markets were operating fairly and not being manipulated to maximize the profits of oil companies.

It is easy for domestic oil companies to boost their profits by squeezing the supply of gasoline. A combination of refinery capacity reductions and corporate mergers has concentrated control of prices in only a handful of companies. Again, this chart shows how prices have risen steadily in Nevada since the first of the year.

A major spike occurred in February 18, due to a power outage at the Tesoro refinery in northern California that supplies 20 percent of the refined gasoline to that region. In a matter of days, prices in Nevada topped $2 a gallon. The refinery came back on line only a week later, and the supply was restored. But as the chart shows, prices at the pump didn't recover. They had a power outage that slowed that refinery for a week. Prices skyrocketed. The refinery came back on line. Prices stayed high. Actually, they went higher. Prices at the pump didn't recover. Families were still paying an extra half dollar a gallon every time they filled their tanks.

So in case anyone is worried about the impact of a refinery shutdown at Tesoro, they can rest easy. Refiner margins of profits were 70 cents higher a share this quarter; 60 percent higher than analysts had expected. The stock at Tesoro is at a 52-week high.

Let me show another chart, the price of a gallon of gasoline in Nevada. Here is where we arrived at $1.64. The bottom number is important: Crude oil price, 77 cents; refiner margin, that is cost plus profits, at a quarter; dealer margin, 10 cents; taxes, 52 cents. That is the way it is. There's ample profit for the oil companies at $1.64. Anything above that is just additional profit.

In order to understand what drove gasoline prices in Nevada to record highs and why they stayed high even after California refineries temporarily reduced their wholesale price, we need to understand what goes into the price we pay at the pump for a gallon of fuel. As indicated, this chart shows the price of a gallon of gasoline has four main components: cost of crude oil; refiner's margin, which is cost plus profits; the dealer's margin, which is cost plus profit; and fuel taxes, both Federal and State. We must pay attention to the word ''profits.'' It figures big in this discussion.

The chart shows the typical numbers we have come to expect in the Nevada

gasoline market. Crude oil, let's say 77 cents, or $32.34 a barrel; refinery margin, 25 cents; dealer margin, 10 cents; and taxes, 52 cents. These are prices we might expect, but they are already too high because of the extremely high price of crude oil.

Nevada's gas prices are the third highest in the Nation behind Hawaii and California. I am sure we are gaining on them. So these are locked in prices.

Let's go to chart 3, which shows that the latest Nevada gas price increases are not caused by taxes or crude oil costs. Taxes are constant. Crude oil varies only by a small margin. Crude oil used in California refineries is 64 percent from the Alaska North Slope. The majority of our oil doesn't come from Saudi Arabia. So if you look at the contribution of taxes and crude oil to the price of a gallon of gasoline in Nevada during the first 3 months of the year, taxes are constant at 52 cents a gallon, so that does not contribute to a 46-cent increase since the first of the year.

According to data supplied by the California Energy Commission, the price of crude oil acquired by California refineries varied by only 8 cents over the first 3 months of the year, from 78 cents to 86 cents a gallon. That is equivalent to crude oil prices varying by about $3 per barrel.

The reason that price doesn't vary much is the California refineries get 64 percent of their crude oil from the Alaska North Slope and the California fields. So they don't feel the full impact of the more volatile OPEC or west Texas intermediate crude markets.

There is no doubt that the price of crude oil has contributed to higher gasoline prices in Nevada and throughout the country in the last few years. However, it is not the reason why west coast gas prices have skyrocketed in the first 3 months of the year.

If we subtract the 8-cent increase that can be attributed to crude oil, we still have to explain a 38-cent increase in the price of gas. The number I use is smaller than what the real price is in Nevada. These are as of April 5. As I have indicated, they are at least a nickel higher now. That leaves us with dealer and refinery margins, or what is referred to as the domestic ''spread.''

(Mr. ENSIGN assumed the Chair.)

Mr. REID. I also alert the Presiding Officer that prior to the Senator from Nevada becoming the Presiding Officer, I mentioned his name regarding a meeting we had with the Chairman of the FTC.

I would like to go down to chart 4. It is easy to determine refiner margins, which is simply refiner costs plus profits. You simply take the published spot or wholesale price of gasoline and subtract the price of crude oil. I have chosen the spot price in Los Angeles because L.A. supplies the Las Vegas market.

Bear in mind that the cost of refining oil into gasoline will vary by only a few cents. Like taxes, it is pretty much a fixed cost. Consequently, any increase in the refiner margin is actually an increase in profits.

The April 5 Oil Price Information Newsletter, a publisher of industry data, says California fuel blends averaged $10.80 a barrel over crude during the decade.

That is a historical refiner margin of 26 cents for every gallon of gas.

So this chart shows that the refiner profits have recently peaked nearly 50 cents above that historical level.

These estimates are conservative. They are actually lower than the estimates of the California Energy Commission.

Can you imagine these profits? Take the normal profit that a refiner makes on a gallon of gas; now add another half dollar to every single gallon. Nevadans use 2.3 million gallons of fuel a day. Area-wise, it is a very big State. Many people have to drive long distances to get to their jobs—I will read letters indicating that is the case—or they take their kids to school.

When you figure the refiners are making an extra 50 cents of profit on every gallon of gasoline purchased in Nevada, Nevadans alone are paying an extra $1.15 million every single day, or almost $35 million a month—$35 million a month just in the State of Nevada. If ''outrageous'' is not a strong enough term, I don't know what term to use. If this isn't price gouging, it doesn't exist anyplace in the world.

I am for free markets. But it is not a free, competitive market when refiners can exercise this degree of control and manipulation over the supply and the cost of something that is not a luxury but a necessity on which every family must depend.

People have to put fuel in their vehicles. They have no choice. Is the California-Nevada gasoline market truly competitive when the wholesale price of refined gasoline is largely controlled by what a few refiners are willing to sell for and what the markets are forced to pay?

It looks to me as if the market has been manipulated and consumers have been gouged. If you think the worst is over, think again. The spot and refiner profits increased again in early April.

Mr. President, my information, from which I prepared these remarks, and this chart, go back to April 5. It is now the 21st and prices are higher. I returned, as I have indicated earlier, from Nevada and prices there are approaching $2.50 a gallon for some fuels.

Let me go to another chart. This will detail and outline refiner profits. I believe this chart will clearly show that refiner profits drove gas prices in Nevada to $2 a gallon. On this chart, I am simply adding the refiner margin data. It is clear that prices in Nevada were driven to $2 a gallon on a wave of refiner profits. Keep in mind, $2 a gallon doesn't do the trick anymore. If this chart were as of today, we would be up here, the next line on the chart. But we will use this chart for illustrative purposes.

It wasn't taxes; those don't change. It wasn't the cost of crude; that only went up 8 cents a gallon. It had to be refiner profits. There is nothing left.

There is the one last question to be answered: Why have prices remained high, even as refiner profits returned to more normal levels during the first couple weeks of March? Refiner profits dropped a full 30 cents. Why no relief at the pump?

That brings us to the dealer margin, the fourth and final component that determines the price of gasoline.

This last chart I wish to talk about shows that dealer profits added to refiner profits led to a sustained $2.10 per gallon at Nevada pumps. Again, dealer profits added to refiner profits led to a sustained $2.10 per gallon at Nevada pumps. The historic margin is 35 cents. Again, I repeat, they are even higher now by as much as 4 or 5 cents a gallon than they were before. So it is very clear what this shows. Dealer margin is the cost to acquire, store, and sell gasoline, plus profits. This chart shows that dealer margin takes a beating when the refiner rapidly increases spot or the wholesale price of gasoline. The dealer needs to pay up front to acquire fuel before the gasoline makes it to the marketplace.

Once this gasoline is distributed, dealer profits increase dramatically and sustain the price of gasoline at the pump. During March, dealer profits rose to 35 to 40 cents a gallon in Nevada. That is two or three times the historic levels of 10 to 15 cents a gallon.

The combined total of refiner and dealer profits has kept the price of gasoline in Nevada at an astronomical level.

If the wholesale price stays down long enough, the hope is that both dealer and refiner profits will retreat to more normal levels. That is not the case, unfortunately.

Refiner profits are spiking again, and we can expect another round of sustained high gas prices.

Make no mistake, this is a win-win deal for refiners and dealers. In the gasoline business, they say prices shoot up like a rocket and float down like a feather. This is the dynamic that keeps the price of gasoline high, and enables refiners and dealers to gouge consumers.

Let me show you what is on the next chart. I want to be able to show that Nevada gasoline prices are clearly driven by refiner and dealer profits.

This bar chart summarizes the four components of the price of gasoline in Nevada during the first 3 months of the year—a gallon of gasoline would be more specific. It shows that dealer and refiner profits increased the price of gasoline in Nevada from $1.64 to $2.10 per gallon since the first of the year.

With the recent increase in the spot price in early April, we can expect a new round of increases in refiner and dealer profits. The roller coaster ride

of gas prices is becoming a ratchet, moving ever higher, threatening the fragile budgets of working families.

We picked out a few letters I received in my office. I will read only a few of them. Here is one:

I filled up my gas tank today and prices were $2.18 per gallon for the mid-grade fuel. This is just not acceptable any longer. I am a single 58 year old female who is working for ridiculously low wages at UNLV and living on extremely limited budget. Between the cost of medications, heat, communications, and other living expenses, now I can't afford to even get to work. Please, please, please do something to stop this now. A constituent from Las Vegas.

I am going to read part of another letter, but it is sad, to say the least:

Senator Reid: I have had to cut my grocery budget by $100 per month, and we're already eating cereal for dinner, 28 cent macaroni and cheese, and hot dogs. We also eat hamburger when we can afford it. It cuts into the lunches I have to provide for my children since no school lunch program exists at Virginia City, and I need to insure that my daughter has a decent lunch . . . in her lunch pail.

This is the same person:

There is something very wrong with our system when our President fails to act on behalf of the American people. Protecting us against terrorism is only part of the job. When he fails to act changing the entire American way of freedom, choice, and an affordable living, then he's not doing his job. Somebody needs to get off their duff and do something about the gas prices, production, and our being held hostage by OPEC and the Oil Companies. . . .Do something to help us, so that single parents like me don't have to put our children's lives and futures at risk by having to move closer to our jobs and all because of gas prices.

This is signed by a constituent from Dayton, NV.

Another letter:

This is about gas prices. Is there anyway that you can work a little faster on this? My husband works at Primm, and it costs us now $100 a week in gas. We were trying to save $20 a week since he got a pay raise. We have a family of 5 and he is the only worker. We are in debt because they don't give a lot in pay raises, and when they do, it seems like the phone company, electric, gas, and anyone else says ''we need extra money.'' You give them all that they need, but the poor people trying to make it on 1 income or even 2 are getting screwed. We watch every penny and it seems to be gone. We are having to make a hard choice of what not to buy at the store. We already don't go out to the movies or anywhere else. I can see why President Bush doesn't do anything about the gas prices, since he has an interest in his cut. Thank you for your time. A constituent from Las Vegas.

Another constituent from Las Vegas:

Thank you so much for looking into the gas price increase. This has been a very big concern for my husband and myself. We are a large family and my husband works out at one of the state prisons. This means a 120 mile round trip every day. . . .If gas prices increase like they are this is going to hurt our family a great deal. It in turn could hurt our state as he is a 13 year state employee, this could mean looking for another job in town. I do hope and pray you are able to help our state with this crisis.

Another letter:

Dear Senator Reid: I currently reside in Las Vegas, NV. I am disabled and live on a fixed income. I am writing you today outraged by the ever growing cost of living we face here in Las Vegas. Every day the price of gasoline continues to rise, while large oil companies like Exxon Mobile and Chevron Texaco are recording breaking profits, I hate to say on the backs of the average citizens in this country. I have heard all of the stories of fuel shortage due to the harsh winter in the eastern United States, the blockage of shipping lanes, and the list could go on and on with excuses. This still does not explain these record profits. No other segment in our economy, especially the small businessmen, experience this rate of profit. Costs continue to rise from gasoline, to utility cost, to grocery bills, while incomes are not rising. The middle class is slowly being eroded with all these rising costs.

Signed by a constituent from Las Vegas.

This is a small smattering of the letters we have received. I have asked, along with the junior Senator from Nevada, the Federal Trade Commission to look into possible market manipulation and price gouging. After 5 weeks, the FTC responded to us by saying prices in Nevada were ''unusually high'' and above predicted norms. An informal FTC investigation is still looking into the cause of the price spike, but they are having a hard time showing collusion and market manipulation.

I do not need an investigation to tell me big oil profits have soared at the expense of working families. We all understand the forces of supply and demand, but in the gasoline market, control of the supply is concentrated in a handful of oil companies and dealers. Seven oil companies control 94 percent of California's gasoline production, so they can push prices up faster and keep them higher than they would be in a competitive market.

These markets are not competitive because they provide no incentive to refiners to maintain adequate supplies and physical infrastructure. Every accident, power outage, pipeline break in the market triggers a price shock, and profits mount.

The structure of this industry allows price manipulation at the pump. These charts show how refiners and dealers manipulate markets to sustain high, exorbitant gas prices. If this is not anticompetitive, it is certainly anticonsumer. The profits of oil companies are at record levels. I am sure this makes their shareholders happy.

The FTC has been AWOL, like FERC was a couple years ago during the electricity crisis when consumers were ripped off. As a nation, we need to demand both the supply and demand of this equation to promote a truly competitive market.

On the demand side, we have to increase the fuel efficiency of cars. That is very long term. We need to promote public transit. That is long term. But in the short term, we need to have this administration weigh in against the OPEC nations and do what they can do to have the OPEC nations produce more oil. They have turned the spigots down. They have done it openly. I hope the reports in the Woodward book are false. I hope the President would not enter into a deal with Prince Bandar in saying we are going to increase the supply of oil in the fall. I hope that is absolutely false. But I do say the President has to exert more pressure on our so-called allies to produce more oil. That is short term.

What also needs to be done on a short-term basis is we need to start releasing oil from our oil reserves. As I stated before, it was done by the first President Bush and it was done by President Clinton. This President needs to do the same.

In the long term, we need to increase the use of alternative fuels and renewable energy resources, but we must also provide for true competition in the oil and gas markets.

Oil companies have little incentive to build or improve their infrastructure and increase their inventories. They can simply dominate tight markets where any disruption allows their profits to soar.

Through use of the Strategic Petroleum Reserve or some other mechanism, oil companies should be required to maintain adequate stocks of crude and refined product to prevent price spirals.

At the very least, we should not be filling the Strategic Petroleum Reserve when markets are not able to meet consumer demand at reasonable price levels. Any rapid price increase should draw immediate and intense public scrutiny and trigger investigations.

Energy in America is essential to the well-being of our Nation and its citizens. This is part of our Nation's security, to have adequate energy. Remember, the United States of America, even counting what may be in ANWR, would only have 3 percent—in fact, it is less than 3 percent—of the oil reserves of the world. We cannot produce our way out of our problems. Ninety-seven percent of the oil in the world is someplace other than the United States.

The citizens of the State of Nevada have been rocked with a one-two punch over the last couple of years by manipulation of the electricity market and now the gasoline market. This cycle of price gouging must stop. Even in the wild, wild west, we have to make energy markets operate properly.

Mr. President, I express my appreciation to the Senator from Wyoming for his courtesy in allowing me to go before him.

How much time is remaining for the majority for morning business?

The PRESIDING OFFICER (Mr. ENSIGN). Four minutes fifteen seconds.

Mr. REID. I say to my friend from Wyoming, he has 4 minutes 15 seconds. Does he need more time?

Mr. ENZI. Mr. President, yes, we should get an equal amount of time in order to respond to what the Senator from Nevada said.

Mr. REID. When I spoke, I indicated I would be happy to agree to that. Would the Chair indicate again how much time I used?

The PRESIDING OFFICER. The Senator used 29 minutes.

Mr. REID. I ask unanimous consent that the time for morning business on the majority side be extended 29 minutes.

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

The Senator from Wyoming.

WAR IN IRAQ

Mr. ENZI. Mr. President, I thank the Senator from Nevada for his courtesy and his previous offer to let me speak. I am glad to have this opportunity to talk about a number of things that have come up today. We have talked a little bit about the war in Iraq. We have talked a little bit about the environment because Earth Day is tomorrow. We have talked a little bit about overtime and we have talked a lot about energy. I am going to cover those topics as well as some other things that need to be known.

I am going to start with the war in Iraq because last week I had the opportunity to go with Senator SESSIONS and Senator CHAMBLISS to visit NATO and then to go into Germany and to visit with some of the troops that have been wounded in Iraq. Some of them have been wounded very severely. In fact, those who are not severely wounded do not leave Iraq. There are hospitals in Iraq that take care of them and then get them back into the fray. Those who have been injured worse are flown to Landstuhl Hospital in Germany where they are stabilized, treated, and then sent back to the United States for more treatment.

The three of us had an opportunity to visit that hospital. We split up into three groups so we could talk to more of the soldiers. We thought we would be able to perhaps pump them up a little bit after what they had been through. Quite the reverse happened. They pumped us up. It was a tremendous experience.

These people, men and women, to a person said: We are making a difference in Iraq. We know the people over there, we know our job, we are doing our job, the people are responding to what we are doing, and we are making a difference.

The other side is so worried that they are bringing in people to take us on. Every one of them wanted to be patched up as fast as possible and go back to help their buddies. They knew what the job was. They knew the people there. It was tremendously inspirational.

The next day we went to an Army training base that a lot of U.S. soldiers in the past had been assigned to and are still assigned to, but they have been moved to Iraq. They have been assigned to Iraq and they had just been on another overseas assignment, had been back about 8 months and were assigned to Iraq. Some of the spouses there had had husbands extended in Iraq. We wanted to find out what they were feeling, what they were thinking. It was a chance to visit with them, and so we did.

Again, we were the ones who were encouraged. I remember one of the spouses explaining that part of the job of a soldier is to watch the back of his buddy, and when some of the troops are pulled out prematurely there is nobody to watch somebody's back. Then the lady said: If my husband was the one who had to stay and somebody got pulled out, I would not be able to take it. So if my husband is the one who has to stay to protect somebody else, that is their job. That is what I want him to do. That is what he needs to do. That is what will make the difference.

What I noticed at both of those meetings was that other countries of the world say the reason we are the most powerful country in the world is because of the money we spend on being powerful. Some people would say it is because of the technology we have developed that makes us more equipped with more advanced things than any other country in the world. Both of those play a small role, but what makes the difference between the United States and the other countries is the people of this country, the young men and women who are serving in our Armed Forces—their dedication, their innovation, their ability to think, their ability to react, and their patriotism.

Then we have another secret weapon, and that secret weapon is the spouses and the families who are praying for and supporting the troops. That is a force other countries cannot reckon with, and we should be so appreciative.

I want to mention one other thing that might seem unusual. When we were meeting with one of the generals, the general prayed. Now, I am not sure that is acceptable under the Constitution as it might be interpreted by some judges, but he prayed. He knows that will make a difference.

One of the things that occurred to me while he was doing that is we often almost always remember to pray for our troops, but I think we probably ought to be praying for the opposition as well. We ought to be praying for the opposition to soften their hearts, for the opposition to realize what is happening in the world and the role they are playing. Praying can make a difference, and it is up to all of us to try that, with faith, and see if it will not support these admirable troops, their spouses, and their families.

EARTH DAY

Mr. ENZI. I will switch to another topic now. Tomorrow is Earth Day and all of us are concerned about the future of the Earth. We are concerned about the environment, and we are concerned about the activities that happen in that environment. Earlier there was a comment about wilderness areas and how wilderness study areas can be violated.

I need to address this wilderness study issue because Wyoming is the only State in the Nation that negotiated its wilderness areas years ago. We wanted to get that figured out. We wanted to protect vast areas, and we did. There is always the recommendation that there be additional wilderness study areas, and we do not have any problem with that, with a small caveat, and that is that the wilderness study areas are often areas that are being used as part of the economy of our State. They are already areas that have had development.

Do my colleagues know what happens when they go into a wilderness study area. They go into an indefinite period of being studied with nothing being allowed to happen on that land. The things that were already happening cannot continue. It moves back to a primitive state, with no activity, for an indefinite period of time.

There are some wilderness impact study areas that have been looked at for 20 years. Do my colleagues not think a decision ought to be able to be made in less than 20 years? There might even be some out there that are longer than that.

The fear of people whose economy relies on an area that they have already been using is it will be designated a wilderness impact study area and they will lose their right to use it for what they have been earning their living at, for years, while it is not being studied. That is a crime.

Another problem we have is it is a big country and things tend to be one size fits all. For instance, I just saw an ad in the paper asking people to send money to help preserve wolves. It was a glorious ad. That is what ads are. They are to sell people on doing things. But they only tell one side of the story, and I hope before people send their money they will check with areas that are being impacted by a wolf population. It has a little bit to do with our Endangered Species Act.

The Endangered Species Act is a Federal policy. It has to be. This is a vast country and we try to save things all over—and we need to. But it is an unfunded mandate for States, for counties, for towns, and particularly for individuals. That is against the law, to put unfunded mandates on the States, the counties, and the people, but we do it with the Endangered Species Act.

Right now, Wyoming's wolf program costs about $1.2 million a year. That is coming out of the Wyoming pocket; that is not coming out of the Federal pocket. There are county expenses involved in it that are not being paid for by the Federal Government. There are individuals who can no longer use their land, they can't make the living on their land they were making because of a Federal policy. Do we pay them anything for that? No, we don't. We should. There are definitely laws about

takings, but the Endangered Species Act has not adjusted to that.

Just today, in the Wyoming media, there was an article about the failure of the Feds to list the Colorado River cutthroat trout. So far none of the cutthroat trout has been listed as endangered. We have been doing a job in Wyoming of replacing them in traditional streams where they have been. In fact, in Saratoga, WY, we killed off a huge brook trout population and replaced it with cutthroat trout which were the native trout of that area. The people were a little disturbed to find out that the Colorado cutthroat doesn't grow as big as the brook trout which they were used to fishing. The whole stream was poisoned out and these other fish were put in, and they were prohibited from using any fish in this river for a number of years. Most of the people I know do catch-and-release fishing, but there can be fish killed doing that. Under the Endangered Species Act, that would result in Federal action against the fisherman.

I am hoping the fishermen of the country are paying attention, as they are talking about listing some of these endangered species. The fishermen of this country have been doing a marvelous job of making sure species are preserved.

I will tell you an interesting little story. There is a fish hatchery near Saratoga. It doesn't have brook trout or Colorado cutthroat trout in it; it has lake trout in it. How did they come to get in the lake trout business in Wyoming? A number of years ago, some lake trout were caught out of the Great Lakes. They were transported by rail to Montana. They were backpacked into Yellowstone and planted in a lake there and they grew well. Eventually the lake trout in the Great Lakes had a problem. They died off. Where did they go to replace them? We built a hatchery in southern Wyoming. We caught lake trout out of Yellowstone Park, put them in this hatchery, raised them to maturity and got eggs, grew some of those, took some back in the form of eggs and planted them in the Great Lakes. So the loop of preservation was provided by the State of Wyoming.

That is the way species have to be provided for, not by prohibiting and stopping, through regulation, people from being able to use what they have traditionally used. The fishermen are some of the people who are working to overcome this.

There is a little animal called the black-footed ferret. It was extinct. You would think that was supposed to mean there weren't any around. They found some in Wyoming. A little while after they discovered this animal still existed, they found out that a number of them were being wiped out by a plague. The State of Wyoming went in and trapped all of the rest of the black-footed ferret, and the State of Wyoming built a special facility to raise them and try to get as much cross development as possible. Today the black-footed ferret has been planted back in rural areas of the western United States. It has made a huge difference. But that was all done at Wyoming expense; that was not done at Federal expense. Something needs to be done about the Endangered Species Act.

ENERGY

Mr. ENZI. Mr. President, I want to talk a little bit about energy. We have regulated ourselves out of business. We have regulated ourselves to higher prices. We have regulated ourselves so the source of our oil is in the Middle East.

In 1973 we had a crisis. Senator Hansen was the Senator from Wyoming who held this seat. I had him speak to a Wyoming Jaycees session about what was happening when we got cut off from oil in the Middle East. Beginning then, Senators were saying we needed to do something so we would never have an oil crisis again, that we could not be dependent on the Middle East.

I think we were at 35 percent use from the Middle East at that time. We are now at 60 percent use from the Middle East. They hold us in the palm of their hand for our money. Our money is sponsoring whatever happens in the Middle East. They don't base the price on true supply and demand. They control the price.

I once got to meet the fellow who determined how many barrels they ought to ship, to raise the price or lower the price. Lower the price, you say? Yes, lower the price. If you lower the price drastically you can drive production in the United States out of business. They have done it twice. They have driven it out of business. What happens when the price shoots back up and we buy more oil from them? The U.S. production cannot recover because the people who used to be in that business had to find other work. Finding trained people in that business, to do what they had been doing, is impossible. That is how the Middle East has manipulated us twice that I know of. I think they do it, on a much more minute basis, on a regular basis now.

Earlier there were some numbers over there on a chart. It showed 77 cents as the cost of a gallon of crude oil. Then it showed manufacture, and it showed the filling station—manufacture at 25 cents, filling station at 10 cents, and Federal taxes at 52 cents, which came to $1.64, which was listed as the fair price for a gallon of gas.

I love to get into the numbers because I am the only accountant in the Senate. That is based, I guess, on 42 gallons of oil to the barrel. But 42 gallons at the current price would be 88 cents a gallon, not 77 cents a gallon. But that is based on the whole 42 gallons being able to be made into gasoline when in fact you end up with 19.4 gallons—yes, less than half of what was in that barrel actually is able to go into your car gas tank. So instead of 88 cents—well, there are byproducts they get to sell, too, and that is how they are able to hold it down, I guess.

I want to comment a little bit on the 25 cents, the 25 cents that goes to the refiner. The 25 cents that goes to the refiner is not profit. Boy, I bet they wish it were. The 10 cents that goes to the filling station is not profit. That is the difference between what they buy it for and what they sell it for. All of them have to provide employees, they have to provide facilities, and they have to pay taxes. So there are a lot of costs that go into it.

Particularly with the refinery again, we need to have regulations to make sure we keep our environment clean, but we have to be sure what we are doing is what really needs to be done. Nobody is building a refinery in this country anymore—nobody. In fact, we are reducing the number of refineries, which means we are reducing our capacity to provide what needs to be provided, and at the same time we are saying there have to be a whole bunch of different kinds of gasoline.

These gasolines are going to be designed which means they are more complicated for particular parts of the country. If you keep doing that, you keep driving up the price. That is part of the 25 cents that the refiner has to use. The more you increase the cost and reduce that 25 cents, the less gas you are going to have in this country.

I was out in California a while ago. The Senator from California was making some of these speeches.

I have to say I don't think you have seen anything in the way of an energy crisis yet, unless we can do something with an energy bill.

I was out in California. As you go from Las Vegas, you will see this real dark cloud that appears. That is coming from California. When I was there, I found that they have a pooling lane for high-occupancy vehicles. You need two people in the car to be a high-occupancy vehicle. I have never driven on a wide road like that in Wyoming, but out there they have five and six lanes. One of those lanes is saved for people who carpool. I think it was rush hour. I can tell you that the other five lanes were jammed with traffic. They weren't going anywhere. My wife and I in our car constituted the two and we could use the pooling lane. We just zipped right through. It was absolutely amazing.

But I thought I must be seeing half of California's population stalled, creating pollution and not carpooling like they are suggesting the rest of us ought to do.

There are some things that can be done, which need to be done and hopefully will be done.

But you haven't seen anything in the way of energy prices, if we don't get a national energy policy and don't get some reliability as to what we have in the United States.

We have been touting natural gas as clean fuel, and it is. But there is only

one State that has an increase in the amount of natural gas it is producing. That is Wyoming. The rest of them are declining.

Let us see what happens if the use slows up and the supply goes down. Oh, the price goes up. You could be seeing the lowest prices in energy that you are ever going to see if we could use some of that U.S. ingenuity and figure out ways to make hydrogen out of the coal or other things. But I do have a lot of faith in U.S. ingenuity, provided we don't regulate them out of business.

OVERTIME

Mr. ENZI. Mr. President, I will take 1 last minute to thank Secretary Chao for the work she did on overtime. We had a lot of discussions about the proposed overtime rule that was put out for comment. What you saw on this floor was an action to try to stop reviewing the 80,000 comments that have come in. We allowed her to look at those 80,000 comments. I commend the Secretary for the work she did in paying attention to what people were saying. We don't see much of that in the Government, but the Department of Labor, under Secretary Chao, took a look at what people have been saying and made corrections in the rule before the final rule was published.

She raised the amount to the maximum. We had already raised the amount on the minimum. She made sure that first responders would not lose overtime; that nurses would not lose overtime; and that veterans trained and going into the job force would not lose overtime.

I commend her for reading those 80,000 letters. I commend her and the Department for taking the corrective action. Doing the process makes a difference. She did the process and she made sure they responded.

I yield the floor. I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Alaska.

THE ROTATION OF U.S. FORCES INTO AND OUT OF IRAQ

Mr. STEVENS. Mr. President, I rise today to inform the Senate of an undertaking that has, in my view, not received adequate attention in the press or by the American public. This undertaking has required tremendous planning, and has been on a massive scale.

As the news from Iraq dominates our attention, an important and notable success story has gone largely unnoticed. I refer to the massive troop rotation in the Iraq theater that is now nearing completion by our Armed Forces. This is the largest U.S. troop rotation since World War II—more than 250,000 U.S. service members have been involved.

Planning for this rotation of forces in Iraq has been underway for many months. The meticulous quality of that planning, the absolute attention to detail by thousands of military planners, logisticians, and transportation specialists has resulted in a near flawless rotation of forces.

Consider for a moment the sheer size of the logistics effort involved in rotation over a quarter million combat troops, in mobilizing them, in transporting them by sea or air, supplying them, and in simply keeping them sheltered and fed. And now, consider doing all of that in a place that is nearly half a world away, and at the same time, continuing the pace of military operations and combat in Iraq, without skipping a beat.

New units began flowing into the region in December of last year, and to date, over 95 percent of the service members deploying to Iraq have arrived in the region.

I would like the Senate to consider some of the facts and figures for the deployment and redeployment, or return, of forces in that area.

Over 900,000 short tons of equipment and supplies have been shipped to support operation Iraqi Freedom.

Over fifty-seven sealift ships have sailed, delivering more than 426,000 short tons into theater, and 13 ships have returned 88,000 short tons back stateside.

Nearly 3,000 airlift missions have been completed, and over 63,000 flight hours.

Ninety-seven thousand soldiers scheduled for redeployment have returned home from Iraq.

Over 91,000 reserve component soldiers were mobilized for Operation Iraqi Freedom 1, and over 54,000 for Operation Iraqi Freedom 2.

Last month I was privileged to travel to the Central Command Theater to see first hand the magnitude of this effort. I traveled with my good friends the chairman of the Armed Services Committee, and JOHN WARNER, and the senior Senator from South Carolina, FRITZ HOLLINGS. We saw our forces in Baghdad and in Balad, Iraq and traveled into Afghanistan to visit our forces there.

I simply cannot say how absolutely impressed we were with the fighting spirit and combat power displayed by these young Americans.

We spent some time with the 1st Armored Division in Baghdad, and MG Martin Dempsey's absolutely impressive forces. General Dempsey's forces are providing stability and security in a dangerous part of Baghdad. They know they have an important mission. You could see the dedication and courage in each of their faces. They know why they are there.

We also spent some time with Joint Task Force 180, in Baghram, Afghanistan. MG Lloyd Austin, a really impressive commander of the 10th Mountain Division. His soldiers are pursuing Taliban and al-Qaida remnants in the mountains of Afghanistan. His forces, too, are remarkably bright and dedicated young men and women. Spending time with them was inspiring to us all.

We had planned to visit the 1st Battalion of the 501st Parachute Infantry Regiment from Alaska. They are deployed to Khost, Aghnanistan, in the rough mountains near the Pakistan border.

Unfortunately, an aircraft malfunction required that we change planes, and that delay meant we were unable to make that stop to see those Alaskan forces. We are terribly proud of them and all of the forces there around the country in that area.

My friends and I also went to Kuwait and saw forces moving into and out of Iraq. Kuwait is where much of the logistics operation for the troop rotation is based. The level of this effort is nothing short of remarkable to see.

In Kuwait, we visited with troops from the 4th Infantry Division, the division that captured Saddam Hussein, as they were moving home and preparing their gear for return. We visited with these troops at the ''wash rack'' where each vehicle is cleaned from top to bottom before returning home so there is no contamination from the wartime area.

It takes nearly 8 hours to fully clean a vehicle of all the dirt, sand and wear that accumulate. Dozens of these wash racks were operating day and night, 24/7, until every last piece of gear is cleaned and ready to return home.

Many of the division's vehicles were staged and lined up, ready to return home. That was truly a sight to see—rows of rows and rows of all types of military vehicles, scores of vehicles. I saw the remarkable size and scope of our logistics effort to rotate these forces in Iraq, and the magnitude of that effort is simply amazing.

General Robert Barrow, a former commandant of the Marine Corps, in 1980 said: ''Amateurs talk about tactics, but professionals study logistics.'' That statement has again been proven true by the nearly flawless rotation of U.S. forces in and out of Iraq. That rotation is now nearly complete, and it is a remarkable achievement. This massive movement of forces and equipment, the largest since World War II, has largely gone unreported and little noticed by the American people. However, it is a true success story and one that needs to be told, and needs to be told on the floor of the Senate.

This rotation of forces is an absolute testament to the will, dedication and commitment of our men and women in uniform. They are to be commended for what they do for all Americans, and once again, they have made us proud.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask to proceed as in morning business.

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

OVERTIME

Mr. GREGG. I join the senior Senator from Alaska, the chairman of the Appropriations Committee, in his excellent statement congratulating our

military, our troops; specifically, the men and women who serve in Iraq and the extraordinary job they are doing there. This incredible rotation the Senator reflected on, the logistics being an exercise of extreme complexity, was accomplished with great professionalism.

His knowledge of this is unique and special, and we turn to him in the Senate about military affairs. I join in the acknowledgment of what the men and women of our services have done in this area. I thank the Senator for bringing it to our attention.

I rise briefly, however, to address the new regulations proposed relative to white-collar overtime issues presented by the Department of Labor. We, as a Senate, have for literally months been hearing from the other side of the aisle that they wanted to stop the procedure of regulatory activity in this area; they wanted to foreshorten the proper and appropriate approach to governance; that is, to issue proposed regulations and take information and comment on the regulations and bring forward any sort of clarification of the law in the area of overtime activity, of which the law has been on the books for 50 years.

Unfortunately, it has become confused and arcane in many ways. In fact, the law as presently structured was put together in a time when this country had people who were called straw bosses, leg men, and keypunch operators, things which no longer are relevant. Yet the law still has these categories of individuals and their rating systems are affecting how overtime is paid.

It has become a fertile ground, regrettably, because of this confusion. Because it is a law that has not been adequately reformed and kept up to date, it is a fertile ground for lawsuits.

The United States Bar Weekly, a lawyers' weekly USA newspaper headline, summed up the salaries in the workplace across America by saying in a headline: ''Boom In Overtime Suits, A Danger For Employers But A 'Gold Mine' For Plaintiffs' Lawyers.''

Unfortunately, that is all we have gotten from the regulation in the last 2 years—lawsuits. We do not have a more efficient marketplace, or people who deserve overtime getting overtime. We have not had a settled issue as to who has a right to overtime.

Secretary Chao said we should do something about this proposal. Secretary Chao stepped forward and said this is an issue, a problem, we need to do something about. She put forth proposed regulations which I, as chairman of the committee that has jurisdiction, said there are some issues. We have questions. Let's look at them. That is why those proposed regulations received 80,000 comments. The Department has been reviewing those.

Again and again people have come to the Senate from the other side of the aisle and used the excuse of trying to foreshorten and stop and undermine the process of regulatory reform and the comment period as a means to try to stop other legislation. How many pieces of legislation have been held up interminably, and some simply not passed, because the other side of the aisle says we cannot have the proposed regulations out there; we have to stay with the law as it is.

Now it has shown the folks were absolutely wrong. The folks came to the Senate and tried to use this proposed regulation as a stalking-horse to obstruct other legislation on the floor. It was a stalking-horse because the Department of Labor has come forward now with a new set of regulations which have grown out of and evolved out of the work that was done as a result of reviewing and listening to the input from the 80,000 comments.

The final set of regulations has some extremely good proposals. It guarantees 6.7 million Americans who today are not guaranteed overtime will receive overtime. People up to $23,000 of income will receive overtime. That is up from the present threshold today of $8,000. That means 6.7 million people who today are in a gray area are no longer in a gray area and they will get overtime.

In addition, it makes unalterably clear this overtime regulation applies to white-collar areas. That was never an area for concern. People were concerned. The Department has made it clear the overtime of groups such as first responders, nurses, veterans coming back from serving overseas, licensed practical nurses, and registered nurses would be protected.

That was never the intent of the original regulations, I don't think. But clearly, it is definitively addressed in this final rule.

Furthermore, the people whose overtime may be at risk have to have an earning that exceeds $100,000, and they have to be in a white-collar activity, not a blue collar. If a blue-collar person happens to make more than $100,000, their overtime stays in place. The overtime of a white-collar person making more than $100,000 may be impacted by this. The Department estimates that is less than 120,000 people who may be impacted by that part of the regulation.

In this final regulation, 6.7 million in the gray area will get overtime who are not getting it. They may be getting it, but they do not know they have a right. And people who are concerned about overtime, working blue-collar jobs, or working in areas such as law enforcement and firefighting or nursing, will absolutely be assured of their overtime rights, although they probably were.

It means the business community, especially small businesses, will have a clear understanding of who has the right to overtime and who does not have a right to overtime—not clear, but a clearer understanding of who does and does not have a right to overtime. That means instead of ending up with small businesses especially having to spend a lot of money defending lawsuits which are arbitrary in many cases and which are class action in other cases, they will be able to spend their money on creating new jobs.

Instead of having a litigious atmosphere out there, we will have an atmosphere where people can understand what their responsibilities are to pay people. Those people who are receiving this overtime will benefit significantly from this clarity, and other folks who will be getting jobs as a result of businesses having money to invest, rather than having to pay lawyers to defend these lawsuits. It is a step in the right direction.

I believe that opposition today, should it still continue, can only be defined as political. We know that opposition, in light of these regulations coming out in final form, was probably highly political before, but clearly in light of the definitiveness and the constructiveness of the changes which have come forward with the final regulations, any additional opposition is partisan, political, and driven by an election year attitude, or it is simply a desire to be a stalking-horse to promote lawsuits versus promoting efficient use of resources in our society, especially by small businesses.

I congratulate the Department of Labor for doing the job which they are paid to do, which is to try to make our laws more understandable and constructive. As a result, they have made a very strong step forward to assisting people in getting overtime who may not be getting it today.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Ms. MURKOWSKI). Morning business is closed.

FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT OF 2004—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 2290, which the clerk will report.

The legislative clerk read as follows:

A motion to proceed to the bill (S. 2290) to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, this is one of the most important bills in many decades because this bill will determine whether or not 8,400-plus companies go into bankruptcy, with a loss of jobs, pensions, and opportunities for people all over this country—and all because of an out-of-whack tort system that has been manipulated by some veracious lawyers who should know better but who are too addicted to being able to milk the system for billions and billions of dollars, $20 billion thus far in legal fees and transaction costs.

Opponents of this bill continue to assert that the fund is nothing more than a bailout of corporate America because it is not big enough. There is one word for that: baloney. This charge, which the personal injury lawyers keep repeating in television and print ads, completely baffles me. Let me explain why.

Currently, estimates of what the existing tort system will pay to plaintiffs in the future range from $61 billion to $92 billion. That is currently. This is what the independent actuaries say is the amount of money the victims will actually receive under the current system.

Let me just point to this chart: the asbestos victims' compensation in billions of dollars. Under the tort system—the current out-of-whack tort system—you have three colors on the chart: dark blue, kind of light blue, and yellow. The light blue illustrates the fees we pay to the defense lawyers in these cases. The dark blue happens to consist of the fees we pay to the trial lawyers—in other words, the plaintiffs' lawyer.

Between them, as you can see on that Tillinghast account, shown at the top, you have $69 billion. How much goes to the victims? It is $61 billion—if it is there, if these companies do not go bankrupt. Take the Milliman one, shown down below: $61 billion to the personal injury lawyers, $42 billion to the defense lawyers. That is $103 billion. Only $92 billion goes to the victims. That is assuming these 8,400 companies have not gone into bankruptcy. We have already had 70 companies go into bankruptcy.

But look what happens under the FAIR Act. The attorneys would still get a whopping $2.5 billion for what really amounts to rolling-off-a-log type of a lawsuit because it would not take all the efforts they would have to put in to make cases otherwise in court. They would get $2.5 billion. But $111.5 billion would go to the victims. It is pretty hard to say that is not a fair deal or that it is a bailout of corporate America.

Now, our bill, in comparison to the $61 billion to $92 billion of those two actuary accounts that will go to the plaintiffs, gets them $111.5 billion, which is a lot more than either of those estimates were. This goes to the pockets of the injured persons.

So where does the rest of the expected cost of the tort system go? Under the current system, it is going to lawyers. It is going to lawyers' fees and other litigation costs, with personal injury lawyers alone expected to garner $40 billion of these future expenses. In addition, 80 percent or more of claims filed in recent years are from individuals who do not have a medically cognizable injury and are not impaired in their daily routine. Let me put that in lay terms. They do not have any injury that can be shown by the current medical analysis we have in existence today, and it is the best in the history of the world.

Indeed, one scholar estimated that meritless claims—claims without any merit at all—based on questionable ''diagnoses'' for mass screenings have accounted for $28.5 billion in costs already. As a result, the truly ill get even less than the $61 billion to $92 billion estimate that is suggested by these two studies.

Measured against the existing system, with all of its inequities and high transaction costs, the FAIR Act will deliver far more directly to victims. Up to $124 billion will be available to compensate those who are sick from asbestos while still providing medical monitoring for those at risk but not yet impaired—in other words, not yet sick, and who may never get sick. This is a simplified, no-fault, nonadversarial system which will not require forking over 40 percent to 60 percent to any professional.

No matter how you look at it, victims get far more compensation under this bill—and in a far more timely manner—than in the current system. This alone indicates that the fund is big enough.

But let's look at it from another angle. Are the aggregate fund contributions by companies and insurers expected to be less than they are paying in the current system? According to the Congressional Budget Office, the answer is no. CBO estimates that defendants will have about the same expenses in the current system for the next 5 years. This is on page 20 of the CBO's October 2, 2003, cost estimate for this fund. On the same page, CBO estimates, for the bill as reported from committee, that insurers would actually pay more to the fund in this same period than they would under the current system.

Keep in mind, the current system is gouging billions of dollars for nonsick claimants. Look, this fund, No. 1, calls for about as much money as companies are paying now; No. 2, shifts this money to the truly sick; and No. 3, reduces the transaction costs so more funds are available to compensate injured parties. In other words, we help those who deserve to be helped, where under the current system there are a lot of people sopping up the funds that are there who are not even sick, who have not suffered from sickness, and may never suffer from sickness.

This is a bailout? Give me a break. The chief benefit contributors get out of this deal is one thing, and that is predictability. They know what their payments will be from year to year, and that is it.

I was told if I was able to get $108 billion a number of Democrats would gladly sponsor and support this bill. I had indications from the union movement: But, boy, if you got $108 billion on the table, we will be there. They did not think we could get it done. But we did.

Now, despite all of these things I have been talking about, we have heard the argument that the money is not enough since S. 1125 was first introduced in May of 2003 when industry agreed to a $94 billion fund. Before introducing S. 1125, I had heard from the other side of the aisle that $94 billion was not sufficient but that $108 billion might be enough, as I have just said. I worked hard to get the business community to commit to this funding, and, in the end, the Judiciary Committee added a provision that would simply require $14 billion in additional funds in order to reach this goal. The funds, however, were not guaranteed in the committee-reported bill, as are those under S. 2290.

During the committee process, this $14 billion was added to the substantial contributions required from both defendants and insurers. When S. 1125 was reported out of committee, therefore, it provided for $104 billion in mandatory funding from defendant companies and insurers, plus an estimated $4 billion from bankruptcy trusts. The $108 billion was there.

The committee voted by a 14–3 margin that the claim values which added up to $108 billion—those values—were fair—14 to 3, with a number of Democrats voting with us. Not a single Democrat voted against these claim values. The only ones who did were 3 Republicans, and they thought it was too much.

Now we are hearing that the total just is not high enough. If the values were good enough for every Democrat before, why not now? I just do not get it.

By the way, let's go back just a step or two here. As shown on this chart, we are getting far more money to the sick and needy than the two expert actuarial firms say will go to the sick and needy—far more money. Those who make arguments to the contrary are not being fair.

Later in the committee markup, to ensure the risk of insufficient funding would not fall on claimants, an amendment was offered by Senators KOHL and FEINSTEIN to provide a huge amount of open-ended, contingent funding that could be available to pay claims, up to an additional $31 billion over a nearly 20-year period. The number $31 billion was not in the amendment, nor was the number $45 billion, which some claim it was. The amendment simply called for maintaining the contributions at the same level if such funds were needed to maintain solvency, and this flat line happened to add up to $31 billion, since we had already added $14 billion to the base funding. This meant when the contingent funding was added to the $108 billion of mandatory funding, up to $139 billion could come into the fund and ultimately out to the people.

Democrats and labor unions falsely continue to cite the $153 billion number whenever they can. I challenge any of them to show me that number in S. 1125, the committee-reported bill. Moreover, the $139 billion was not hard money that would be going to claimants. That is a fact. It was not hard

money that would be going to claimants. The fund under S. 2290 would reach this same and substantial level of funding.

Further rendering this $139 billion obsolete is the fact a sunset provision was added later in the markup. This provided an ultimate safeguard, in the eyes of those who filed it, for fund solvency. Still further, we added in S. 2290 a measure which renders the contingent funding amendment from the markup totally unnecessary—the ability for the fund to borrow against 7 years of future revenue. With this provision, the Feinstein-Kohl contingent funding measure is no longer needed. Thus the whole premise for arguing more money is needed because the committee bill had more money is literally destroyed. The Feinstein-Kohl amendment created what amounts to a rhetorical problem on the total value of claims for some Democrats and some labor unions. But it is only that, a rhetorical problem.

Claims values adding to $108 billion were good enough for almost all the Democrats at the markup, and there is no reason the current $114 billion now should be inadequate.

Finally, I will give another indication of why those who now argue $114 billion is not enough are being unfair, if not somewhat disingenuous. Back on April 24, 2003, the AFL-CIO asked an investment banking firm to run a financial model with certain claims values. How much did this model, which they shared with Republicans during negotiations, add up to? Believe it or not, under the base case, it added to $121 billion. You heard that correctly, $121 billion. We offer a fund with a base of $114 billion in guaranteed money with a $10 billion contingency, 7 times the borrowing authority, and a sunset back to the tort system, and there is no deal yet?

I said earlier, I don't get it. But I suspect the reason we are seeing retrenchment and revisionism is that—and there is simply no delicate way to say this so I will be blunt—when personal injury lawyers put the screws on Democrats and labor unions, they are trying to stop this good bill at all costs. It is pretty apparent if you look at the flagrantly misleading ads they put on television, all paid for by the victims, by the way, through these exorbitant fees and transaction costs.

I will tell you one thing, they don't want to kill the golden goose that asbestos litigation is for them. They are only too happy to collect the golden eggs, even though the people who are truly sick, truly injured, will not get the money in many cases. In the end imposing financial obligations on the business community that are much more than they would have to pay under the broken litigation system to compensate victims would only risk bankrupting even more businesses and losing more jobs and pensions. Already, as I have mentioned, more than 70 companies have gone bankrupt due to asbestos litigation, and as many as 60,000 American jobs have been lost. It is estimated if this keeps going and we don't do what we should do here on this floor, there could be as many as a half million jobs lost. I believe that is a low, conservative figure.

If most of these companies go into bankruptcy, I can't begin to tell you what a detriment it will be to our country, let alone the sick and needy who really deserve the moneys.

Rather than rely on their own numbers or provide a reasonable alternative, opponents of the bill falsely contend S. 1125 had provided $153 billion and, therefore, S. 2290 does not provide enough funding. Of course, litigating these cases in Federal court may be a big risk to some personal injury lawyers who have successfully manipulated some outlier State courts to create a system of jackpot justice.

In reality, the Feinstein-Kohl amendment in committee, which introduced the open-ended contingency funding, was designed to ensure the fund established under the act did not become another Manville trust, placing the risk of insufficient funding on future victims and leaving them with only pennies on the dollar. That is a risk which victims will not face under S. 2290.

If, despite paying significantly more money than the current tort system, the fund is unable at any point to pay full value; that is, 100 percent on eligible claims, then the fund will sunset and the tort system will reopen in Federal courts to compensate for future victims. There will be no risk to the victims.

We can't forget this bill is about the victims, not overinflated estimates of a broken tort system that diverts much-needed resources to unimpaired claimants and reduces awards significantly to pay attorney's fees and other transaction costs that do not directly benefit claimants. By any objective standard, this fund is more than adequately funded.

Although we are being met with obstacles in getting to the substance of the legislation, I am heartened by something. There has been significant bipartisan support for passage of a legislative solution to the asbestos litigation crisis throughout the session. In fact, calls for Senate action have been occurring for several years.

For example, when the esteemed ranking member was chairman of the Judiciary Committee, my good friend Senator LEAHY stated:

> . . . Congress can provide a secure, fair and efficient means of compensating victims. I believe it is in the national interest to encourage fair and expeditious settlement between companies and asbestos victims.

Those were Senator LEAHY's remarks in the September 25, 2002, U.S. Senate Judiciary Committee hearing on asbestos litigation.

Senator LEAHY echoed his sentiments last year during a hearing I chaired, when he said:

> These bankruptcies create a lose-lose situation. Asbestos victims deserving fair compensation do not receive it and bankrupt companies cannot create new jobs nor invest in our economy . . . If we work in good faith toward a bipartisan asbestos solution, we can meet the challenge created by [asbestos] litigation. I agree with the Supreme Court's conclusion that the number of claims defies ''customary judicial administration and calls for national legislation.''

That was Senator LEAHY's statement on March 5, 2003 in the committee hearing which was entitled, ''It is time for Congress to act.''

Other Members have made clear they share his opinions. For example, last May, nearly a year ago, Senator DODD made the following observation:

> [W]e are working very hard to come up with a compromise proposal on the asbestos issue. And we've taken major steps in that direction, working with organized labor, with the insurance industry, with the insured, and many others who have a stakeholding in the outcome of this particular avenue. It's a critically important effort.

That statement was made on May 3, 2003. The distinguished Senator from Connecticut, Senator DODD, reinforced those statements later when he noted on March 4, 2004, when referring to the asbestos problem:

> This is a matter that does cry out for a solution.

As work progressed on bipartisan legislation establishing a privately funded national trust fund, support for the concept grew. In a July 2003 letter to Senators FRIST and DASCHLE, Senators DORGAN, BREAUX, NELSON, BAUCUS, KOHL, MILLER, LINCOLN, LEVIN, STABENOW, and CARPER stated:

> The asbestos litigation crisis is real and urgently requires a legislative solution. . . . An administrative trust fund is the right approach and represents a good foundation for a solid legislative solution. . . . A legislative solution to the asbestos crisis is a crucial goal. . . . We believe that the groundwork has been laid by the Committee leadership to provide a real solution to this ongoing problem.

That was a July 11, 2003, letter to Senators FRIST and DASCHLE.

In fact, when the legislation was originally introduced, Senator NELSON stated:

> This will protect victims, save jobs, and force companies to pay their fair share. This is a good start to solving a big problem.

That was a press release on May 23, 2003. I have appreciated Senator NELSON's support over the last year. I don't know whether they can pull him back on this cloture vote on Thursday. But if they do, it would show this is becoming a political exercise to the detriment of these workers, to the detriment of these unions, to the detriment of the insurance companies, and to the detriment of these companies.

As last year progressed and fears grew that the legislative effort might fall victim to election year politics, calls for action intensified. For example, Senator DORGAN wrote the following in another letter to Senators FRIST and DASCHLE:

> We must complete asbestos reform before this session. I think it would be a serious

mistake—for victims, for the economy, and for the Senate—if we adjourned without enacting asbestos legislation. Certainly, a compromise must meet the needs of all the stakeholders. . . . We must seize this opportunity to solve a major public policy challenge for our Nation.

That was written on October 29, 2003, in a letter to Senators FRIST and DASCHLE. Yet, as you know, we were unable to get this up and get it passed last year. I agree with the Senator; it needed to be passed last year. To allow us to go past this year would be almost criminal.

His opinions were echoed by Senator BAUCUS, who wrote:

After all the hard work that has been put into this bill over the past several years, particularly this year, it would be a shame to let it go to waste. It would also have serious implications for the economy and for victims if we let this historic opportunity pass us by. . . . From what I understand, we are very close. . . . I urge you both to do everything in your power to bring both sides together for a swift resolution of this longstanding debate.

That was before we have gone way beyond last year's bill, and we have given well over 50 amendments to Democrats to achieve this bill.

That was a November 5, 2003 letter.

On the same day, Senator LEVIN also sent a letter to Senators FRIST and DASCHLE expressing his own concerns about the importance of the Senate taking action:

I would like to again stress the importance of addressing the issue of asbestos reform before we adjourn this session of Congress. . . . [T]he Senate is in jeopardy of missing a historic opportunity to pass asbestos legislation with strong bipartisan support. It is obvious to anyone . . . that the system is broken and needs to be repaired.

That letter was dated November 5, 2003.

These were all written during the last year's session of Congress.

A week later, Senator STABENOW gave the following advice to Senators FRIST and DASCHLE in a letter:

I believe that we have an historic opportunity right now to pass asbestos reform legislation with strong bipartisan support. . . . The current system has a devastating impact on victims and their families, who have to continue to wait while the judicial system wades through their claims, and on companies, many who have had to file for bankruptcy because of asbestos lawsuits. I urge you both to continue to work on a bipartisan solution to this national problem.

That was in a November 13, 2003, letter.

Senator LEAHY made the following statement on the floor a few days later:

. . . [W]e have come to a complete accord on the idea that the fairest, most efficient way to provide compensation for asbestos victims is through the creation of a national fund that will apply agreed-upon medical criteria in evaluating patients' injuries . . . an effective and efficient means to end the asbestos litigation crisis within reach, and we must grasp it.

That was a floor statement made on November 22 of last year. Unfortunately, time ran out before consensus could be reached.

At the urging of members on both sides of the aisle, Senator FRIST announced in December his intention to accommodate Democratic requests for more time, and he announced he would delay floor consideration until this spring. This year, as negotiations continued in various settings, a call for action has continued. For example, on March 4, Senator DODD noted the crisis in asbestos litigation is ''a matter that does cry out for a solution.'' That was on March 4 in the CONGRESSIONAL RECORD.

A few days later, Senator REID acknowledged ''we have to do something about asbestos litigation.'' That was in the March 9 CONGRESSIONAL RECORD.

It would be impossible to argue there is an absence of bipartisan interest in fixing the asbestos litigation crisis. Nothing has changed since the Democratic leadership council made the following observation in 2002:

This is one issue where the fight is not simply a part of the age-old struggle between companies seeking to avoid financial responsibilities for misdeeds and trial attorneys seeking to punish them while rewarding their clients and themselves. We agree with Supreme Court Justice Ruth Bader Ginsburg, who argued in an earlier case that the goal should be to provide secure, fair, and efficient means of compensating victims of asbestos exposure. We concur with the view of the AFL-CIO that the current system is unfair and unpredictable. Senate Judiciary Committee Chairman Pat Leahy's decision to hold a fair and balanced hearing on the asbestos litigation crisis should signal the beginning of a bipartisan effort to create certainty in the system and get help to victims without spurring new waves of bankruptcies.

That was in the New Democratic Daily on September 18, 2002, a year and a half ago.

These are some of the Democratic calls for reforms on this chart. I have on this particular chart quotes by Senators DORGAN, BREAUX, NELSON, BAUCUS, KOHL, MILLER, LINCOLN, LEVIN, STABENOW, and CARPER. In a letter, they said:

The asbestos litigation crisis is real and urgently requires a legislative solution.

On March 4, Senator DODD said:

This is a matter that does cry out for a solution.

Senator DORGAN wrote on October 29 a letter to the leaders:

We must complete asbestos reform before this session.

Senator STABENOW wrote on November 13:

I believe that we have an historic opportunity right now to pass asbestos reform legislation with strong bipartisan support.

Senator LEAHY, on November 22, 2003, said:

An effective and efficient means to end the asbestos litigation crisis is within reach, and we must grasp it.

Some of the statements I have quoted from my Democratic colleagues are listed on that chart. When viewing just a segment of these quotes, I think it is clear the need for reform is universally understood. The issues that must be addressed are clear. The time has come to act. We have worked our guts out to try to accommodate our friends on the other side. All we hear is: more money, more money, more money. It is as though these 8,400 companies have an unlimited supply of money to be given. In many cases, those companies are dramatically mistreated by this whole system. In many cases, they should never have had to pay a dime. I will cite one of the larger insurance companies in this country. They never, ever insured for asbestos or asbestosis, or any problem or malady that comes from asbestos; they never had anything to do with asbestos, other than they had their medical team do a medical analysis and concluded mesothelioma probably comes from exposure to asbestos. That was a service to society, not anything that should cause liability. Because of that, this company has been joined in over 60,000 cases, every one of which they can win and should win. The last one they tried, they did win, but it cost them $2 million for attorneys' fees alone.

That is money that could have gone to the victims, and just to get some finality to this situation, just to solve this problem, that company is willing to pay out what amounts to millions of dollars that they do not owe just to get this over with. There is a raft of companies that are in the lawsuits that fit that category.

Where is the justice on the other side? I admit, you want to fight for your constituencies—the personal injury lawyers and the unions—but you also have constituencies, my friends on the other side, in these businesses that are going to go bankrupt and insurance companies that also are going to go bankrupt and the economy that is going to be tremendously hurt by this situation if we do not resolve this problem. We have a whopping amount of money to resolve these problems.

The issues that must be addressed are clear. The time has come to act. The asbestos litigation crisis is a national nightmare, and the failure of Congress to fix it would be a legislative disgrace.

I would like to show some charts with other calls for reform from labor unions and the media. Let me go into some of those.

Organized labor calls for reform. This is a statement of Jonathan Hiatt, general counsel with the AFL-CIO. This was made before the Judiciary Committee on January 25, 2002:

Uncertainty for workers and their families is growing as they lose health insurance and see their companies file for bankruptcy protection.

Mr. Hiatt is a very bright and noble attorney in many respects, and I have a lot of respect for him. What has the AFL-CIO done? We reached $108 billion which I had indications they would accept, but now we are as high as $124 billion. Where are they?

Take AFL-CIO Principles on Asbestos Compensation which was stated on August 7, 2002:

[U]nder current law and legal processes, many asbestos victims are not being treated fairly.

In other words, the system is broken. Here we have a chance of changing the system. This is the art of the doable. And where are the trade unions? They are the ones that are losing the jobs. They are the ones that are primarily losing health care benefits. They are the ones that are losing their pensions from these companies that are going bankrupt. Where are they? Why aren't they demanding that our friends on the other side do something about this, other than scream for more money all the time. Stones can only give so much blood, and, of course, there is a certain irony in that statement.

Let's take the United Steelworkers of America, local 12773:

We really believe this needs to be resolved now.

Or take the Paper, Allied-Industrial Chemical, Energy Workers International Union, local 2–0891:

. . . we might not have another chance for some time.

They might not have jobs in the future because of this dragging of the feet we are getting from the other side on this matter.

Or take the United Steelworkers of America, local 7110:

It is too important to let pass by.

These sum it up. Let's take media calls for reform just so people understand.

The Pittsburgh Post-Gazette, September 25, 2003:

There is an elephant to be moved, and this is the best chance in years. The time for Congress to act is now.

The Detroit News, April 4, 2004:

The bill makes economic sense for companies and would ensure significant payments to employees who develop serious illness. It's a humane solution and ought to be adopted.

That is the Detroit News, a heavily industrialized city. They understand this. Why the slowdown?

Take the Chicago Times, on June 16, 2004:

It is ludicrous to keep litigating for the benefit of the litigators, when what is needed is a claims system for the benefit of the victims.

That is what this bill does. It is a claims system for the benefit of the victims.

There is a whopping amount of money that will go to the victims, not to attorneys, although the attorneys still will get $2.5 billion of it, which is a lot of money.

Take the Washington Times on September 24, 2003:

. . . current legislation to control asbestos-related lawsuits is one of the best ways Congress can protect jobs.

The current legislation.

Or take the Capital Times & Wisconsin State Journal on May 13, 2003:

An asbestos trust fund is a good idea. It should become law.

Fund Could End Asbestos Legal Battles.

That is what this bill can do. Why don't we have more help from the other side?

None of these papers, with the possible exception of Washington Times, one would call moderate to conservative. Most are more liberal papers.

The Chicago Times, June 16, 2003:

The proposal . . . would get compensation to genuine victims and get hundreds of thousands of cases out of the regular court system.

That is one of the points I have not emphasized up to now. As a former trial lawyer, I have to tell you, our courts are clogged with all kinds of frivolous suits, all kinds of frivolous cases. I am not talking about these cases necessarily, but all kinds of them. Then you add these hundreds of thousands of cases, and one can see why justice is not being obtained, especially for those who are sick and needy.

I notice that my colleague from Washington is in the Chamber. I thank her and her staff for their good-faith efforts in working with us to reach consensus on an appropriate asbestos ban. I am pleased that we, including Senators FEINSTEIN and KOHL, were able to reach bipartisan consensus on this very important issue. It is important.

Madam President, I ask unanimous consent that immediately following the remarks of the distinguished Senator from Washington, the distinguished Senator from Ohio, Mr. VOINOVICH, be recognized to give his remarks.

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

Mr. HATCH. I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I ask unanimous consent that during today's session of the Senate Senator HARKIN be recognized for up to 15 minutes as in morning business; Senator BYRD for up to 40 minutes as in morning business; and Senator INHOFE for up to 30 minutes as in morning business.

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

Mrs. MURRAY. Madam President, I rise today to share my serious concerns with the asbestos liability bill now before the Senate. As my colleagues know, this is not just another bill for me. This is something I spent years learning about, educating my colleagues about, and writing legislation to address.

In fact, my work on asbestos started 3 years ago this very month when I asked the Senate HELP Committee to hold a hearing on asbestos exposure in the workplace.

I started this as a very lonely battle with my good friend, Senator Paul Wellstone. We held press conferences, and it seemed like no one came. Senator BAUCUS and Senator CANTWELL were with us, but it was a very lonely fight.

That is why today it is so great to watch my colleagues, such as Senator DASCHLE, Senator REID, Senator DAYTON, and Senator LEAHY moving this discussion to such a productive level. They have taken the time to listen to the victims, and I think if everyone did, we would have a much more balanced bill in front of us today.

I am pleased that after working all these years with the victims, family members, and doctors, the full Senate is now engaged in a debate about asbestos. I am also pleased that many of the issues I have been fighting for have been included in this legislation. This bill does include a modified ban on asbestos, similar to the original ban that I first introduced 2 years ago. That is an important acknowledgment of what I told the Judiciary Committee did last June:

If Congress is going to prevent any future lawsuits, then Congress must try to prevent any more asbestos casualties, by banning the use of asbestos.

So I am pleased by some of the progress in this bill, but I am also deeply disturbed by what this bill will do to people whose lives have been torn apart by asbestos, to future victims, to family members, and to average Americans who are being exposed to deadly asbestos every day without even knowing it. After listening to the victims, hearing their stories, looking them in the eye, there is no way I could vote for this inadequate and unbalanced bill today.

As I have learned about asbestos over the past 3 years, I have been troubled by the duplicity of some of the companies, by the negligence of our own Government, and by the absolute horror that asbestos inflicts on people. Throughout this process, I have also been touched by the commitment and the optimism of victims. Some of them realize it is too late for them, but they want to make sure no other American goes through the horror they have experienced.

After working with them, I know I am not just standing on the Senate floor as a single Senator. I am standing here on behalf of all of the people I have been honored to meet and stand with over the past 3 years.

I am standing here on behalf of people like Brian Harvey, Gayla Benefield, Bret Williams, Ralph Busch, Marv Sather, and George Biekkola.

They were all exposed to asbestos through no fault of their own.

I am standing here on behalf of the family members of asbestos victims, people like Sue Vento, the wife of the late Congressman Bruce Vento of Minnesota; Sue Harvey, and LTC James Zumwalt, the son of Navy hero Elmo Zumwalt.

I am standing here on behalf of doctors who have labored to save their patients against a merciless killer, doctors like Michael Harbut, Alan Whitehouse, and Harvey Pass who not only provided medical care but worked to raise awareness and call for needed research.

I am standing here on behalf of public health leaders like Dr. Richard Lemen, a former Assistant Surgeon General of the United States; Dr. Phil Landrigan, and people like Andrew

Schneider and Barry Castleman who have worked to warn the public about these dangers.

I am standing here on behalf of researchers and advocates, people like Chris Hahn of the Mesothelioma Applied Research Foundation and advocates at the Environmental Working Group.

All of these people have stood with me at press conferences and have testified before Senate hearings, calling for us to help the victims and to ban asbestos. We have a real obligation to them.

I am standing on the Senate floor today to make sure the Senate does right by people who have been wronged.

Let me share one of their voices with my colleagues. In July 2001, the HELP Committee held that hearing that I requested on workplace safety and asbestos exposure. One of the witnesses was Mr. George Biekkola of Michigan, a World War II veteran and a community leader who helped bring a hockey rink to the children of his community.

Those of us who were at that hearing 3 years ago will never forget what he said. He broke down several times as he read his statement, but his message was clear. He told us he had spent 30 years working at the Cleveland Cliff Iron Company in Michigan. He operated a hard rock drill and was exposed to asbestos dust. He was forced to retire at the age of 60 because asbestos had scarred his lungs and reduced his lung capacity by one-third. At that hearing, he told us:

I thought I'd be spending my retirement traveling out West with my wife, hunting deer up in the mountains. But today I can't.

He said he could not exert himself because his heart was weak and that he had to be careful because a simple case of pneumonia could kill him. He told us:

This isn't how I thought I'd be spending my retirement, but when I think about the other guys I worked with—I guess I came out lucky.

He said:

I'm here today to tell you my story so that maybe someone else working in a mine or a brake shop or a factory won't lose the things I have lost.

He concluded his statement with these words:

Senators, please make sure that what happened to me won't happen to anyone else. . . . Workers like me are counting on you to protect us. Please don't let us down.

I am sad to report that George Biekkola died 2 weeks ago today from asbestosis and mesothelioma. Until the end, he was looking out for other victims. In fact, at his funeral last Saturday his family displayed a photograph of him testifying at that Senate hearing.

George is not with us today, but his words ring as loudly now as they did 3 years ago: Senators, do not let us down.

That is why I have been working on asbestos for the last 3 years and that is why I cannot support this inadequate bill. After all the things that Americans like George Biekkola have been through, after all they have lost, after all their families have lost, after all they have done to protect others, I will not let them down, and that is why I cannot support this bill.

Before I turn to the specifics, I want to put this discussion in context. For decades we have been pumping this poison into Americans, on purpose and by accident. It has wrecked lives, families, and fortunes, and it has been a problem for many businesses. Asbestos is everywhere, and it is killing us. We have to stop putting this killer in products. We have to stop importing products that contain asbestos. We have to figure out a way to make whole everyone who has been affected by this epidemic, and we need to do it in a balanced way that gives certainty and equity to both victims and to companies.

This process has been an education for me because like many Americans I thought asbestos had been banned a very long time ago. In 1989, the EPA did try to ban asbestos, but that effort was overturned in a lawsuit from the asbestos industry. Ten years later, in 1999, reporter Andrew Schneider and the Seattle Post-Intelligencer published articles about a disturbing trend in a small mining town of Libby, MT. Residents there are suffering from extraordinarily high rates of asbestos-related disease. At many plants where vermiculite from Libby was processed and then shipped, waste rock left over from the expansion process was given away for free. I learned that people used this free waste rock in their yards, in their driveways, and in their gardens.

This picture that I have with me today is Justin and Tim Jorgensen. They are climbing on waste rock that was given out by Western Minerals, Inc., in St. Paul, MN, some time in the 1970s. According to W.R. Grace records, this rock they are playing on contained between 2 and 10 percent temuline asbestos. This rock produced airborne asbestos concentrations 135 times higher than OSHA's current standards for workers.

We need to do right by Justin and Tim, and those are the people I think about when I look at this bill.

I learned, in fact, that our country is far behind others. The United States remains the only industrialized country besides Canada that has not yet banned asbestos. More than 30 million pounds of asbestos are still today right now consumed in the United States each year. I learned that asbestos is still found today in over 3,000 common products in the United States, including baby powder, cosmetics, brake pads, pipes, hairdryers, ceiling tiles and vinyl flooring.

It is still legal in 2004 to construct buildings with asbestos cement shingles and to treat them with asbestos roof coatings. It is still legal today to construct new water systems using asbestos cement pipes imported from other countries. It is still legal today for cars and trucks to be made and serviced with asbestos brake pads and linings. Workers in this country are still being exposed to dangerous levels of asbestos. According to OSHA, an estimated 1.3 million employees in construction and general industry face significant asbestos exposure on the job today. Asbestos, in fact, has taken a particularly large toll on the people of my State.

According to a recent report by the Environmental Working Group, King County has the fourth highest number of deaths related to asbestos in the country. Three other counties, Kitsap, Pierce, and Snohomish, all rank in the top 100 for asbestos-related deaths. Overall, Washington State ranks eighth in asbestos-related deaths nationwide. Just last week in Spokane, WA, our State department of health announced that 100 former workers at a vermiculite factory likely inhaled deadly asbestos fibers and should seek advice from their doctors. They also warned that children and spouses who lived with those workers could become ill from particles that were carried home with the loved ones on their clothing, on their hair, and their skin.

Given the known dangers of this mineral, we should all be asking why are we still using it? Why are we still adding it to products on purpose where there are perfectly acceptable substitutes? Americans in every walk of life and in every corner of this country have been exposed, and we have to protect them. That is why I have worked to do a series of things over the past few years.

On June 18 of 2002 I introduced the Ban Asbestos in America Act. I reintroduced that bill again last May as S. 1115.

I do thank all the Senators who have cosponsored my bill: Senators BAUCUS, BOXER, CANTWELL, DASCHLE, DAYTON, DURBIN, FEINGOLD, FEINSTEIN, HOLLINGS, JEFFORDS, LAUTENBERG, LEAHY, and REID.

I have pushed the EPA to warn homeowners about the dangers of Zonolite insulation, which today is in the attics of as many as 35 million homes, schools, and businesses.

I have urged the EPA to warn brake mechanics about the deadly asbestos dust they are exposed to on the job today.

I have asked OSHA to increase its efforts to enforce existing regulations that attempt to protect automobile brake mechanics.

I have shared my concern with legislators in Canada, the country that is the largest source of America's asbestos imports.

I testified at a hearing on Libby, MT, and I testified before the Judiciary Committee last July.

Asbestos liability is a real problem. It is a problem for victims, and it is a problem for companies. We need a balanced solution.

Unfortunately, the bill that is before us today falls short in six ways. First

of all, it is unfair to victims because the awards are too small, even smaller than many would get if they were allowed a day in court.

Second, it could lock future victims out of getting help because the trust fund is inadequate.

Third, it keeps Americans in the dark about the dangers of asbestos. It does not include the education campaign that we know is needed and that I have been pushing for over the past 3 years.

Fourth, it falls short on research, tracking, and treatment for asbestos diseases.

Fifth, it makes family members jump through too many restrictive hurdles.

And sixth, it allows insurance companies to place liens on the awards family members receive, unfairly reducing the award they deserve, and treating them much differently than other Federal compensation programs.

Let me take a few minutes to discuss each of those in detail. First of all, as I said, the awards are too small. Many people who had their lives torn apart by asbestos will actually do worse under this bill than they would in court. For example, awards for lung cancer victims who have more than 15 years of exposure to asbestos are limited to $25,000 to $75,000, even though most of those victims will die within a year.

Victims with asbestosis who have lost 20 percent to 40 percent of their breathing capacity, many of whom will be disabled for life, will receive only $85,000. That is far less than their lost wages and medical costs. This bill gives them less than they deserve. At the same time, it blocks the courthouse door to victims who have staggering medical bills, lost wages, and other damages. I do not see how Congress can leave asbestos victims worse off than they are today, but that is what this bill will do.

Second, the trust fund is too small to compensate all the victims, but that is just one of the problems with this trust fund. I believe a successful trust fund will provide fair and adequate compensation to all victims and would bring reasonable financial certainty to defendant companies and insurers. To do that, the trust fund must include four things: Fair award values, appropriate medical criteria, adequate funding, and fast processing.

The system for processing claims must allow victims to get prompt payments, without the complications, time, and expense of a traditional lawsuit. Unfortunately, the trust fund in this bill falls far short of what is needed. I have already discussed how the award values are unfair.

In addition, the trust fund is not adequately funded. In fact, the trust fund in this bill has been slashed dramatically from the original Hatch legislation. In the Judiciary Committee's bill the trust fund was $153 billion. But in this bill we are being asked to vote on the trust fund has been slashed by over $40 billion.

Now, the trust fund didn't shrink on its own. It was reduced after closed-door negotiations that included only one side, the defendant companies and the insurance industry. It was not based on the actual needs of victims. Instead, it was based on what the insurers and businesses were willing to pay. This one-sided agreement reduced the funding provided in S. 1125 by more than $40 billion.

Making matters worse, an additional $10 billion in contingent funds does not become available for 24 years. The Senate should not adopt a policy of adjusting award values just to meet an arbitrary and artificial limit reached in a back room with only one side present.

Not only was this figure arrived at in an unfair way, but it is clear it is not enough to meet the needs of current and future asbestos victims.

The Congressional Budget Office has estimated the cost of this bill at $134 billion. This bill provides only $109 billion. So there is a significant shortfall already. But there is very good reason to believe this shortfall will be even larger. Recent claims in the Manville trust show much higher than expected claims for many asbestos diseases. Those claims also show that recent mortality and morbidity data increase the likelihood that the number of asbestos-related diseases and related claims will exceed current estimates.

If this fund becomes insolvent it will leave victims without the help they deserve and without the help they need. Because of that possibility, last year Senators inserted a number of protections during the Judiciary Committee markup. Tragically, very tragically, the bill before us today throws away all of those carefully crafted bipartisan protections.

For example, we had protections for victims in case the trust fund became insolvent. Those protections in the Biden amendment were stripped from this bill.

We had protections that guaranteed that asbestos victims would preserve their legal rights until the trust fund is operational. That is important because if this bill becomes law, it will end up in court and there will be no mechanism for victims and their families to get help while this law is tied up in court. We solved that problem with the Feinstein amendment, but again those protections were stripped from this bill.

So overall this trust fund is inadequate. If we are going to lock the courthouse doors to victims, we have to be 100 percent certain the trust fund will have enough money to cover all of the 600,000 current claims and the thousands more that may be found later. This is especially important because asbestos diseases have a very long latency period, often decades long, making it hard for us to predict today who will need help in the future. If we pass this inadequate trust fund, my constituents and hundreds of thousands of Americans will be left out in the cold with only the fading memories of their loved ones to carry them through this tragic ordeal.

My third concern with this bill is it keeps Americans in the dark about the dangers of asbestos exposure. This bill completely drops the education campaign that was in both of my asbestos bills. One of the reasons why asbestos takes such a deadly toll is because people are unaware that they're being exposed to it.

Ralph Busch, a constituent of mine, exposed himself and his wife to asbestos when he renovated his home. He never knew about the dangers until he happened to read a story in the Seattle Post-Intelligencer. Today, his dream house is abandoned, his credit is ruined, and his health is a constant worry. Ralph Busch didn't do anything wrong. He couldn't have known about the danger of Zonolite insulation. There is no way that Ralph Busch could have known that by buying and renovating an old house he would eventually expose his family to dangerous levels of asbestos.

We must make sure others do know about this public health risk by providing additional resources to educate the American public about the dangers of worksite and home exposures to products that contain asbestos.

We must also provide safety information to homeowners on what they can do to prevent asbestos exposures at home, particularly in the attic and basement.

In addition to homeowners, many workers are exposed to asbestos on the job. Often they are not aware of the danger, and they don't have the protective equipment they need.

I am heartened to hear that EPA, ATSDR and NIOSH are now proactively reaching out to consumers and workers to warn them to stay away from vermiculite attic insulation. But, I am very concerned that the EPA, prodded by a request from the law firm of the former acting agency administrator, is considering revising its ''Guidance for Preventing Asbestos Disease Among Auto Mechanics'' to convey the false impression that brake repair work is no longer a risk.

Clearly, any effort by the EPA to downplay these risks flies in the face of current congressional intent regarding the inherent health problems with exposure to asbestos in the workplace. I sincerely hope that EPA will not bow to the pressure of the industry and in fact strengthen its guidance for brake mechanics.

My fourth concern is that this bill does not do enough for research, tracking and treatment.

I want to thank Senator HATCH for including some modest resources in his latest version of the bill—which should be used to establish mesothelioma research and treatment centers around the country. Yesterday I was pleased to hear Senator HATCH say that he would be willing to explore additional funding for asbestos research and treatment

centers. These centers will be critical as the medical community works to develop new treatments and protocols for the variety of deadly cancers and diseases that exposure to asbestos brings to workers and their families.

Unfortunately, not included in S. 2290 are the resources needed to track the victims of mesothelioma and other asbestos causing cancers, and to conduct additional research about the harmful effects of this deadly material.

These are areas that doctors and other experts have told me time and again we must invest in. I heard from some of those doctors last month at a press conference I held, which Senator REID and Senator DAYTON attended. At the press conference, Dr. Bret Williams of North Carolina said, ''As a doctor, a cancer patient, a husband and father, I am asking my government to take a stand. Fix the problem. Give us hope. Fund a mesothelioma research program. Please invest in a cure.''

A surgeon from Detroit, Dr. Harvey Pass, told us that progress on asbestos diseases requires funding, and he said that funding, ''remains absolutely insufficient to set up the type of collaborative approaches that already exist with lung cancer, breast cancer, prostate cancer, and colon cancer.''

The fourth problem with this bill is its inadequate support for research, tracking and treatment of asbestos diseases.

My fifth concern with this bill is the way it treats family members. Under this bill, family members of victims will be forced to jump through an additional series of hoops, reducing the likelihood they will ever receive an award.

Let us remember that these family members have lost loved ones. In many cases they are vulnerable themselves because they came into contact with asbestos fibers through a family member. Take the case of Susan Lawes. Her father was a pipe fitter and was exposed to asbestos on the job. When he came home from work, asbestos fibers were still on his clothes. He would walk through the door after the end of a long day and give his daughter a hug. Last month, Susan was diagnosed with an asbestos disease. As she told me,'' I am literally dying because I hugged my dad.''

Susan and many people like her are not treated fairly under this bill. The children and the spouses of workers should not have to prove five years of exposure to asbestos from their husbands and fathers as they would under this bill. They also should not be forced to appear before a special Physicians Review Board in order to determine their medical condition and whether they are eligible for a compensatory award.

It is the same for people in Spokane, WA. Spokane is one of the 22 sites that EPA has determined is still contaminated. Why are we forcing these innocent victims of take-home asbestos exposure to jump through extraordinary hoops to determine their eligibility of an award?

My fifth concern is the unfair way this bill treats family members—making them jump through hurdles that reduce the chance they will ever get the help they need.

Finally, this bill allows insurance companies to reduce any awards that victims actually receive—something that is not found in similar federal plans.

This bill allows insurance companies to place liens on the awards that victims and family members receive.

I find it unconscionable that health insurance companies and other entities can recoup their costs by placing liens on the awards family members receive in compensation for their loss of a father, a husband, a son or a daughter.

These workers were often the only breadwinners in their households, but this bill tells their surviving family members that they can be sued by their health insurance provider for a substantial part of an award—an award that as I've shown may already be inadequate.

What is especially disturbing is other federal compensation programs do not allow this type of action, but for some reason, asbestos victims are being given fewer protections. For example, the awards provided to victims in federal compensation programs like the Radiation Exposure Compensation Act, the Energy Employees Occupational Illness Compensation Program Act and the Ricky Ray Hemophiliac Relief Fund Act are not subject to liens by workers compensation insurers. I don't know why the authors want to treat asbestos victims differently, but I do know that it is not fair, and it's one of the reasons why I can't support this bill.

In the end, this bill falls far short of what victims deserve. The awards are too small. The trust fund is inadequate. It fails to educate Americans about the dangers of asbestos. It falls short on research, tracking and treatment for asbestos diseases. It puts unfair burdens on family members, and it allows insurance companies to reduce a victim's award.

I have been fighting on this for years, and it makes no sense that we could squander this moment with a bill that is so inadequate. George and Gayla and Ralph and Marv and Bret and Brian deserve so much better, and I will continue to fight for them.

Regardless of what happens with this bill, the one thing we must do is ban asbestos, and I assure my colleagues that I will keep fighting for that. I do want to pass a law. We need a real solution. I don't want companies going bankrupt. I don't want victims going without the help they need. I still think we can do it, and I will continue to fight for a balanced and fair bill that will do right by victims across the country. We have an obligation to them and their families. I have been fighting for them for the last 3 years. No matter what happens this week, I am not going to stop now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I preface my remarks by saying my thoughts are with the victims of asbestos exposure, those families that have lost loved ones, and those that have to live with the debilitating illness caused by asbestos. They are at the forefront of my mind and in my heart as I discuss this issue of asbestos liability.

I want to be sure the legislation we pass today will ensure that those truly sick individuals are allowed fair and just compensation. Without the passage of this legislation, they will not be compensated. As hundreds of companies will cascade into bankruptcy, we will lose thousands of good-paying jobs and see the pensions of thousands of retirees evaporate.

Most people would agree that the issue of asbestos litigation and its aftermath is presenting a crisis in our country. With roughly 70 companies already in bankruptcy and a slew of bankruptcies soon to follow, the U.S. Supreme Court had it right when they called this an elephantine mess.

People need to understand this mess has far-reaching effects and ripples and they are being felt way beyond corporate boardrooms. They are being felt intensely by middle America, people from States such as Ohio, in the form of job loss. We have lost over 2.7 million manufacturing jobs in the United States. In my State alone, in July, there were 1 million manufacturing jobs in 2000, but by October 2003 that fell to 840,000, 17.6 percent of our State's manufacturing employment, a loss of more than 1 out of every 6 Ohio factory jobs. These numbers represent a crisis for Ohio's economy. Already, roughly 70 companies have been forced into bankruptcy with between 52,000 and 60,000 jobs lost as a result.

Shattered families and communities. The statistics are only the beginning as thousands of jobs were subsequently lost in industries dependent on those bankrupt firms. In fact, a recent study by Financial Institutions for Asbestos Reform and conducted by Navigant Consulting details the hidden cost of this crisis and shows how passage of Federal asbestos legislation would provide a tremendous boost to the economy and create jobs. Dr. William Kerr, author of the study, said the failure to enact legislation would reduce economic growth by $2.4 billion per year. Failure to enact legislation could reduce economic growth by $2.4 billion per year, costing more than 30,000 jobs annually. Extended over a 27-year frame, as contemplated, this means the loss of more than 800,000 jobs and $64 billion in economic growth.

Another study, entitled The Secondary Impacts of Asbestos Liabilities, conducted by NERA Economic Consulting for the U.S. Chamber of Commerce, shows how asbestos lawsuits

can cause secondary harm to businesses, governments, communities, and individuals. The study found the ripple effects of plant closures and mass layoffs, such as causing local real estate values to fall, per capita income to decline, and tax coffers to dwindle. The study estimates the total cost to taxpayers of unemployment insurance benefits to displaced workers for asbestos-related bankruptcies at $80 million. The study put the indirect cost of the company closing due to asbestos liability at as much as $2.1 billion. If nothing is done to resolve what has been described as the elephantine mess of asbestos litigation, scores, if not hundreds, of additional businesses will be forced into bankruptcies and tens of thousands of additional workers will find themselves unemployed. Retiree and workers who spent decades working for retirement will see their life savings vanish.

This crisis can really be felt in my home State of Ohio. In fact, Ohio is the fifth biggest State in the country in terms of asbestos claims hanging around our court. In Cuyahoga County, more than 41,000 asbestos cases have swamped the court system. At least 20 large Ohio companies, representing more than 80,000 employees, are the targets of asbestos litigation. Of course, over the past few years the circle of liability has expanded to pull in more and more solvent companies, many of which never manufactured or installed asbestos.

There are numerous examples of Ohio companies negatively impacted by this crisis. Take the case of Federal Mogul, a company that employs over 1,200 in six cities through my State. Employees held 16 percent of the company stock. That stock lost 99 percent of its value. Current employees and also retirees feel the effects of the bankruptcies. Many retirees depend on company stock and dividends for income, and as this value heads south, retirees feel it immediately.

Another company which does a lot for the Toledo area is Owens Corning. As Governor, I worked hard to get Owens Corning to put the new corporate headquarters in downtown Toledo to help facilitate the city of Toledo renaissance. Owens Corning, unfortunately, went bankrupt in 2000. In the 2 years preceding this bankruptcy, the stock lost 97 percent of its value. Fourteen percent of the stock was owned by company employees.

Another Ohio company spoke with me off the record about its growing asbestos liability. When this company announced it had limited asbestos liability, the stock dropped by about 20 percent and its debt rating was lowered. This began a chain-reaction ripple effect that included the loss of over 100 jobs, the sale of assets, a 50-percent cut in capital investments, and a huge cut in the amount of contributions to the surrounding community.

As a former mayor, I know firsthand the impact of what happens when companies go bankrupt. Many of us forget that these companies make a significant contribution to the tax revenues of the cities in which they are located, including their philanthropic contributions, such as United Way, arts, education, health care, and many other forms of community involvement. As I have said before, companies such as this one make up the backbone of the Ohio economy. They do not want to shirk their responsibility to those victims who will become sick truly because of asbestos exposure; they want to know that they are not compensating those individuals who are unimpaired.

Ohio feels the crisis most acutely. It has so impacted my State of Ohio that the State legislature has decided to act where the Federal legislature has failed to do so. On December 11, 2003, the Ohio House of Representatives approved a bill to make Ohio the first in the Nation to block suits by people exposed to potentially deadly asbestos but who have yet to fall ill. The bill would adopt State medical standards for such litigation, allowing lawsuits to be filed by those who have yet to develop cancer or suffer measurable loss of lung function to be placed on hold until they do actually develop the symptoms.

I applaud the State of Ohio for recognizing the true magnitude of the threat to Ohio citizens and for not waiting for Washington to act. With the passage of this bill, Ohioans who are sick from asbestos exposure will go to the top of the court dockets where they belong. Finite resources will be available for those who need compensation most. The people who are now sick will be able to file claims.

Now, if we could only get something done here. I have been working on this issue since I was elected to the Senate, and I have been a cosponsor to several pieces of legislation, including the Asbestos Tax Fairness Act and both versions of the Fairness in Asbestos Injury Resolution Act. I have testified twice before the Judiciary Committee on the need for this legislation. I have lobbied my colleagues in the administration on the need to see this bill passed.

If we want to get something done, we need to do it now. Now is the time. We passed the FAIR Act out of the Judiciary Committee last summer and have spent the time between then and now negotiating to try to find a solution that everyone can support. That is almost a year that we have been negotiating back and forth trying to figure out something we think will be fair to everyone. The time has come for action. We cannot afford any more delays. The ever rising tide of corporate bankruptcies affect victims' compensation so that the truly sick asbestos victims in too many cases and more and more frequently only receive pennies on the dollar. In addition, employees of bankrupt companies suffer as they watch their jobs disappear and their pensions in 401(k) plans decrease dramatically. Again, we have to do something now, not later. Passage of this legislation will get us well on our way. And we have never come closer to resolving the asbestos litigation crisis than this legislation.

This bill provides for a privately funded, no-fault, national asbestos victims compensation fund that will replace the broken tort system and ensure that individuals who are truly sick receive compensation quickly, fairly, and efficiently. It retains the bipartisan agreement on medical criteria that was approved unanimously by the Judiciary Committee. These criteria form the basis of a no-fault victims' compensation fund that will stop the flow of resources to the unimpaired and ensure that the truly ill will be paid quickly and fairly.

The bill contains many improvements made to its predecessor and reflects the product of the last several months of extensive negotiations by the stakeholders in this debate—all of the stakeholders.

I urge my colleagues to vote for cloture on this very important piece of legislation.

On a broader scale, the litigation crisis in this country is like a tornado ripping its way through our economy. The American Tort Reform Association published a study in 2002 on the impact of litigation in Ohio and found that it costs every Ohioan $636 per year—that is every Ohioan, all 11.5 million. That is $636 a head. A large part of it is due to the issue that we have before us today, asbestos. We need to move immediately on this issue.

In my opinion, passing responsible asbestos reform legislation to ensure that the truly injured receive fair and just compensation, and to prevent more companies from sliding into bankruptcy, will do far more for Ohio's economy than many other stimulus proposals we have been talking about on the floor of the Senate or in our respective committees.

The consequences of inaction are grave. As previously mentioned, a large swath of corporate America is at risk, jeopardizing the jobs of thousands of employees, impoverishing retirees, and shattering families and communities. America's clear national interest lies in making sure asbestos funds are available for those who become sick and lifting an ominous cloud of litigation from our troubled economy.

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

The PRESIDING OFFICER (Mr. HAGEL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FALSE ADVERTISEMENT BY SPECIAL INTEREST GROUPS

Mr. INHOFE. Mr. President, I have to admit that I do not read the New York

Times cover to cover each day. But from time to time, items in that paper do catch my attention. For instance, when a group runs a full-page advertisement, one cannot help but at least glance at the ad.

A couple weeks ago, one such advertisement caught my attention. It was a full-page advertisement placed in the New York Times by two special interest groups: the Natural Resources Defense Council and Moveon.org. These two special interest groups are especially vocal and devoted solely to disparaging the environmental record of the Bush administration.

I have an enlarged version of that advertisement that ran in the New York Times. It is chart 1. As you can see, it states, in large print: ''First Arsenic, Now Mercury.'' It has pictures of President Bush alongside a powerplant billowing with smoke. The ad makes such claims as: the President's policies are the source for mercury contamination in fish and that the President is simply following the wishes of industry contributors. The ad makes direct statements such as: ''So why is President Bush trying to weaken controls on mercury pollution?''

I am chairman of the Environment and Public Works Committee, so this ad was of particular interest to me for at least a couple reasons. To anyone reading this advertisement, the reader would naturally assume there must be some already existing controls on mercury emissions from powerplants because the ad explicitly claims that President Bush is trying to weaken those controls.

How can you weaken controls if there are no controls to start with? So it is assuming there are controls existing. This claim is completely false. I believe this chart demonstrates that. The NRDC's lobbying claim is that the President is weakening controls on mercury emissions from powerplants. The facts, however, are very different.

On December 15, 2003, this President proposed the first ever controls on mercury emissions from utilities. Now, keep in mind, there were no controls before, none whatsoever. How can you weaken controls if there are no controls there?

The Clinton administration had 8 years to propose such controls and did not. In nearly 3,000 days as EPA Administrator, how many mercury regulations on powerplants did former EPA Administrator Carol Browner issue? Zero. Instead, in the last month of the eighth year of the Clinton administration, Carol Browner deftly handed a regulatory lemon to the Bush administration that she was unwilling to impose during the Clinton administration. What a courageous move.

I am very proud that President Bush and his EPA Administrator, Mike Leavitt, have shown leadership where President Clinton and Carol Browner fumbled and failed. In fact, Administrator Leavitt testified before the Environment and Public Works Subcommittee on Clean Air in a hearing on April 1, 2004. In questioning, the Administrator ably drew the line between fact and fiction regarding the President's proposals regulating mercury from powerplants. I want to read to you one of his quotes. The Administrator explained:

> One fiction is that the EPA does not view mercury as a toxin. The fact is mercury is a toxin and it needs to be reduced. Another fiction is that somehow the agency is seeking the Administration to roll back standards. The fact is there has never been a standard, this will be the first time that we will have regulated mercury from power plants in our Nation's history and we want to do it right.

Now, that is what Administrator Leavitt said, reemphasizing there has been no regulation on mercury.

Why shouldn't we propose the right mercury rule based on sound science? There are no existing control standards for utility mercury emissions, so how can President Bush weaken a control standard for mercury that does not exist? That simply does not make sense.

The NRDC has been a prominent national special interest group for many years. So why would the NRDC run such an ad that is completely false? I believe the answer to that question leads me to the second reason this ad was of particular interest to me.

I had this advertisement enlarged to highlight one particular part of it. Keep in mind, this was a full-page ad that cost, as I understand it, around $110,000 for 1 day.

This is what was on the bottom, if you will notice the perforated block at the end of the full-page ad circled in red. I especially wanted to highlight this portion of the ad pictured on the chart because this block is the reason why this ad ran. This perforated block is a contribution form. The contribution form states:

> Yes, I want to join the Natural Resources Defense Council and help thwart President Bush's plan to weaken controls on toxic mercury.

This is the most important part:

> Here is my tax deductible gift of $ [blank].

The form further states to ''make your check payable to the NRDC and mail it to the NRDC mercury campaign.''

I believe it is bad enough to run a false advertisement, but to solicit charitable contributions based on that false advertisement is especially troubling. The New York Times is widely distributed in my home State of Oklahoma, as it is throughout the rest of the country. It would be very disturbing to learn that based on a false ad, people are scared into contributing.

For the past several years, my State of Oklahoma has been rated in the top 25 percent of States for charitable contributions per gross income. It would greatly trouble me if even one of these contributors was misled by any charitable solicitation.

The Council for Better Business Bureaus, a national organization, compiles a Wise Giving Alliance report authorizing a seal of approval to charities that meet the organization's standards. One of the standards the council has established to measure charities deals with solicitations by those charities. Part C of those standards states the following:

> 1. Solicitations and informational materials, distributed by any means, shall be accurate, truthful and not misleading, both in whole and in part.
>
> 2. Soliciting organizations shall substantiate on request that solicitations and informational materials, distributed by any means, are accurate, truthful and not misleading in whole or in part.

The NRDC, describing itself as a charity, should substantiate this false advertisement. The President has proposed the first controls on mercury emissions from powerplants, the first ever. The Better Business Bureau should hold the NRDC accountable for their purposefully misleading statements. However, NRDC's irresponsibility is sanctionable in other manners as well.

Solicitations by charitable organizations are regulated in part by Federal statutes and case law. However, the solicitation of charitable contributions is mainly regulated by individual State law, and violations of solicitation statutes can be prosecuted under state law. Solicitation by charitable organizations is strictly regulated against fraud and misleading advertisement under the Oklahoma statutes. Oklahoma State law reads in relevant part:

> Any person [or organization] who attempts to solicit any contribution as a charitable organization by means of knowingly false or misleading advertisement shall lose its status as a tax exempt organization and upon conviction be guilty of a felony.

This criminal liability extends to all officers and agents of the charity involved in the solicitation. We take this very seriously in Oklahoma. At least 40 other States have just as strict statutes against soliciting contributions by misleading advertising.

Arguably this ad by NRDC may be unlawful in as many as 40 other States that also have charitable solicitation statutes. This advertisement by the NRDC and MoveOn.org explicitly states the President is weakening mercury standards while they are trying to swindle contributions from people all across the country who may see this advertisement. I don't know what else this ad represents, but specifically NRDC, which describes itself as a charitable organization on its Web site, soliciting contributions by making knowingly false statements to cheat people out of contributions—in Oklahoma, that could make you a felon.

The most shocking part of this is not even that NRDC is running a completely false ad or NRDC is running a completely false ad simply to fleece people for contributions; the most shocking part is the American taxpayer subsidizes the NRDC hundreds of thousands of dollars each year to conduct this type of activity. Public IRS

records for the last several years demonstrate NRDC regularly receives thousands of Federal grant dollars each year. In 2002, the NRDC received more than a half million dollars in government grants. In 2003, the NRDC was additionally awarded more than half a million dollars again in government grants. The cycle continues year after year after year.

The Environment and Public Works Committee has oversight jurisdiction over several Federal agencies. I believe my committee has the obligation to ensure Federal funds allocated to these agencies are used responsibly.

One agency in particular under the jurisdiction of the committee I chair, the Committee on the Environment and Public Works, is the Environmental Protection Agency. The committee has the responsibility to assure American taxpayers their money is going toward accomplishing the EPA's mission of protecting human health and the environment.

On March 3, my committee held its first hearing into the matter in which EPA allocates grants each year. The EPA is a granting agency, allocating more than half of its $8 billion annual budget in grants to State, local, tribal governments, educational institutions, nonprofit organizations, and a variety of other recipients. I announced at the hearing the committee was going to take its oversight responsibilities seriously in regard to grants management, and I intend to take this responsibility seriously until real changes are made in grants management.

The committee heard testimony of problems with grants management. I am confident we will begin to make real changes with the leadership of the Bush administration and Administrator Leavitt.

However, the NRDC, for example, has made it a matter of doing business to apply for Federal grant awards that I believe help subsidize it to run ads such as this one. It costs more than $110,000 a day to run a full-page ad in the New York Times. The NRDC and MoveOn.org are spending thousands of dollars to purposely misrepresent the Bush environmental record and scare people into contributing based on those false representations.

I am announcing that I am sending letters today to the two largest judicial jurisdictions in Oklahoma and requesting those district attorneys to investigate the legality of this advertisement in Oklahoma. I am also sending a letter to the Better Business Bureau requesting that organization to more carefully consider this false advertisement in their rating of the NRDC in awarding their Wise Giving Alliance seal and ask that it formally request NRDC to substantiate its baseless claim.

I ask unanimous consent that all three letters be printed in the RECORD.

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

U.S. SENATE, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, April 21, 2004.

Hon. TIM HARRIS,
District Attorney, Tulsa County Courthouse, Tulsa, OK.

DEAR TIM: I am writing to bring to your attention an advertisement that ran in the New York Times on March 26, 2004. A copy of this advertisement is attached to this letter. I wanted to highlight issues of concern to me in this advertisement. The New York Times is widely distributed in Tulsa, Oklahoma, throughout Oklahoma, and the rest of the country. This advertisement makes claims that due to President Bush's policies concerning environmental protection specifically concerned regulations on mercury emissions from public utilities, more toxic mercury will be emitted into the air. It pictures President Bush next to a picture of a power plant billowing with smoke, and specifically solicits contributions to the Natural Resources Defense Council, a IRS designated 501(c)(3) organization, to ''help thwart President Bush's plan to weaken controls on toxic mercury.''

As you are aware, I am Chairman of the U.S. Senate Committee on Environment and Public Works, so this advertisement was of particular interest to me. One of the issues before this Congress is regulation emissions from power plants. President Bush has proposed the first controls on toxic mercury emissions from utilities. Currently there are no existing controls on mercury emissions from utilities. The Clinton Administration had eight years to propose such controls and did not. I believe NRDC's claim that President Bush is trying to weaken control on mercury pollution is completely false and simply an effort to raise contributions.

It is irresponsible enough that NRDC runs false advertising, however, it is also attempting to solicit contributions as a 501(c)(3) and self-described charitable organization.

I understand that there are federal statues governing charitable solicitations, but I also know that Oklahoma state statutes address perceived false solicitation by a charitable organization under The Oklahoma Solicitation of Charitable Contributions Act (18 Okl.St.Ann. §552.1 et seq). What I find particularly interesting is the penalties section of the Act stating the following:

''Any person who solicits or attempts to solicit any contribution as a charitable organization or for a charitable purpose by means of knowingly false or misleading representation, advertisement or promise or any person violating the provisions of this act, including the filing of false information hereunder, shall lose its status as a tax-exempt organization, and shall be taxed in the same manner and at the same rate as any other corporation, and shall upon conviction be guilty of a felony punishable by a fine not to exceed One Thousand Dollars ($1,000.00) or by imprisonment in the State Penitentiary for not more than two (2) years, or by both such fine and imprisonment, and every officer or agent of a charitable organization who authorizes or conducts illegal solicitations shall be jointly and severally liable for such fine.'' (18 Okl.St.Ann. §552.18).

I know that your office is continually engaged in prosecuting hundreds of felony cases each year with tremendous success. As a resident of your jurisdiction, I appreciate the work of your office. Any attention that your office could provide to this matter would be greatly appreciated. I intend to highlight the irresponsible activities, like the enclosed advertisement, by groups like NRDC that the federal government subsidizes with hundreds of thousands of taxpayer dollars in grants and other financial assistance each year.

Thank you again for your attention to this matter.

Sincerely,

JAMES M. INHOFE,
Chairman.

FIRST ARSENIC NOW MERCURY—GEORGE BUSH'S EPA AND THE POLITICS OF POLLUTION

America learned this week that tuna, and many other fish, can contain harmful levels of toxic mercury. Forty-five states already post warnings of mercury contamination in their lakes and streams. So why is President Bush trying to weaken controls on mercury pollution?

It's deja vu all over again. Early in his presidency, George Bush tried to allow more arsenic in drinking water. Now, he wants the EPA to let coal-fired power plants treat their mercury pollution as ''non-hazardous'' even though mercury threatens pregnant women and children.

The Bush administration's ploy would allow coal-fired power plants to put more mercury into the air, where it rains down on lakes and oceans, is swallowed by fish, and could wind up on your plate. Exposure to mercury can cause learning disabilities and neurological damage in kids and the developing fetus.

Guess who is praising this scheme? Coal power companies, who are big mercury polluters and big political contributors, too.

THE MERCURY MONEY TRAIL

The big mercury polluters and their trade associations are aggressive political players in Washington. Their executives and PACs are also generous political donors. It's no surprise that the Bush administration is following the industry's script for weakening mercury regulations.

Last time around, President Bush had to back down on arsenic in the face of a massive outcry from people across the political spectrum.

Let's make history repeat itself.

Tell President Bush to get serious about reducing mercury pollution. Our kids deserve no less. Let the Bush administration and the EPA hear your voice about its proposed mercury rule. Go to www.nrdc.org—NRDC, MoveOn.org, Democracy in Action.

U.S. SENATE, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, April 21, 2004.

Hon. WES LANE,
District Attorney, Oklahoma County Courthouse, Oklahoma City, OK.

DEAR WEST: I am writing to bring to your attention an advertisement that ran in the New York Times on March 26, 2004. A copy of this advertisement is attached to this letter. I wanted to highlight issues of concern to me in this advertisement. The New York Times is widely distributed in Oklahoma City, throughout Oklahoma, and the rest of the country. This advertisement makes claims that due to President Bush's policies concerning environmental protection specifically concerning regulations on mercury emissions from public utilities, more toxic mercury will be emitted into the air. It pictures President Bush next to a picture of a power plant billowing with smoke, and specifically solicits contributions to the Natural Resources Defense Council, a IRS designated 501(c)(3) organization, to ''help thwart President Bush's plan to weaken controls on toxic mercury.''

As you are aware, I am Chairman of the U.S. Senate Committee on Environment and Public Works, so this advertisement was of particular interest to me. One of the being considered before this Congress is regulation on emissions from power plants. President Bush has proposed the first controls on toxic

mercury emissions from utilities. Currently there are no existing controls on mercury emissions from public utilities. The Clinton Administration had eight years to propose such controls and did not. I believe NRDC's claim that President Bush is trying to weaken control on mercury pollution is completely false and simply an effort to raise contributions.

It is irresponsible enough that NRDC runs false advertising, however, it is also attempting to solicit contributions as a 501(c)(3) organization and self-described charitable organization.

I understand that there are federal statutes governing charitable solicitations, but I also know that Oklahoma state statues address perceived false solicitation by a charitable organization under The Oklahoma Solicitation of Charitable Contributions Act (18 Okl.St.Ann. §552.1 et seq). What I find particularly interesting is the penalties section of the Act stating the following:

Any person who solicits or attempts to solicit any contribution as a charitable organization or for a charitable purpose by means of knowingly false or misleading representation, advertisement or promise or any person violating the provisions of this act, including the filing of false information hereunder, shall lose its status as a tax-exempt organization, and shall be taxed in the same manner and at the same rate as any other corporation, and shall upon conviction be guilty of a felony punishable by a fine not to exceed One Thousand Dollars ($1,000.00) or by imprisonment in the State Penitentiary for not more than two (2) years, or by both such fine and imprisonment, and every officer or agent of a charitable organization who authorizes or conducts illegal solicitations shall be jointly and severally liable for such fine.'' (18 Okl.St.Ann. §552.18).

I know that your office is continually engaged in prosecuting hundreds of felony cases each year with tremendous success. Any attention that your office could provide to this matter would be greatly appreciated. I intend to highlight the irresponsible activities, like the enclosed advertisement, by groups like NRDC that the federal government subsidizes with hundreds of thousands of taxpayer dollars by way of grants and other financial assistance each year.

Thank you again for your attention to this matter.

Sincerely,

JAMES M. INHOFE,
Chairman.

U.S. SENATE, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, April 21, 2004.

Mr. KEN HUNTER,
Council of Better Business Bureaus, Wilson Blvd., Arlington, VA.

DEAR MR. HUNTER: I am writing to bring to your attention an advertisement that ran in the New York Times on March 26, 2004. A copy of this advertisement is attached to this letter. I wanted to highlight issues of concern to me in this advertisement. The New York Times is widely distributed throughout the country. This advertisement makes claims that due to President Bush's policies concerning environmental protection specifically concerning regulations on mercury emissions from public utilities, more toxic mercury will be emitted into the air. It pictures President Bush next to a picture of a power plant billowing with smoke, and specifically solicits contributions to the Natural Resources Defense Council, a IRS designated 501(c)(3) organization, to ''help thwart President Bush's plan to weaken controls on toxic mercury.''

As Chairman of the U.S. Senate Committee on Environment and Public Works, this advertisement was of particular interest to me. One of the issues considered before the Congress is multi-emissions legislation. On December 15, 2003, the Environmental Protection Agency proposed the first controls on toxic mercury emissions from power plants. Currently there are no existing controls on mercury emissions from public utilities. I believe NRDC's claim that President Bush is trying to weaken controls on mercury pollution is completely false and simply an effort to raise contributions.

It is irresponsible enough that NRDC runs false advertising, however, it is also attempting to solicit contributions as a 501(c)(3) organization and self-described charitable organization.

I understand that the council for Better Business Bureaus rates charities by its Wise Giving Alliance standards requiring that solicitations be ''accurate, truthful, and not misleading in whole and in part'' and that charities be required to substantiate all claims. I request that the Council require the NRDC to substantiate its claims and consider this false advertisement in future ratings of this charity.

Thank you for your attention to this matter.

Sincerely,

JAMES M. INHOFE,
Chairman.

Mr. INHOFE. A couple years ago, I read a series of articles in the Sacramento Bee highlighting the facade of many environmental groups. The article made the point that today's environmental groups, like NRDC, are more about their own prosperity than environmental protection. I still have those articles in my office. I thought one particular quote was especially fitting.

The author wrote of environmental groups:

Competition for money and members is keen. Litigation is blood sport. Crises, real or not, is a commodity, and slogans and sound bites masquerade as scientific fact.

That quote was written in 2001. It is still more true today in 2004. But it is not something new. That quote captures the way NRDC and its cohorts have been doing business for years. They should be responsible. They should be truthful. This type of activity goes beyond what the NRDC does with Federal tax dollars, but I intend to explore what NRDC and groups like it are also publishing and the extent of the rampant false claims made by these groups the American taxpayers help to fund each year.

We are not going to allow this to continue. They are getting into the types of discretionary grants we are dealing with through the EPA and other agencies. It is shameful that it is going on. We are now in a position, with the committee I chair, to do something about it. We intend to do that.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. HARKIN. Mr. President, might I inquire as to how much time I would have to speak on the floor now?

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa has been allotted 15 minutes to speak in morning business.

REFOCUSING OUR HEALTH CARE SYSTEM

Mr. HARKIN. Mr. President, last week the Labor, Health, and Human Services Subcommittee of Appropriations held a hearing in my State of Iowa. I wanted to learn more about the medical and financial ramifications of chronic conditions such as obesity, tobacco use, mental illness, and lack of physical activity. I come away from that hearing and other hearings that we have had in Washington, and others we have had going back probably over a dozen years, even more convinced that we need to refocus our health care system toward wellness and prevention. I am convinced now more than ever that we really do not have a health care system in America. We have a ''sick care system'' in America. I will say more about that in a moment.

At the hearing and at others before that, we heard the familiar litany of grim statistics associated with these chronic conditions. But we also heard from Iowans, students and adults, who are taking matters into their own hands, doing innovative things to promote wellness and healthier living in their communities.

In the United States we spend in excess of $1.5 trillion a year on health care. Fully 75 percent of that total is accounted for by chronic diseases, such as heart disease, cancer, diabetes. What these diseases have in common is, in so many cases, they are preventable. In the United States we fail to make an up-front investment in prevention, so we end up spending hundreds of billions on hospitalization, treatment, and disability.

This is foolish, and clearly is unsustainable. We need a new paradigm in American health care. We need a prevention paradigm. As I said, right now we have a sick care system in the United States. If you get sick, one way or another you get care, either through health insurance or through Medicaid, Medicare, or something like that. Of course we know we have 43 million uninsured who do not have access, even, many times, to our sick care system. But what we need is a genuine health care system, a system focused on wellness and prevention, a system focused on keeping you healthy in the first place.

Consider the cost of major chronic diseases, diseases that in many cases are preventable. The annual costs for cardiovascular disease are about $352 billion; for obesity, $117 billion a year; for diabetes, $132 billion a year; for smoking, more than $75 billion a year; and for untreated mental illness, $79 billion a year. Indeed, major depression is the leading cause of disability in the United States.

If I bought a new car and I drove that car off the lot and I never maintained it, I never checked the oil, I never changed the oil, I never checked the transmission fluid, never got it tuned up, I just drove it, you would think I was crazy, not to mention grossly irresponsible. The commonsense principle with an automobile is: Pay a little now, keep it maintained, or you are going to pay a whole lot later for a new engine.

It is the same with our national health priorities. Right now our system is in a downward spiral. We are not paying a little now so we are paying a whole lot later. If we are serious about bringing down health care costs, we must get people access to preventive care. We must give people the tools they need to stay healthy. We must build incentives throughout the entire society, incentives for prevention and wellness. This will take a sustained commitment from government, schools, communities, employers, health officials, and of course the food industries. But this can have a huge payoff for individuals and families, for employers, for society, and for the economy at large.

One condition in particular is fast becoming our Nation's leading public health threat: being overweight and obesity. Several weeks ago a new study came out that confirms what many of us already know. Obesity, unhealthy diets, and lack of physical activity have made us a nation at risk. The Centers for Disease Control and Prevention did a study that determined that poor diet and lack of physical activity are now the second leading cause of death in the United States, contributing to at least 400,000 deaths annually.

I think this chart shows the startling statistics very clearly. This is from the Centers for Disease Control and Prevention. The actual cause of death in the United States in 1990 from tobacco was 400,000. By the year 2000 the cause of death by tobacco was 435,000. But look at this. Poor diet and physical inactivity, in 1990: 300,000 deaths; by 2000, 400,000 deaths. So while the cause of death from tobacco use had gone up less than 10 percent in 10 years, the cause of death from poor diet, obesity, and physical inactivity went up 33 percent in one decade. It is now the second leading cause of death in the United States.

One of the authors of this study was the Director of the Centers for Disease Control and Prevention, Dr. Julie Gerberding. The media and the American public increasingly recognize this growing crisis. Seemingly every day I open the paper and read about the public health impacts of chronic disease. A recent cover of the Economist magazine hit the nail on the head. If we don't act now and act aggressively, the progress we have made in promoting health and fighting disease, all of the public health gains we have made in the last couple of hundred years, will be totally wiped away.

I thought this illustration from the Economist showed the progress of humankind as we became more and more like modern man—and then here we are, descending into obesity and overweight. That was the cover of the Economist last December entitled ''The Shape of Things to Come.'' Of course, here he is, drinking his supersized soft drink, walking down the road to chronic illness and disease.

In 1990, 1997, and 2002, the Centers for Disease Control and Prevention did a State-by-State obesity prevalence study. I am going to show three charts which are startling in how they depict what is happening just in the last 14 years in the United States. The first chart I will put up is obesity in the United States among adults in 1990. In 1990, the dark shaded areas here are obesity rates between 10 percent and 14 percent. The light blue areas are States where we have less than 10 percent incidence of obesity. For the white States we just didn't have data. But as you can see, in 1990 no State had a prevalence of obesity over 15 percent—not one. All of the States were less than 15 percent or less than 10 percent. That was in 1990.

Now let's take a look at 1997. By 1997, here we have some orange States coming up now which we didn't see in 1990. The orange States mean that the prevalence of obesity is over 15 percent. Now we have these States with a prevalence of obesity over 15 percent. Remember all those blue States that were less than 15 percent? It is now 15 to 20 percent. So all of the dark areas are now over 15 percent. And only a few States here are from 10 percent to 15 percent, but no State has an incidence of less than 10 percent now. That is just in less than 7 years. That is 1997. Keep in mind now we have these three States, and the majority of the States now are between 15 and 20 percent.

Let's take a look at what happened in 2002. Here is the real shocker. Look at all the orange States. These are the States now where the incidence of obesity is 20 percent to 24 percent. Now we have three red States where the incidence is over 25 percent. We have a few States here below 20 percent. Now we have no States less than 15 percent.

If I could have the first chart of 1990, I want to show the comparison. Here we have in 1990 no States with an incidence of obesity of over 15 percent. By 2002, according to the Centers for Disease Control and Prevention, three States are over 25 percent, the vast majority of States are over 20 percent, and the rest of the country over 15 percent. In 1990, we didn't have one State that fit the pattern we see in the United States now. That is what has happened in 14 years. Now we see even some States exceeding 25 percent. We see the trend.

Actually, the story is even worse than this. The data on these charts is based on self-reported weight, which tends to be significantly understated, as you might imagine. As catastrophic as this chart of 2002 appears, it actually understates the extent of the obesity epidemic. If you use reported data rather than self-reported, obesity rates are much higher. In fact, using this scientific approach, we learned that almost two out of every three Americans are either overweight or obese. Think about that. Right now, only one in three Americans is within their weight range for their height.

Obesity takes a terrible toll on a person's health. It can lead to diabetes, heart disease, high blood pressure, cancer, and numerous other chronic diseases. Incredibly, obesity causes more chronic conditions than either smoking or alcoholism.

This is what this chart shows. This is again from the Centers for Disease Control. We have a higher incidence of the number of chronic conditions associated with health behavior. The No. 1 incidence of chronic condition is aging. The older you get, the more liable you are to get a chronic condition. Aging from 30 to 50 has the highest incidence of a chronic disease. Second only to that is obesity, and it is almost the same. Being obese is like aging from 30 to 50. If you are 30 years old and you are obese, you might as well be 50 years old in terms of susceptibility to a chronic disease.

Here is smoking. It is down here quite a ways. Just being overweight is down here. Drinking, past smoker, and obesity. In fact, right now obesity is, as I said, the second largest killer of people in this country.

Thus far, Congress has not been willing to adequately take on the challenge of obesity and the challenge of encouraging healthy choices and lifestyles. It is time for the Senate to lead in a new direction by encouraging wellness and prevention.

To that end, I am currently working with others on several initiatives to create a healthier workplace and a healthier environment for our Senate family. In March, I sent a letter to the Senate Rules Committee to request that signs be placed next to elevator buttons and at the entrances to stairwells and at the base of escalators encouraging people to use the stairs. Just the other day, I heard someone on the elevator say they wanted to use the stairs, but they didn't because they couldn't find them.

The other day I happened to visit Secretary Thompson down at HHS. They have signs right there by the elevators and the doors encouraging people to take a flight of stairs rather than riding the elevator.

I have also been in discussions with the Senate cafeteria on the matter of food labeling. To their credit, they already have food labeling available on their Web site. But I would like to see the Senate cafeteria go the next step by including nutrition information on menus or handouts that customers can pick up when they enter one of the Senate restaurants. If Ruby Tuesday's can do it and put all of the information

on their menus, why can't we in the Senate cafeterias?

I have also developed what I called the ''Harkin Health Challenge'' to promote wellness for my staff here and back in Iowa. This is a comprehensive workplace wellness program that addresses stress management, nutrition, physical, wellness screenings, and, of course, smoking cessation.

Some believe there should be no role for the government in curbing obesity. Some believe this is a matter of personal responsibility. I don't agree. We can take steps to encourage and facilitate healthy lifestyles. We can make sure ordinary Americans have the tools and information they need to make informed healthy choices and be more responsible for their own health.

We are about to pass a highway bill of approximately $300 billion for highways, roads, and bridges. We tried to get an attachment to that bill to promote bike paths along our highways. I saw a figure the other day about how much less young people ride bikes today than they did 15 or 20 years ago. Ask yourselves as you drive down one of our busy thoroughfares or streets: Would you ride a bike down there during rush hour traffic? Of course not. You look to the side and there are no bike paths. There are no walkways for people to have access. We have streets now that do not even have sidewalks by them, let alone a bike path. I think when we invest taxpayers' money to build highways, roads, and bridges, we ought to mandate that, as a part of that, there ought to be an access for bike and/or walking paths next to those streets.

I have already introduced legislation that would require menu labeling in chain restaurants, but I can already hear objections that this will be too expensive. It will be a burden on businesses, for example, to put all of their information on menus. I mentioned that Ruby Tuesday's already announced plans to implement food labeling in its restaurants. Clearly they don't consider this to be too expensive. They made a hardheaded corporate decision that it was both doable and good for business.

I remember the same objections which were raised when Congress first passed the Nutrition Labeling and Education Act to require labeling of retail foods and packaged foods. But lo and behold, years later, the sky has not fallen. To the contrary, consumers like labeling. When they go into the grocery store, they pick up boxes, cans, and packages and they read the nutrition labeling. They rely on those labels to help them make informed healthy choices.

Consumers say they want nutrition information available when they make menu selections at restaurants. Yet, while they have access to excellent nutrition information at supermarkets when they go to buy packaged foods, when they go to a restaurant, consumers have to resort to guessing and estimating.

What about our special responsibility to the children? The food industry spends more than $12 billion a year bombarding our kids with advertisements through television, movies, magazines, and the Internet. I don't have to tell you that they are not advertising broccoli and apples and orange juice. The majority of these ads are for candy and fast food—foods that are higher in sugar, salt, fat, and calories.

Today, specialty marketing firms have made a science out of influencing children to buy a particular candy or to go to a particular fast-food restaurant. Yes, parents have a responsibility to shield their kids from harmful influences of all kinds. But what about corporate responsibility? What about corporate ethics? What about our Government's responsibility to make sure our children have a healthy environment?

Children, especially those under 8 years of age, don't always have the ability to distinguish fact from fiction. The number of TV ads that kids see over the course of their childhood has doubled from 20,000 to 40,000; meanwhile, the percentage of children who are overweight or obese has also doubled. The percentage of overweight or obese teens has, in fact, tripled. The United States right now has a higher percentage of overweight teens than any other industrialized country.

We also need to take steps to reduce the junk food that our children are getting at schools. The GAO found that 43 percent of elementary schools, 74 percent of middle schools, and 98 percent of high schools have vending machines, school snack bars, or other food sources outside of the school lunch and school breakfast programs. We know that when kids have access to vending machines and snack bars and a la carte lines at school, bad things happen. Kids' consumption of milk, fruits, and vegetables goes down, and their intake of sodas and fried foods skyrockets. This is one more area where Congress has a responsibility to intervene to protect our children.

I had this brought home to me the other day when it was pointed out that a 20-ounce size soft drink—Coke, Pepsi, all the soft drinks—has the equivalent of 15 teaspoons of sugar. I ask: As a parent, would you send your kid to school during the day and say, Here are 15 teaspoons of sugar, please eat this. No parent would want to do that. Yet when that kid goes to school and buys a 20-ounce soft drink, that is exactly what they are getting. And they will probably have two of them during the day. That is 30 teaspoons of sugar in 1 day.

Go home, take 15 teaspoons of sugar, put it in a cup and see if you would like to eat that. Or do 30 teaspoons, the equivalent of what a lot of kids are drinking today. No wonder obesity among teenagers has tripled. No wonder our teenagers in this country are more obese than teenagers in any other industrialized country in the world.

We have a responsibility; parents have a responsibility; schools have a responsibility. But it is Congress that funds the school lunch and school breakfast programs and the nutrition programs. This year we will reauthorize the nutrition program, school lunches and school breakfasts. We will reauthorize that this year.

What will we do as Senators and Congressmen to help promote healthier eating and healthier lifestyle choices among our kids in school? Do we have a responsibility? You bet we do. I hope we will step up to that responsibility when the nutrition reauthorization bill comes through the committee to the Senate.

In the coming months, I will be announcing a package of bills and initiatives focusing on wellness, focusing on preventing chronic diseases. The emphasis will be on nutrition, physical activity, mental health, tobacco cessation. It will stress prevention, consumer awareness, responsible marketing practices, and wellness programs in schools, communities, and the workplace.

We face an obesity epidemic. We face an explosion of largely preventable chronic diseases. We face health care costs and health insurance premiums that are skyrocketing. All of these things are related. We have to meet our responsibilities. We as Senators must set a good example: Walk more, use the stairs more, have information on all of our menus in all of our Senate cafeterias so we know exactly how much trans fats, calories, sodium we are getting with each meal ordered, and also to do what we can in our official capacity to help support wellness and to support healthy lifestyles among our kids in school and at daycare centers. That is where it starts. If we can get the kids and teach them healthier lifestyles, healthier eating choices early on, chances are that is what they will follow when they grow older.

It seems to me the golden rule of holes is this: When you are in a hole and you find it is getting up to your shoulders or up to your head, stop digging. We have dug one whopper of a hole in health care in this country by failing to emphasize prevention and wellness. It is time to stop digging. It is time to focus our attention on healthy lifestyle, prevention, wellness, providing incentives for businesses.

I hear about tax incentives for business to do this, and that we need more tax incentives for businesses to provide wellness and prevention programs at the worksite for people who work in small and large businesses. We need to provide the kind of support for our public schools to provide better choices for our kids, also.

I thank the indulgence of the Chair. I wanted to take this time to talk about this and to alert my fellow Senators that I will be introducing a package of wellness bills and I have been working with the majority leader, a doctor, Senator FRIST, on some of

these items, especially about getting signs posted about trying to use the stairs more often, about getting Senators wearing pedometers and doing more walking, for us to set a good example for the rest of the country.

I am hopeful we can also use the nutrition reauthorization bill this year to make some changes in how we approach how kids eat and what they eat at school and what is available to them in terms of vending machines, soft drinks, sugar, salt, that type of thing, and to get them eating healthier at an early age.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

IRAQ

Mr. BYRD. Mr. President, it is the poet T.S. Eliot who reminds us, as if we needed to be reminded, that ''April is the cruelest month.'' How prescient his words ring this April 2004, as we reflect upon the deepening crisis and the steadily mounting death toll in Iraq. This April, this month in which millions of Americans marked the holiest season of the Judeo-Christian calendar, has been an unholy nightmare for American military forces and American policy in Iraq.

April 2004, 11 months after the President proclaimed the end of major combat operations in Iraq, has proved to be the deadliest month for American forces in Iraq since the onset of the war more than a year ago. Major combat operations may have ended—let me repeat that: major combat operations may have ended—as President Bush asserted nearly 1 year ago, but major combat casualties have not. The ''Mission Accomplished'' banner under which President Bush spoke so confidently on May 1, 2003, has come back to haunt us and to taunt us many times over.

In the weeks and months leading up to the war, Americans were assured by President Bush and his cadre of top advisers—most particularly Vice President RICHARD CHENEY—that we would be greeted as liberators in Iraq, our path to victory strewn with cheers and flowers. Those flowers, it now appears, are less like rose petals tossed at the feet of liberators and more like Eliot's mournful April lilacs—''Lilacs out of the deadland, mixing Memory and desire, stirring Dull roots with spring rain.''

April—April—has indeed become the cruelest month. Memory and desire cannot supplant reality in Iraq. More than 100 American military personnel have been killed in Iraq so far this month, the highest number of deaths in a single month since the beginning of the war. In all, more than 700 American military members have died in Iraq since the beginning of combat. Today, more than 1 year after the fall of Baghdad, America's military forces are being greeted in too many quarters of Iraq, not with flowers—not with flowers, not with flowers—but with gunfire, not with cheers but with jeers, nor as liberators but as occupiers—occupiers—oppressors.

In the harsh glare of hindsight, it is now clear that the President's preconceived notions of the war and the aftermath of the war in Iraq were profoundly flawed. Even the President's Secretary of Defense—one of the supreme architects of the war in Iraq—has been forced to admit that the battle has not gone according to the plan, that the level of casualties, continuing so long after the fall of Baghdad, was neither anticipated nor planned for before the invasion.

And yet President Bush refuses to admit any flaws in his grand strategy to invade Iraq to overthrow the regime of Saddam Hussein without giving adequate consideration to the potential perils awaiting America in the seething streets and towns of post-war Iraq. Despite the fact that debate over the war in Iraq rages worldwide, despite the fact that the American occupation is reeling from unexpected opposition from the very people it was intended to liberate, still the President is hard pressed under questioning to come up with any mistakes that he might have made in dealing with Iraq. What a sad, sad commentary.

In his press conference last week, President Bush acknowledged ''tough weeks'' in Iraq, but he clung to his oft-repeated assertion that Iraq is mostly stable, and shrugged off the violence of recent weeks as the work of a small faction of fanatical ''thugs'' and terrorists bent on imposing their will over the popular will of Iraq.

In this assessment, I hope and pray that the President is right.

For the sake of America's military families, for the sake of the mothers and fathers, for the sake of the wives and children who have had to bear the burden of the increased violence in Iraq, I hope the President is right.

I hope that Iraq achieves stability and security soon. For while Iraq and the world may indeed be better off with Saddam Hussein behind bars, alas—alas—I do not believe that an Iraq in turmoil is either a boon to the Middle East or an asset to the security of the United States.

Instead of reflecting candidly on the current challenges in Iraq, President Bush would prefer to focus on his grandiose, grandiloquent vision for reforming the Middle East. In this he speaks in ideological, almost messianic, cadences as he paints a picture of Iraq as a central front not just in the war on terror but also in a battle of Biblical proportions pitting ''good'' against ''evil.''

President Bush is a man of absolutes. Either we stay the course in Iraq or we cut and run. Those are the two choices: stay the course or cut and run. Either we fight terrorists on the streets of Iraq or we fight them on the streets of New York or Washington, DC. Either we support President Bush's policies absolutely or we give aid and comfort to the enemy. Those are the two choices. Do you believe it? I don't.

No, no, no, a thousand times no. Either-or propositions like those invoked by the President to describe the war in Iraq are nothing more than politically inspired slogans like last year's ill-advised ''Mission Accomplished'' banner, designed to whip up emotions while masking the complexity of national security considerations.

Fighting in the streets of Iraq has not prevented terrorists from striking in Saudi Arabia or Bali or Madrid. Are you with me? And there is no guarantee—none—that it will prevent them from striking again in the United States. Just this week, Homeland Security Secretary Tom Ridge disclosed the formation of a Federal task force to respond to heightened threats that al-Qaida will strike again in the United States, sometime before the November election. Significant events, including the dedication of the World War II Memorial in Washington and the political conventions in New York and Boston, are among those viewed as prime targets for a new al-Qaida offensive.

This is the sobering reality. Osama bin Laden remains at large, and his minions appear to be multiplying, not diminishing. That is sobering. That ought to curl your hair.

If anything, the war in Iraq has served as a rallying cry for anti-American and antidemocratic extremists in the Middle East and beyond. Sadly, given the distraction from the war on terror that the war in Iraq has proved itself to be, the capture or killing of Osama bin Laden, when and if it comes, is likely to be an anticlimactic footnote to a widening and ever more deadly surge in independent national terrorism. Mark my words.

Despite the often invoked and patently misleading conclusion drawn by the Bush administration, cutting and running is not the only alternative to staying the course in Iraq, especially when that course is fraught with disaster. Altering a flawed and dangerous course of action, seeking meaningful support from the international community, is another alternative, one that this President is loathe to acknowledge but evidently more than willing to embrace in the face of the calamity that has befallen his own roadmap for Iraq.

For months, I and others have implored the President to return to the United Nations and to seek a greater role for the U.N. in the occupation, administration, and reconstruction of Iraq. Hear me. Hear me. Long before the war, we begged—didn't we? Yes—we begged the President to seek the support of the United Nations Security Council before invading Iraq. Were our pleas heeded? No. Our pleas fell upon deaf ears.

This administration was confident that it could go it alone. And it said so, did it not? Yes. It said: If you don't do it, we will. This administration was confident it could go it alone with only a threadbare coalition of the willing to paper over its unilateral action. How hollow that confidence now rings. In the face of disaster, in the face of mounting doubts among members of the coalition, the President has now been forced to seek shelter—Help me, Cassius, or I sink—under the wings of the United Nations. The Iraqis have rejected every plan for transition of power put forward by the President's Coalition Provisional Authority. Our only hope left is that they will embrace a plan put forward by the United Nations, the very body the United States spurned when the President chose to invade Iraq without the support of the U.N. Security Council. Irony scarcely begins to describe the current state of affairs.

The fact is, while espousing hard-line rhetoric and ironclad resolve, this administration has ducked and bobbed and weaved at every opportunity. In the administration's ever-shifting explanation for the war in Iraq, the face of our enemy has ricocheted over the past 12 months from Saddam Hussein and his Republican Guard to disgruntled Baathist dead-enders to foreign terrorists taking advantage of the unrest in Iraq to pursue their agenda of jihad to today's vague assortment of thugs and fanatics opposed to democracy for Iraq.

We hear the refrain. We hear the refrain: Stay the course. Stay the course. Stay the course. Well, exactly what course is it we are supposed to be staying in Iraq? Is it to furnish more boys as cannon fodder? What is meant by stay the course? Is it to furnish more of our young men and women as cannon fodder to die in the streets of Iraq? Is that what is meant when we hear the refrain: We shall stay the course, we must stay the course?

The President failed to explain what that is supposed to mean to the American people at his press conference. How did we get from protecting the United States from the threat of weapons of mass destruction to the vague notion of fighting extremists opposed to democracy in Iraq? The President failed to explain that fact as well. Where were those extremists before the invasion? Why is it that they are emerging in force only now, a full year after the fall of Baghdad? Could it be that this administration has created America's own worst nightmare because of its colossal arrogance, its clumsy mistakes, and its painful misjudgments on virtually every aspect of the war in Iraq?

These are not the questions of an unpatriotic or reckless opposition. Where are the voices today in this Senate? It is not unpatriotic to ask questions. It is not unpatriotic to voice opposition to the policies of this administration. These are not questions intended to demoralize America or to hearten our enemies. Rather, these are the questions that a free and open society—the kind of society that the President envisions for Iraq—is expected to pose of its leaders. These are the kind of questions that a democratic nation's leader is beholden to answer. Dogmatic admonitions and grandiose allusions will not suffice. In a democratic society, the people demand and the people deserve the simple and unvarnished truth. So do the people's representatives in Government. They, too, demand, they are entitled to, and they deserve the simple and unvarnished truth. Congress also demands and deserves the simple and unvarnished truth from the executive branch.

This is a coequal branch of Government, Mr. Bush. As a coequal branch of Government, as the body in which the Constitution vests the power of the purse, Congress requires the truth from the President, from the executive branch, from the Pentagon, from the Defense Department, from the State Department, from the White House. This is what makes recent allegations in Bob Woodward's new book regarding the redirection of appropriated funds into clandestine appropriations for the war on Iraq so disturbing, and the American people ought to be disturbed. The American people ought to ask questions, and their representatives in this body ought to ask questions. If the President, as alleged in this book, made the decision to wage war against Iraq and secretly spent appropriated funds to prepare for that war without prior consultation with Congress, then the letter of the law, the intent of the law, the spirit of the law, and the constitutional power of the purse have been subverted This would be not only a very grave breach of trust on the part of the executive branch, on the part of the administration, but also a very grave abuse of power.

Mr. President, I hope with all my heart that Iraq will emerge from the current chaos to become a free and democratic nation. I hope with all my heart that the sacrifices that America's military forces have endured in Iraq will be validated by reality, and not justified merely on the basis of wishful thinking. The path forward is not yet clear, but this I know: President Bush led America into a preemptive war that was neither dictated by circumstances nor driven by events. President Bush led America into a war of choice, a war that might well have been avoided with patience and prudence. Would that we could read that ''April is the cruelest month'' without reflecting on the cruel and terrible toll that the war on Iraq has taken on America's men and women in uniform in Iraq during this bloody and sorrowful month of April.

It is said in the King James version of the Holy Bible that of those to whom much is given, much is required. Mr. President, much is required of this administration and this President with regard to Iraq. The American people expect answers, the American people expect a judicious strategy, and the American people expect a well-thought-out military and diplomatic campaign. On all fronts, the American people have been let down. A President who wages war and manages the aftermath of war by the seat of his pants is not what the American people either expect or deserve. I fear that is what they are seeing in Iraq.

This President, having blundered into this war in Iraq, does not have much time left to get the stabilization of Iraq right. We have spent our blood and treasure in Iraq, and it is now time—past time—to aggressively explore ways in which the burden on Americans can be mitigated. It is time to abandon the go-it-alone attitude, the go-it-alone, cocky, arrogant attitude established by this President.

It is time—long past time—for the President to admit to mistakes made, to forsake his divisive either/or rhetoric, and to seek a way out of the deepening morass of Iraq with the full partnership of the United Nations, the region, and the international community.

President Bush needs to drop all pretensions that the war in Iraq and the battle for stability are going according to plan. Only by accepting the fact that a bold new direction is needed to untangle the mess in Iraq can this President extricate the United States from what is fast becoming a quagmire. It is time for the President to set aside his pride and to convene an international summit on the future of Iraq, composed of representatives of the Iraqi people, their Arab neighbors, NATO, and the United Nations. Then and only then will the Iraqi people be in a position to chart their own future with the help of the international community. Then and only then will the United States be able to relinquish ownership of the tiger that it now holds by the tail.

America must alter its course in Iraq to deal with the volatile vacuum left by the fall of Saddam Hussein's regime. America must be prepared to fight terrorism wherever it rears its ugly head and not be lulled into the false belief that attacking terrorists overseas will stop them from attacking America on its homefront. Above all, Americans must never be cowed into believing that questions are somehow ''unpatriotic'' or that Presidents, even wartime Presidents, are ever above answering them. And finally, Americans must remember that in this country there are no kings.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORZINE. 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. CORZINE. Mr. President, I rise today to talk about S. 2290, the pending bill on asbestos legislation before the Senate. Like many of my colleagues before me, I also want to express great frustration because it does not seem as though we are moving the ball down the field on something that I think a lot of us believe is a very important issue. It is one that demands to be addressed and looks for a legislative solution that we are all trying to find.

Among the many issues that I hear about from my constituents, this is one that very frequently shows up in our discussions and at townhall meetings. A lot of people have suffered devastating injuries after exposure to asbestos. Families have lost loved ones. It is a real deal in people's lives.

I have heard from companies, CEOs, and people who are trying to manage their company's liabilities, and it is a real problem. Insurance companies, many of which are headquartered in my State, have spoken about this issue and my old industry, the financial industry, is concerned about the penalties and its implications in the capital markets that are imposing very severe costs on defending companies and insurers because of the crisis. This is something that we ought to address.

Unfortunately, our current system is not working, and that is a reality for those who need it. It is not working for the defendant companies that want certainty for their business planning. It is not working for insurance companies that face accelerating claims, and it is certainly not working for asbestos victims. We need to make sure those who are truly injured receive the compensation they deserve in a timely fashion and on a basis that is fair to all involved. It needs to be done. We need to address it.

Decades of asbestos use and a cover-up of its health effects have resulted in a massive occupational and environmental health crisis. By the way, we are still having exposure developed by a lot of the imports that we are now receiving into our Nation, where some of those who manufacture abroad are not dealing with the issues we have begun to deal with. It is a real killer, a silent killer, physically but also emotionally debilitating to many people across America.

Medical costs associated with asbestos-related diseases are astronomical. They are off the charts. It is not a matter of millions. It is billions and it is an annual affair and it cries out to be addressed.

Hundreds of thousands of workers and their family members have suffered and died from asbestos-related cancer and lung diseases. I think the number is about 10,000 die each year. Approximately 24 million have been exposed. In my home State of New Jersey, which is an old manufacturing State, 2,700 people have been killed by asbestos since 1979, and two of our counties in New Jersey are in the top 10 in the Nation in those asbestos-related deaths. That is Camden and Somerset Counties. So this is a real deal for us. We would like to see this addressed.

We cannot ignore the tragedy of these asbestos deaths and injuries. We can and we should be able to come up with a workable solution. As I said, like many of my colleagues, I would like to see a national trust fund to compensate victims through a no-fault system, ensuring that those who are most injured receive a just award as quickly as possible. It should not be going on for 5 or 10 years. I hope we can agree that we need to focus on paying those who are truly sick and that we must pay those people fairly.

That is why I was pleased last year when the Judiciary Committee held bipartisan hearings on the issue, had bipartisan negotiations, and seemed to be making progress towards arriving at a fair and balanced solution. Unfortunately, last year the Judiciary Committee reported out a bill that did not have broad bipartisan support and was not, in my view at least, balanced in its approach to the issue.

The bill before us has gotten worse. Good amendments that were added in committee have been dropped, and the size of the fund, frankly, is at the low end of anyone's expectations of what is appropriate.

I will take a few moments to discuss what I see are some of the most glaring flaws in the bill that we are debating and reasons, at least right now as it stands, I cannot support it. First, the size of the fund is quite simply out of touch with reality. I hear estimates of anywhere from $100 billion to $300 billion as the cost of settlement that people would expect for the probability of the associated problems with asbestos, and we have picked the low end of that number as the basis on which we are going to deal with it. The bill that was reported out of committee would have had $153 billion, and we have come up with $109 billion, absolutely at the very low end of any of the national estimates, any of the academic estimates of objective outside observers. We are starting at the wrong place in the negotiation.

In addition to the anemic overall funding, the bill has other weaknesses. For example, the Hatch substitute deprives victims of exposure adequate compensation. Awards just remain far too low for many victims with serious diseases that are an outgrowth of this. Funding would not pay for victims' medical bills, let alone compensate their families for any type of hardships.

To give an example, a worker with 15 years of asbestos exposure and lung cancer would be guaranteed only $25,000 in compensation. I do not see how that relates to the risk of life that individuals would be taking in that context.

In another example, victims with asbestos who lose 20 to 40 percent of breathing capacity or are disabled from work will receive only $85,000 for lost wages and medical costs. These numbers do not fit the circumstance. Now, $25,000 barely gets a family of four above the poverty line, and we are talking about $25,000 and $85,000 in lost wages and medical costs that accrue to those things. We are not in the right ballpark.

The pending bill also guts a Biden amendment adopted in the committee with strong bipartisan support to protect victims' rights in the event of fund insolvency. It would allow that once the fund was insolvent, if that $109 billion was not enough, then bring claims back into State court. That was overwhelmingly supported in committee.

Given the low level of funding in this bill, insolvency obviously is a problem. I believe it is unfair to ask the victims to give up their rights to enter into a fund without knowing that fund would have sufficient assets to cover the claims, and where do they go in those circumstances. So it is another major problem.

The pending bill would also treat victims with pending claims unfairly. This one is really hard to swallow. It would wipe out the claims of more than 300,000 people who have claims pending in the current system, even those who have already received jury awards.

We are looking back into history and changing history. I don't understand why, when we have had a judicial process, we have come to a conclusion or we are even in the process of that, we want to stop, start all over and move people into another system. It does not strike me as consistent with a commonsense sense of fairness. If you have an award, it ought to go through.

In addition, the bill significantly weakens key provisions that would protect victims without an effective remedy during the transition to a new system. The bill also lacks transparency with regard to companies and insurers and how they are going to contribute to the fund and in what amounts, which makes it difficult to determine whether companies are paying their fair share.

By the way, there is a lot of hooting and hollering among the insurance companies. A lot of them oppose this because they don't know what their deal will be. There is no certainty here, either for the victims or for a lot of the people who are going to participate here in funding this trust fund. That doesn't make sense and I think it is a real problem that also needs to be addressed. We need to amend it.

It also contains a windfall for certain companies. While we are taking it away from some folks, we are certainly giving it to others. It contains this windfall with regard to Halliburton, which has an estimated $4.8 billion in asbestos liability, but would only have to pay $1.2 billion under the Hatch-Frist bill. Why them? Why are they getting such a break, particularly after a judgment has already gone through? It is sort of the reciprocal or the reverse of what we already were talking

about with a lot of individuals. They are going to get slammed and somebody here is going to get the advantage. They are going to apply it in a way that is very uneven and lacking in balance. That should be addressed.

This is not a fair and balanced approach to this problem. It is not fair to the injured victims or the families of those who died, and it is not fair to companies that want relief from the growing problem, and it doesn't provide for the certainty and planning I think corporate America is looking for.

Let me take a moment to discuss what I think is also a misleading claim by supporters of the bill. This one is actually hard to understand, how this gets any circulation at all. Unfortunately, this administration, as a lot of us have talked about on other occasions, has been weak in the record of creating jobs. I don't have to go through the litany of 2 million lost jobs, 8.4 million unemployed Americans, 2.6 million private sector jobs lost. That was the only period of time, actually, since the Depression an administration has more than likely overseen a period of decline in job growth in the country. But somehow we have decided this is a jobs bill; somehow this is going to create jobs.

There are those who will argue many of the asbestos companies have been forced into bankruptcy and that cost has seriously damaged the American economy, particularly as it relates to jobs. The facts don't meet the description. This is sometimes a fact-free arena. We make assertions and do not necessarily follow through. But if anybody does any serious analysis of what goes on in these companies that have gone through these reorganizations under chapter 11 protection, they will know they have been able to use this device as a means to manage through their obligations and they are able to pay out some of their responsibilities but it has kept their companies going. The truth is, they have not gone out of business, many of them—most of them. Some are doing better than ever.

Let's take Halliburton, since I mentioned it once before. Halliburton has agreed to compensate the innocent victims and companies poisoned with a settlement of more than $4 billion. That is, of course, unless we pass this legislation, then only $1.2 billion. In order to pursue this settlement Halliburton has agreed to put two of its companies into chapter 11 temporarily until a court approves a trust arrangement to compensate asbestos victims.

Meanwhile, Halliburton on its own Web site is telling its customers that it:

> . . . will continue in business and will continue to provide all the excellent services our customers expect from us. In other words, outside the asbestos and silica settlement, it will be business as usual.

In what kind of shape are these companies that have chosen chapter 11 reorganization? The answer can be found in a new analysis conducted by Professor George Benston of Emory of the seven largest asbestos companies that sought chapter 11 bankruptcy reorganization protection in 2000 and 2001. This is a real study by someone trying to bring an objective perspective. Professor Benston studied the asbestos companies and compared them to companies in their business that did not declare bankruptcy reorganization in order to determine how successful their operations would be under the supervision of the bankruptcy court. He concluded:

> On the whole, they essentially have increased or stabilized their sales, assets, employment, and profitability, and have projected increases. It is fair to say they are viable and likely to be increasingly successful companies that should generate funds to exit bankruptcy significantly stronger than when they went in.

We are doing this because this is a jobs bill, when it is fair to say they have increased or stabilized their sales, assets, employment, and profitability, and have projected increases. Somehow or another, objective evidence doesn't seem to match with the claims. This is hardly a jobs bill. The argument falls apart on the surface of it, as far as I can tell.

So while I am sympathetic to the corporations that generally want to fulfill their obligations with respect to asbestos victims and certainly I have an appreciation for their desire for serious financial planning, if this asbestos bill is the best we can do, the administration can do, the leadership—Senator FRIST and Senator HATCH—can do to create jobs in our country and address this problem, then I think we have a lot higher objectives for which we need to set our standards.

That is why I think we ought to have a full debate. We ought to have a lot of votes on amendments that will actually address a number of these problems we talked about. I hope we can get back to those bipartisan negotiations, away from this floor, where we can talk about the size of the trust fund, we can talk about some of this ex post facto analysis about who is benefiting and who is not; where we can make sure the general awards to victims are actually higher and there is some serious backstop if the fund doesn't actually have the resources to be able to deal with these issues.

We sure the heck ought to stop talking about this in a context that makes no sense in economic reality, that this is a jobs bill. I go back to this. This is one of those things I think Americans across the board want to see Congress act on. This is not something that has a Republican or Democratic label. We want to find a resolution. I want to find a resolution. We have to do that in a fair and balanced manner. I thought the Judiciary Committee made a lot of progress on this on the bill they reported out. That is not what we are working on.

I don't understand why we don't turn the clock back just a little bit and get on with some of the hard work that was done when we came up with some of these bipartisan approaches to deal with this very thorny issue. On the basis of offering a helping hand to many victims and their families, for companies that need to have stability in their balance sheet and the ability to make plans for the future, to reduce the caseload we have in our court system, there are a lot of reasons we ought to be moving in this area. We are not pulling together, sitting down and negotiating a transaction formulation of legislation that makes sense for everybody.

Everyone is going to have to give a little bit, but this is something that could be done if we wanted to go to work to make it happen. The will is there. Certainly the demand is there. I think there is a lot of ground for positive, constructive dialog.

I yield the floor and 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 Nebraska. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. NELSON of Nebraska. Mr. President, I appreciate this opportunity to speak today regarding the Fairness in Asbestos Injury Resolution Act. As debate draws to a close on the motion to proceed to consideration of this bill, I take a few minutes to express my appreciation to those who have worked so hard over the past several years to find a solution to what has become an enormous—and continues to grow every day—problem. I offer my views as to how this process can be revived and lead to a satisfactory resolution yet this year.

First, a bit of history will be helpful. Soon after I arrived in the Senate in 2001, I approached then-Chairman LEAHY of the Judiciary Committee and indicated to him that I thought legislation was necessary to come up with a solution to compensate asbestos victims; if we worked on it in an appropriate fashion, it could be passed. I knew the process would be long and difficult, but I thought it was worth pursuing. If we did not begin, we would never conclude that solution. Senator LEAHY very graciously agreed and held hearings to explore the feasibility of this approach.

Following the elections of 2002, Chairman HATCH continued those efforts and began formulating a legislative proposal. I agreed to cosponsor that legislation, not because I supported everything in the bill, but because I believed it would provide an incentive for those with a major stake in the resolution of this issue to begin discussions aimed at solutions.

That strategy worked. Discussions began, the major issues were framed, the Judiciary Committee held 4 long

days of markup, and a bill was reported out. However, there were problems with the bill. Still, the process was moving forward. Sometimes it felt like one step forward, two steps backward. But stakeholders continued to negotiate.

Senator SPECTER, to his credit, brought the parties together and worked on the array of issues other than values and dollar amounts. That process was also extremely helpful in bringing us to the point where we are today.

The majority leader has now incorporated a number of the elements of the Specter-Judge Becker negotiations into the bill before the Senate. Unfortunately, the bill before the Senate is not complete. It still lacks a consensus among the major stakeholders. That is why I have chosen not to cosponsor this substitute amendment when I was asked to do so. It simply, in my judgment, is not ready. Several major issues have not been resolved. I don't believe this is a bill that can be written on the floor of the Senate.

I do believe a solution can still be achieved yet this year if the leaders will make a renewed commitment to continue the process. With a very limited time agreement, no more than 2 or 3 weeks at the most, and with active involvement by leadership, I believe we can reach a solution. It may inevitably be a solution that is least objectionable, but at the very least we can arrive at a solution that almost every stakeholder can accept.

As a matter of information, a constituent of mine by the name of Warren Buffett—some of you may have heard of him—expressed to me his view that there probably is not anything more important that the Congress can do for the economy than to resolve this issue which continues to overhang our economy. The economic impact is important.

Of course, the most compelling reason to find a solution is not simply to provide certainty to the economy; it is, in fact, to provide relief to the many victims of the debilitating and deadly illnesses caused by asbestos.

I know my colleagues understand the scope of the problem before the Senate. The suffering of the victims and their families has been brought home to each of us. We all have many examples of those unfortunate victims and their situations. But I would like to personalize it for my colleagues.

When I served as Governor, I had the pleasure of appointing an Omaha attorney by the name of Mike Amdor to the Nebraska District Court bench. Mike Amdor was a very good friend. I had known him and his family for years. His father had gone to law school with my late father-in-law. I knew his mother when she was alive and worked with his father in the insurance business.

I appointed him to the Nebraska District Court bench. He was a bright and vibrant lawyer, and he came to be a trusted and respected jurist. But more important, he was a consummate family man, a devoted husband, a father of five young children.

In late 1999, he began to experience serious health problems and was soon diagnosed with mesothelioma. Despite a courageous and painful fight with the disease—and it looked at times as though he might be able to beat the odds and survive—he, unfortunately, passed away on November 28, 2002. Mike had been exposed to asbestos as a young man working his way through college and law school. We all know that virtually the only cause of mesothelioma is exposure to asbestos.

Mike's family pursued legal action against those responsible for his exposure and obtained a series of settlements totaling $655,000. However, to date, his widow and five children have realized a total of $56,463.76 on those judgments. Fifty-six thousand dollars and change: less than 10 cents on the dollar because the defendants were bankrupt. Under the terms of the trust fund legislation, which we are debating and working to achieve, his widow and family could receive $1 million.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter which I received yesterday from Judge Mike Amdor's widow.

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

OMAHA, NE
April 20, 2004.

Re Mike Amdor and the Fairness in Asbestos Injury Resolution Act of 2003, The FAIR Act, (S. 1125) Renumbered S. 2290.

Senator BEN NELSON,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR NELSON: I am writing to thank you for sponsoring the Fairness in Asbestos Injury Resolution Act of 2003. Your continued support of this legislation is very important. As the spouse of a victim of asbestos I have a personal interest in the success of this bill. There are many others in the same situation and our numbers will continue to grow because the onset of many of the effects of asbestos exposure are not seen for many years.

You are familiar with the illness and death of my husband, Michael Amdor. Please allow me to give you a short history of his exposure to asbestos and the subsequent deadly illness he suffered.

After finishing high school Mike worked at Physician's Mutual Insurance during the summer of 1965. He worked in the mailroom while an elevator was being installed through the existing walls of the building. At this time there were no existing requirements to contain the asbestos being disturbed or removed during renovation of existing buildings. In 1971 Mike worked for Northwestern Bell, now Qwest, in downtown Omaha, NE. He was a computer operator and his job did not involve using asbestos products. However, the building was being remodeled during the time he was employed there. The crews doing the remodeling during the daytime wore some protective equipment because of the known presence of asbestos in the area being remodeled. The overnight computer staff were neither warned of the asbestos nor given any protection from the particles that were in the air and on the surfaces of the tables in their lunchroom.

Fast forward to the fall of 1999. Mike and I had been married almost 30 years. We were raising five children, Erin, then 20, Diane, 16, Sara, 15, John, 12, and Bennett 10. Mike was a District Court Judge, and deeply honored that you had seen fit to appoint him while you were Governor. As the holidays began, Mike noticed a sudden weight gain and enlargement of his abdomen. After Christmas it became so uncomfortable that he went to see our family doctor on December 30, 1999. The doctor was very alarmed by Mike's appearance and arranged for him to be admitted to Immanuel Hospital the next day.

Following 3 weeks of tests by several doctors, we received the diagnosis of Perotoneal Mesothelioma. The prognosis was devastating, a 50 percent chance of living another 6 months and 18 months as the most optimistic life expectancy. Mike began chemotherapy at the University of Nebraska Medical Center and we searched for information on this disease. Virtually all of the information we could find indicated that the only cause of Mesothelioma is the exposure to asbestos and that the time between exposure and illness could be 30 years or longer.

After 6 months of chemotherapy, Mike was stable and we dared to hope that he would make a complete recovery despite the dire descriptions we were able to find about this disease. In June of 2001 the tumors began to grow and Mike again needed to undergo chemotherapy. This time he did not respond to the treatments. We sought other options and Mike entered a Clinical Trial at the National Cancer Institute (NCI) located in Bethesda MD. He underwent 12 hours of surgery and intraperitoneal chemotherapy in December of 2001. After a week in intensive care he began to improve. We were able to return to Omaha on December 31, 2001. He had been fighting this disease for 2 years and once again we hoped for a reprieve from the death sentence he had been given.

Sadly that was not to be. In August of 2002 the disease again began to progress. Mike underwent weekly procedures to drain the fluid accumulating in his abdomen and then his lungs. Additional attempts with chemotherapy were unsuccessful. Even after he needed supplemental oxygen to assist his breathing he continued to work at the Court House nearly every day.

Mike died on November 28, 2002. Nothing will make up for the loss of his presence in our lives. He had so many things left undone. Our children had to see the suffering and death of the most important man in their lives. Only Erin is through school and living on her own. Diane is a sophomore at Duquesne University. Sarah is a freshman at Creighton University. John and Bennett are students at Creighton Prep. I have lost the love of my life. Few people are lucky enough to know the joy we found in each other. And few can understand the loss of such a special person. One of the first things I ever heard Mike say was my name. His final word, spoken with his final breath, was my name.

Mike worked at the Court House until 2 days before his death. He knew he was very close to the end of his time on earth. He continued to provide justice to others even though he knew there would be no justice for him in this world. The Congress alone now has the ability to provide some measure of justice to the victims of asbestos by providing equitable financial settlements to them and their families.

I trust you will also support efforts to prevent future exposure to asbestos by supporting the passage of legislation to prohibit the use of this deadly material anywhere in the United States. These measures are needed to insure that no new victims are exposed to the cause of such deadly diseases.

As he continued to work and receive treatment, Mike contacted an attorney familiar with asbestos cases. Michael J. Lehan represented Mike and now myself in efforts to

seek some compensation for his illness and death resulting from asbestos exposure.

Mr. Lehan filed a Workers Compensation claim with Qwest and Physician's Mutual Insurance Company because Mike believed he had been exposed at both work sites. Before a formal hearing could be held, Qwest accepted his claim and began paying Mike's medical bills. After his death I began receiving a death benefit under this claim.

In addition to the Workers Compensation claim, Mr. Lehan filed several lawsuits against companies that manufactured or provided asbestos materials that Mike thought he might have been exposed to. As a result of these suits, we received several settlements, which were subject to attorney's fees and expenses. The first Settlement was from Owens-Illinois Inc., for $20,000.00. We received $11,633.34. In March of 2001 Celotex Corporation offered a settlement of $8,500.00. We received $4,266.00. Eagle Picher Industries Trust offered a settlement of $6,500.00. This company has filed bankruptcy and there was very little money for asbestos claimants. After attorney fees and expenses we received $3,333.33. Another company in bankruptcy, H.K. Porter made a settlement of $20,000.00. Because of the limited assets of the trust the payment value was $920.00, and we received $563.00.

In March of 2002 AcandS, Inc. made a settlement offer of $600,000. However, they have filed for bankruptcy and they are unlikely to pay anymore than the $58,584.00 first payment they made before filing. We received $36,628.09 from this settlement. Mr. Lehan has told me that it is unlikely that much more will be paid of this settlement.

The FAIR Act with the proposed amendments offered after S. 1125 was reported out of Committee last July would assure compensation for Mesothelioma victims such as Mike and at this time offers the only hope for any meaningful compensation for the loss we have suffered.

Many of the companies directly responsible for the asbestos exposure of Mike and millions of others have either filed for bankruptcy or found other ways to shelter themselves from responsibility to their victims. The FAIR Act would provide compensation for many families and avoid the abuse that sometimes takes place in our current tort system. Exposure to asbestos in and of itself will not always result in illness. When it does there should be resources available to the victims and their families.

Thank you for taking the time to read this lengthy letter. Mike was such a just man and had great faith in our systems of law. No amount of monetary compensation can replace the loss of Mike and the many thousands of other Mesothelioma victims, he believed that there would be a way for the system to insure that his family and others would at least have some measure of financial security provided by those most responsible for the continued use of asbestos.

Please let me know if there is any way that I could assist you in seeing this important legislation enacted into law.

Gratefully,

CATHLEEN C. AMDOR.

Mr. NELSON of Nebraska. Mr. President, it is imperative we get this resolved. This legislation, unfortunately, is not complete. But it could be completed, and completed relatively quickly, with the right approach. And the right approach is to put the stakeholders in a room, with guidance from the leadership on both sides of the aisle, with a firm deadline, and with a firm charge to come to a resolution. It can be done, and, moreover, it should be done.

The judge's case is a tragedy, but it does not stand alone, unfortunately. There are hundreds, yet thousands, of cases similar to Mike and Cathy Amdor's. There will be future victims who will not receive compensation because there will not be anybody left to collect from. I am committed to the trust fund approach because I believe it represents the best opportunity for those who are sick, and those who will become sick, to obtain reasonable compensation for their suffering. I remain optimistic that it can be done if we demonstrate the resolve, the determination, to put politics aside and get it done.

We are now on the threshold of floor action on the bill. I urge the leadership to renew their commitment to a process which I and others on both sides of the aisle believe can still work. Fair treatment for thousands of asbestos victims is at stake, and we have come too far to quit now. We must make the final push to reach consensus.

Again, I commend the hundreds of people who have spent thousands of hours working towards a solution. Those who have struggled with this issue have worked in good faith, determined to find the mechanism to compensate those victims and those who will in the future fall victim to asbestos. I still believe we can do this, and I know with absolute certainty, though, that we must.

Mr. President, I appreciate this opportunity to address the body today. I hope my colleagues will join together in asking our leaders to work together to come up with a solution that will meet the needs and will meet the opportunities that this legislation represents. But I think it has to be other legislation. This legislation is not yet ready to be passed. But with a very brief period of intense negotiation and working, with the support of the leaders, I do believe it can be. In the final analysis, it must be.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise in support of the motion to invoke cloture on the asbestos bill. I say to my good friend from Nebraska, with whom I agree on so many issues, and work so very closely with, I think this bill is ready because it is a bill we have been negotiating for months and months and months, and a bill on which great compromises have been made on both sides of the issue. I do think it is time we invoke cloture, that we bring this bill to the floor, and that it be open for whatever amendments may be necessary by those who disagree with it, but let's have a vote on it.

Asbestos-related bankruptcies have inflicted a staggering toll on the American workforce. Companies that have declared bankruptcy because of asbestos-related litigation employed more than 200,000 workers before their bankruptcies. So far, asbestos-related bankruptcies have led to the direct loss of as many as 60,000 jobs, while each displaced worker will lose an average of $25,000 to $50,000 in wages over his or her career. For example, when Federal Mogul declared bankruptcy in 2001, employees reportedly lost more than $800 million in their 401(k) plans.

The AFL–CIO has testified before Congress that:

> Uncertainty for workers and their families is growing as they lose health insurance and see their companies file for bankruptcy protection.

There is no question that the escalating claims and costs are a threat to workers' jobs and retirement savings. The AFL–CIO further testified that ''the tort system is damaging business far more than it is compensating victims'' when it comes to asbestos-related cases.

One economic study found that, considering the multiplying effect of private investment, failure to enact asbestos legislation could reduce economic growth by $2.4 billion per year, costing more than 30,000 jobs annually. Extended over a 27-year timeframe—which is the timeframe of this bill—this would translate into the loss of more than 800,000 jobs and $64 billion in economic growth. Another study concluded that 423,000 new jobs will not be created due to asbestos litigation, and $33 billion in capital investment will not now be made, unless we bring this bill to the floor and pass this asbestos litigation bill.

Asbestos-related bankruptcies threaten American workers' jobs, incomes, job-related benefits, and retirement savings. To date, approximately 70 or more companies—35 since the year 2000—have been driven into bankruptcy as a result of asbestos litigation. Forty-seven States have had at least one asbestos-related bankruptcy.

How does this translate into lost jobs? As I have already said, these bankruptcies have led to the direct loss of at least 60,000 jobs. Many of the affected companies are highly unionized. If this direct impact is not bad enough, we have plenty of additional collateral damage from these lost jobs. It is estimated that for every 10 jobs lost as a direct result of an asbestos-related bankruptcy, an additional 8 jobs are lost. Each worker who has lost a job as a result of bankruptcy will lose an estimated $25,000 to $50,000 in wages because of periods of unemployment and/or lower wages in subsequent employment. Moreover, each worker loses, on average, at least 25 percent of the value of their 401(k) retirement account as a result of their company's bankruptcy.

While we are on the subject of retirement savings, asbestos-related bankruptcies have an adverse impact on the retirement savings of millions of Americans. We have already seen how badly these bankruptcies impact the retirement savings of individual investors. We have seen the devastation to employees of bankrupt companies whose 401(k) retirement accounts hold

their employers' stock. And we have seen the damage to those whose pension funds have invested in companies driven into bankruptcy as a result of asbestos-related cases.

All one has to do is look at a couple of examples to get a sense of the dramatic negative impact that asbestos-related bankruptcies have had and will continue to have on retirement savings.

Owens Corning stock, 14 percent of which was owned by its employees in their 401(k) accounts, lost 96 percent of its value, dropping from $1.8 billion to $75 million in the 2 years before its bankruptcy filing in October of 2000.

Then there is the example of Federal Mogul. At the time of Federal Mogul's bankruptcy in October 2001, 22,000 of its employees owned 16 percent of the company's stock, stock that lost 99 percent of its value or more than $70 million. Between January 1999 and the time of its bankruptcy, Federal Mogul's market capitalization dropped from $4 billion to only $49 million. And by the way, Federal Mogul never, ever produced asbestos. It simply acquired a company with asbestos liability. Federal Mogul's stock, which once traded for more than $70 a share, now sells for pennies. Company retirees who once had secure retirement nest eggs must now work minimum wage jobs to survive.

One Federal Mogul retiree told the Detroit News he managed to salvage most of his retirement savings by selling the company's shares before the bottom fell out. But unfortunately, his 82-year-old former colleague was not as fortunate. Because he held on to his Federal Mogul stock, his $1 million retirement plan evaporated to $22,000. As a result, this individual now works as a greeter at a Wal-Mart store—a very credible job, but he didn't take the job because he wanted to meet people. He simply needed to eat.

The runaway asbestos litigation crisis must be brought to an end. The economic data we have seen is troubling because it shows that asbestos litigation creates job losses. American workers and retirees cannot afford to continue shouldering the weight of Congress's failure to act. In fact, we create a class of economic victims by our inaction as companies go into bankruptcy and people lose their jobs.

What I find truly ironic is my colleagues on the other side of the aisle who have repeatedly stressed the importance of protecting American jobs want to block us from considering a bill that squarely addresses this very objective. If protecting American jobs is a priority, then I strongly urge my Democratic colleagues to rethink their position on the Frist-Hatch-Miller asbestos bill or at least vote for cloture on Thursday so we can get an up-or-down vote on the merits of the bill and in the process we can consider what amendments they think might be proper.

I have not been one to pound on my former colleagues in the trial bar. During my 26 years of practicing law, I engaged in plaintiffs' work as well as defense work, and they are very noble parts of our great legal profession. This bill is not directed at trial lawyers, as some have indicated. This bill is directed at two different segments of our society and our economy. First of all, at those companies who are now struggling because of the asbestos-related cases facing them; they are facing bankruptcy if we don't act. We are going to continue to see the loss of jobs directly attributable to the failure on the part of this body to act. The second class of folks this bill is directed to are the victims. Under this bill, the way it is crafted, these victims don't have to file a lawsuit. They don't have to go through the long, drawn-out discovery process that is a necessary part of every lawsuit. They don't have to go through a trial by jury and let a jury of their peers determine what their compensation ought to be. They are compensated directly and immediately when their injury is brought forward.

The fund we establish is a fund that is going to be here forever and ever. We started out with a demand, as the Presiding Officer knows, since he is also a member of the Judiciary Committee, from the folks on the other side of this bill, that we have a trust fund that has $107 billion in it. We resisted that early on. We started out with about an $86 billion proposal. That $86 billion steadily grew until we not only got to $107 billion, we exceeded $107 billion. The trust fund that is set forth in this bill before the Senate today is set at $114 billion. In addition, we have a 10-percent overage fund that can come into play if need be, if that $114 billion is exhausted.

Beyond that, even if all of that money is exhausted in asbestos-related claims, anyone who has a true asbestos-related injury can then go back to the process that is now in force, the legal system we have. So nobody stands to lose in the process. The American worker stands to gain. The injured asbestos victims stand to gain by the passage of this bill.

I urge my colleagues on Thursday to join those of us who are strong supporters of the legislation and vote to invoke cloture. Let's bring the bill to the floor. Let's debate it. And then let's have an up-or-down vote on the bill. Let's compensate those victims who so badly need it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes. I would like to speak about my trip to Iraq and Afghanistan and welcome home the Bravo Company of Fort Carson, CO.

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

THANKING THE MEN AND WOMEN IN UNIFORM IN IRAQ AND AFGHANISTAN

Mr. ALLARD. Mr. President, I rise today to share my thoughts with my colleagues about the courageous heroism being shown by our men and women in uniform deployed in Iraq and Afghanistan.

On the second day of my visit to Iraq and Afghanistan last month, I had the opportunity to meet with a staff sergeant who was a reservist from Denver, CO. Before Operation Iraqi Freedom, he had a great family life, good-paying job, and much happiness in his life. Yet when President Bush ordered our men and women in uniform to prepare and eventually rid Iraq of Saddam Hussein, the staff sergeant's unit, the 324th Tactical PsyOps Company, was mobilized and deployed to Iraq.

When I met with this brave soldier, his unit had been deployed for over a year in Iraq and was expected to spend at least another 3 months in the country. Yet to my surprise, this staff sergeant did not complain about the lengthy deployment, nor did he complain about missing his family or express any worry about losing his job. Instead, he spoke of the importance of his mission and how much of a difference he and the rest of our forces were making in Iraq. He said the United States did the right thing in liberating Iraq from Saddam's tyranny, and not a day goes by when at least one Iraqi doesn't thank him personally for freeing their country.

His only request was for me to contact his wife and thank her for supporting him, a great sacrifice, over these many months. This was the least I could do to repay him for his brave service to our Nation.

During that conversation, I could not have been more proud of or more thankful for our men and women in uniform. Many of these soldiers, sailors, airmen, and marines are in their early 20s, and some have never been outside the United States. Others have seen combat before and are struggling with the long deployment away from their families. But every soldier I spoke with made it clear they are dedicated to their mission and committed to defeating extremists that seek to return that land to a rein of terror.

I am especially proud of those Coloradans who have confronted our enemies in Iraq and Afghanistan. For example, the Third Armored Cavalry Regiment from Fort Carson, CO returned after being deployed in one of the most hostile areas of Iraq for over a year. They fought multiple battles with extremists and overcame numerous hardships during the course of their assignment. I commend the Third ACR for their service and welcome them home.

I would also like to acknowledge the 10th Special Forces Group, also stationed at Fort Carson, for their ongoing contributions to Operation Iraqi Freedom. Units from the 10th Special Forces Group continue to serve in Iraq and continue to make me and the rest of Colorado very proud.

As we in Colorado celebrate the return of thousands of troops, we should

not forget those who lost their lives on the battlefield. More than 50 men who were either from or stationed in Colorado have made the ultimate sacrifice. The families who have lost loved ones deserve special honor. Our thoughts and prayers have been with them as we all remember the sacrifices their sons and daughters have made for the security of our Nation.

This past weekend, I had the opportunity to welcome home the Bravo Company of the 244th Engineering Battalion. Bravo Company is stationed in Fort Collins, CO, and the community's response to these men and women returning was truly heartening.

Equally as encouraging were the remarks shared to me from the members of the Bravo Company. These professional soldiers want to succeed in Iraq, their morale is high, and are proud of the time they devoted to the reconstruction of Iraq.

The Bravo Company's mission in Iraq was to help provide infrastructure. This consisted of things such as sanitation facilities, electric utilities, water utilities, as well as highways. They also helped in other ways with construction of hospitals and schools during their deployment. They shared their feelings with me that they felt they were really serving a need there. They were proud of their opportunity to serve over in Iraq. Obviously, they were glad to return home, but many of them were very, very happy about having an opportunity to serve the country in a valuable way.

The point of emphasis shared with me by these soldiers is that it is imperative the American people continue to stand firmly behind our troops deployed overseas. This is not the time for grandstanding by drawing parallels between this military action and the Vietnam War. In fact, those distortions run counter to the strong support that the American public still has for completing the job in Iraq.

This is not an issue of people not supporting our Armed Forces, because I know that every Member in this body supports our troops, regardless of personal beliefs about the rationale for Operation Iraqi Freedom. The issue is our support to stay the course for a struggling democracy; one that can bring freedom not only to the Iraqis, but perhaps to the Middle East. The United States will be defined by our response to the terrorists and despots that want to see Iraq return to chaos and dictatorship.

The efforts of units like Colorado's 3rd Armored Calvary Regiment, the 10th Special Forces Group, and 244th Engineering Battalion have helped to spread freedom and democracy to Iraq after decades of terror. A free Iraq is a historic opportunity to change the world.

By demonstrating our commitment to not only rid Iraq of terrorists but also improve the lives of ordinary Iraqis, we show the world that America is still the torchbearer for liberty. Our soldiers understand the challenges, and they want Americans to help them face the challenge and support their efforts.

Meeting these men and women reminded me of a statement that Chairman of the Joint Chiefs of Staff, General Myers, told the Armed Services Committee last year. He said that we would win in Iraq as long as we have the continuing will of the American people. I believe that Americans still have the will to win, especially the men and women in uniform who I have met.

Mr. President, I thank you for allowing me the time to praise some of my brave fellow Coloradans. I will continue to spread the word from the soldiers that while even in the gravest of situations, they understand the importance of what the United States is trying to accomplish in Iraq.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

IRAQ AND AFGHANISTAN

Mr. WARNER. Mr. President, there has been some discussion on the floor, as there should be, about the very serious situations, challenging situations that our Nation and other nations fighting against terrorism and for freedom are facing now in Iraq and Afghanistan.

In the company of the distinguished senior Senator from Alaska, Mr. STEVENS, and the senior Senator from South Carolina, Mr. HOLLINGS, I visited those two countries just four weeks ago. Senator HOLLINGS, Senator STEVENS, and I had an opportunity to discuss with the heads of state and government and our military leaders the situation, and we also visited with our troops. We visited Jordan. We visited Iraq. We visited Kuwait. We visited, of course, Pakistan. We went into Afghanistan, and we came back through Paris where we had, I thought, a very interesting and lengthy opportunity to discuss our views with President Chirac of France.

Today I would like to discuss some of these issues that were discussed on the floor today. I do so by expressing that the past few weeks have been particularly challenging for the citizens of the United States of America and, indeed, the citizens of other coalition countries fighting bravely with us in those theaters of war, namely, Afghanistan and Iraq.

We are ever mindful the risks our troops face every day and the sacrifices made by the families and the communities that support them as those who have been removed from power seek to delay their inevitable defeat as terrorists lash out against the loss of yet another haven, both in Afghanistan and in Iraq, where terrorism has been spawned to spread worldwide.

We mourn every loss of life of these brave men and women in uniform and salute those who serve and their families for their bravery, their commitment, and their sacrifice. We are at a critical juncture for the coalition operations in both of these theaters. The brilliant military victories achieved by our forces, together with coalition partners, have presented an opportunity to fully defeat violence and terror in both Iraq and Afghanistan, nations whose previous rulers had perpetrated violence and terror on their own populations, neighbors, and, indeed, the world.

The cycle of violence that has gripped this part of the world must end if we are to win the global war on terrorism and to make America and the world a safer place. Deviation from our current course will only embolden—embolden—those who are intent on causing instability and anarchy in these regions of the world.

We have achieved extraordinary success in a relatively short period of time. In Iraq, Saddam Hussein and the threat he posed are gone, and now he, I think, to the credit of the Iraqi people, is likely to face a court of law and be judged by his own peers for his frightful administration over a period of over 30 years in that country and the hardships he imposed.

We must continue, however, to send a strong message of resolve to the people of Iraq, to our troops, to our coalition partners, and to the rest of the world that we, the United States of America, will stay the course and get the job done. As President Bush stated last week:

> Now is the time and Iraq is the place in which the enemies of the civilized world are testing the will of the civilized world. We must not waiver.

I take great encouragement by listening to that strong statement. I have supported the President throughout these operations. As I said, I recently visited both of those areas, and I have done it three or four other times. It has been an opportunity for me, as chairman of our Armed Services Committee, to follow these operations very carefully.

President Bush has set a course that calls for the return of political sovereignty to the Iraqis on June 30. It is critical that we end our status as an occupying power and give the Iraqis an increased stake in what happens in their nation.

I would like to pause on that point. Yesterday, in the course of our series of hearings before the Armed Services Committee, at which time we had the benefit of the testimony of the Deputy Secretary of Defense, Mr. Wolfowitz, and the Chairman of the Joint Chiefs of Staff and Under Secretary of State for Political Affairs, Ambassador Gross, I raised a question about the use of the term ''sovereignty.'' I have watched

carefully as all those in positions of authority have begun to discuss what takes place on the 30th of June.

It has been referred to, and I do not say this out of disrespect but just factually, somewhat loosely. People have said we are going to convey sovereignty, as I have just read from these remarks. Others say it is a conveyance of power to a new Iraqi interim form of government. I shall address that later.

In the hearing yesterday, through questioning by myself and other colleagues, it was clearly established that the security of Iraq must be maintained by the coalition forces until such time as the Iraqis can put in place, whether it is police, a national guard, an army, or a combination of all of those forces, a force such that we can turn over to them completely the operations that must take place to repel the insurgents and otherwise maintain security in that country.

The question is, Since that must be maintained and the document that the Iraqi Governing Council and the Coalition Provisional Authority put together—the Transitional Administrative Law—specifically states that the Iraqi security forces, as they come along, will be under the unified command of a U.S. led multinational force that is authorized by UN Security Council Resolution 1511. This resolution goes into some detail with regard to how the security will continue to be maintained under the auspices of the coalition military leadership. The security will still emanate from the President of the United States, the Prime Minister of Great Britain, and others who are now directing, through their military commanders, the security operation in Iraq. Those forces are going to stay.

If we look at the pure definition of ''sovereignty,'' one must say: Wait a minute. The very heart of being a sovereign nation is providing security of one's borders, of one's internal situation, and security against anyone attacking one's nation. That is the very heart of what I believe is sovereignty. But that authority simply does not pass, as I said, because of the Transitional Administrative Law and related orders enacted by the Iraqi Governing Council and the Coalition Provisional Authority, which are the current authority in Iraq, and by United Nations Security Council Resolution 1511. So I think as we use the term ''sovereignty'' with reference to what passes on June 30, we should be very careful to say limited sovereignty passes.

A great deal of responsibility will be transferred to this new entity, but the security function is going to remain under the control of those I have just described until such time—presumably with the combined judgment of the coalition forces and the governing body of Iraq—there is a sequential series of governing bodies that take place, and until that time we are going to be very active in continuing to support a security framework so that government can work.

Again, I return to the date of June 30. This date was endorsed by the U.N. special representative, Mr. Brahimi. Mr. Brahimi and the U.N. are playing an important and growing role in this transition of the government and will continue to play a critical role, hopefully, in helping Iraq on its path to democracy.

The President's appointment earlier this week of the trusted international statesman and current U.S. Ambassador to the U.N., John Negroponte, as the first U.S. Ambassador to a free and democratic Iraq is another important step in the process. I have known Mr. Negroponte for a number of years, and I have the highest regard for his professional capabilities and his character.

Continued U.S. commitment to the June 30 transition date is of enormous importance to the Iraqi people and to the region, for it will be the day Iraq takes its place in the community of free nations and the day Iraqis assume responsibility for their future. A free, democratic Iraq means defeat for the forces of terrorism and instability in Iraq.

Clearly, the recent surge of violence in Iraq is related to the imminent transfer of sovereignty. Those who fear democracy are trying to delay its arrival. Those who incite terror realize their days are numbered. Opponents of a free and democratic Iraq are desperate and will become even more desperate, we all fear—at least I do, and I think some others—in the weeks to come until June 30.

It is my hope, but I certainly do not want to raise expectations, but I do have a hope that once the realization, after June 30, settles in among the Iraqi people that at long last the first of a series of steps to give them total sovereignty is occurring, that 80 to 90 percent of Iraqi citizens want this program to succeed and the coalition forces to finish their work. Those people will help us in establishing a greater degree of security in Iraq.

We must be prepared, however, for such violence as does continue to occur between now and June 30 and afterwards. There is not going to be a cliff, an abrupt drop-off. It is likely to continue for a period of time, but our coalition forces are resolute to maintain that security.

Some greater detail was shared with this body by the Deputy Secretary of Defense and the Under Secretary of State yesterday during our hearing outlining these first steps towards democracy, including: formation of an Iraqi Interim Government, with the assistance of the U.N., and extensive consultation with the Iraqi people, to accept limited sovereignty on June 30, 2004; the organization of elections for a representative national assembly and transitional government, to be held no later than January 31, 2005; the drafting and ratification of a constitution by October 2005; and, elections and formation of a constitutional Iraqi government by the end of December 2005. During this interim and transitional period, considerable effort will be made by U.S. and coalition forces to select, train, equip and mentor the various components of the Iraqi security forces, so as to be able to assume increasing responsibility for the internal security and external defense of Iraq.

This is a good plan—a realistic plan—that has received the support of Ambassador Brahimi, the special representative of the U.N. Secretary General, Kofi Annan. This plan, and what additional support may be required from the U.N., are the subject of ongoing discussions at the U.N.

Lasting peace and security in Iraq and Afghanistan will be achieved when we establish the conditions for democratic, economically viable nations. The first steps to democracy have been taken and new governments are, or soon will be, preparing to assume the responsibilities and challenges of freedom and democracy. These new governments will need the continued support and commitment of the Congress, the American people, and the international community. Their success will stand as a beacon of hope to others in the region and around the world, and as a harbinger of defeat for the forces of violence and terror.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, all of us believe that the current system for compensating asbestos victims is not working well and that legislation creating a fairer, more effective process is needed. However, this bill, S. 2290, is not that legislation. In its current form, it does not create a system which will fairly and reliably compensate seriously ill victims of asbestos exposure.

This is not a balanced approach to the asbestos problem which comes from negotiations between business and labor. The bill reads as if it was dictated by the defendants solely for the benefit of the defendants. In fact, there have been no serious negotiations for months on the central issues fair levels of compensation for seriously ill workers, and adequate funding for the asbestos trust to make sure that injured workers actually receive what they are promised.

The only issue on which any progress has been made is the administrative structure of the compensation program. Senator SPECTER deserves great credit for convening a series of discussions on this topic involving both labor and business. However, as long as the compensation values are unreasonably low and the amount of money in the

trust is grossly inadequate, improving the way in which that money is distributed to individual victims cannot make an otherwise bad bill acceptable.

Since the Judiciary Committee voted out a bill in July, the process has moved backward, not forward. While I had serious objections to the committee-passed bill, the Frist bill is much worse. It reduces the funding level of the asbestos trust by more than $40 billion dollars—$153 billion in the committee bill versus $109 billion in the Frist bill. They stripped out the major improvements we made in committee the two Feinstein amendments and the Biden amendment. They made a mockery of the committee process.

The bill before us does not reflect what is necessary to compensate the enormous number of workers who suffer from asbestos-induced disease, it reflects only what the companies who made them sick are willing to pay.

The Republican sponsors of this bill are insisting on compensation levels which are far below what these seriously ill workers deserve, and less than what they are receiving, on average, under current law. These are people whose health has been destroyed and, in many cases, whose lives have been substantially shortened, by asbestos induced disease. Shortchanging them would be extraordinarily cruel.

There is also no adequate guarantee in the legislation that sufficient funds will be available to fully pay all injured workers who are eligible to collect, even at the low levels of compensation in the bill. For injured workers and their families, this proposal is clearly worse than the current system.

The real crisis which confronts us is not an asbestos litigation crisis, it is an asbestos-induced disease crisis. Asbestos is the most lethal substance ever widely used in the workplace. Between 1940 and 1980, there were 27.5 million workers in this country who were exposed to asbestos on the job, and nearly 19 million of them had high levels of exposure over long periods of time. That exposure changed many of their lives. Each year, more than 10,000 of them die from lung cancer and other diseases caused by asbestos. Each year, hundreds of thousands of them suffer from lung conditions which make breathing so difficult that they cannot engage in the routine activities of daily life. Even more have become unemployable due to their medical condition. And, because of the long latency period of these diseases, all of them live with fear of a premature death due to asbestos-induced disease. These are the real victims. They deserve to be the first and foremost focus of our concern.

All too often, the tragedy these workers and their families are enduring becomes lost in a complex debate about the economic impact of asbestos litigation. We cannot allow that to happen. The litigation did not create these costs. Exposure to asbestos created them. They are the costs of medical care, the lost wages of incapacitated workers, and the cost of providing for the families of workers who died years before their time. Those costs are real. No legislative proposal can make them disappear. All legislation can do is shift those costs from one party to another.

Any proposal which would have the effect of shifting more of the financial burden onto the backs of injured workers is unacceptable to me, and I would hope that it would be unacceptable to every one of us. The key test of any legislative proposal on asbestos claims is whether, by reducing transaction costs, it will put more money into the pockets of seriously injured workers and their families than they are receiving under the current system. That should be our goal.

I believe that a properly designed trust fund to compensate workers suffering with asbestos-induced disease can move us toward that goal. To do so, it must use inclusive medical criteria which cover all workers who have sustained real injuries, it must provide fair levels of compensation for all workers who have been injured, and it must guarantee that all injured workers who qualify will receive full compensation on a timely basis. At best, this legislation satisfies only one of these three criteria.

Any proposal which would merely create one new large underfunded trust in place of the many smaller underfunded bankruptcy trusts which exist today is unacceptable. Injured workers need certainty even more than businesses and insurers.

One basic test of fairness is how a compensation system treats the most seriously injured victims. S. 2290 fails this test miserably. Those who meet the medical criteria for the most serious illnesses would still not be fairly compensated.

Mesothelioma is a horrible disease which is usually fatal. There is no question that it is caused by asbestos exposure. In the current system, mesothelioma victims often receive multimillion dollar settlements. This bill will limit them to much less.

The gravest injustice done by the bill is to lung cancer victims. We all understand how devastating lung cancer can be. The issue with lung cancer is causation. If a worker had substantial asbestos exposure and was a non-smoker, his primary lung cancer was almost certainly caused by asbestos. Yet the bill would pay these victims as little as $225,000. In many instances, that will not even cover their medical expenses. They are currently receiving much higher judgments in the courts, and fairness requires far more compensation for their life threatening diseases than this bill offers.

If the worker smoked—and unfortunately most of these workers did—the combination of tobacco and asbestos exposure dramatically increases the likelihood of contracting lung cancer.

Workers who smoke and have been exposed to asbestos are over four times more likely to get lung cancer than smokers with no asbestos exposure. Asbestos is clearly a major contributor to their lung cancers. Yet, this bill would give them next to nothing. Under the terms of this bill, they would receive between $25,000 to $75,000. That is outrageous. These victims, who must have at least 15 weighted years of asbestos exposure, deserve much more—they deserve a level of compensation that reflects the reality of their conditions and their families' needs.

Even when the worker's lungs show specific evidence of asbestos disease, raising the probability that the asbestos exposure significantly contributed to the lung cancer to a virtual certainty, the legislation would pay them as little as $150,000. That is incredibly low. These lung cancer victims have literally had their lives shattered by asbestos. They must be fairly compensated in any legitimate national trust proposal. They are not in the Frist proposal.

To make matters even worse, the legislation would actually allow workers' compensation and health insurance companies to seek reimbursement out of the meager amounts these seriously ill workers receive from the asbestos trust. Thus, the worker and his family may literally end up with nothing despite his undeniable injuries. At the very least, the bill should protect the compensation paid to a worker by the trust from subrogation claims.

Proponents of this bill argue that in the tort system too much money is going to victims who are not really impaired and not enough is going to those who are truly sick. But their self-proclaimed concern for the truly sick certainly is not reflected in this bill. Lung cancer victims are ''truly sick'' by anyone's definition. In fact, a large percentage of them will have their lives cut short by this disease. Yet even in these cases, the most compelling cases, S. 2290 provides grossly inadequate compensation. I am deeply troubled by the way this legislation treats even the sickest of the sick.

Not only does this bill not provide adequate levels of compensation, but it does not even contain sufficient funding to pay the compensation levels contained in the bill. According to a CBO analysis, it is underfunded by over $25 billion dollars. CBO's cost estimate is $140 billion.

Furthermore, there is no guarantee that this bill will raise even the $109 billion which the sponsors say is necessary. The bill establishes contribution tiers for defendant corporations of various sizes and asbestos histories. However, the Senate has no hard information about the number of companies which will fall in each tier. Thus, the aggregate amount which will be raised to fund the asbestos trust is highly speculative. Under the proposed funding plan—some corporations—such as Halliburton and WR Grace—can escape accountability for their wrong-doing by paying only a small percentage of

the amounts they are currently responsible to pay. As long as companies such as Halliburton and Grace are permitted to pay billions of dollars less than their fair share, it will be extremely difficult—if not impossible—to fund the trust at a level sufficient to fairly compensate those who have been poisoned by asbestos.

Similarly, the manner of determining the amount that individual insurers and reinsurers will contribute to the trust is also questionable. It appears to unfairly benefit some companies at the expense of others. The way it has been structured, it may actually create unintended legal obstacles to the expeditious payment of billions of dollars into the trust by reinsurers with the largest asbestos exposure.

These funding concerns seriously jeopardize the financial viability of the trust and its capacity to compensate injured workers in the manner promised. In fact, there is no guarantee that the dollars will be there to fully pay all eligible victims what the legislation promises they will receive.

If the asbestos trust does become insolvent, workers will have to wait years before they can return to the tort system. Under the Biden amendment adopted by the Judiciary Committee, if the trust was unable to fully pay claims in a timely manner, injured workers would immediately regain their right to seek compensation in the courts.

Unfortunately, that right—so essential to fundamental fairness—has been removed in the Frist bill. Victims will have to wait as long as 7 years after the trust becomes insolvent before they can take their claim to court. Many of them will be dead by then. And, if they do return to court, the workers will not have the same rights that they do today. Under the Frist bill, seriously ill workers can find themselves in an intolerable legal limbo through no fault of their own. All of us should find that unacceptable.

The danger that the asbestos trust, as structured in this legislation, will be unable to meet its financial obligations to the victims is very real. There is a serious risk of a substantial shortfall in the early years, when nearly 300,000 pending cases will be transferred to the newly created national trust for payment. The trust may not have the resources to pay those claims in a timely manner. Payments to critically ill people may be delayed for years, and the trust itself may become insolvent.

The best way to reduce the enormous financial burden on the trust in the early years would be to leave many of those pending cases in the tort system, especially cases which were close to resolution. That would be fair to the parties in those cases and it would greatly improve the financial viability of the trust. Unfortunately, the Frist bill would do just the opposite. It fails to respect stare decisis even in cases where substantial judicial determinations have already been made. In many cases, it would actually abrogate jury verdicts and existing settlements, requiring the injured workers to start from scratch. That is terribly unfair. It will also greatly increase the burden on the asbestos trust.

Unfortunately, there is so much wrong with this legislation that I could literally discuss the shortfalls for hours. However, that would serve no purpose. Clearly, the issues are too complex and too interrelated to fix in a few days on the Senate floor. For that reason, the Senate should reject the motion to proceed to S. 2209 and send the parties back to the drawing board. The only way to produce an acceptable bill is to seriously address the legitimate concerns of injured workers as well as the concerns of the corporate defendants.

The Frist bill clearly fails that test. It is not a bill which reduces the high transaction costs in the current system, and thus puts more money in the pockets of injured workers while reducing the costs to businesses and their insurers. That would be a real solution.

It is a bill which merely shifts more of the financial burden of asbestos-induced disease to the injured workers by unfairly and arbitrarily limiting the liability of defendants. Sick workers would receive lower levels of compensation than they receive on average in the current system, and payment of even those lower levels of compensation would not be guaranteed. That is no solution at all.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. HATCH. Madam President, I ask unanimous consent that immediately following the distinguished Senator from Connecticut, I be permitted to speak.

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

The Senator from Connecticut.

Mr. DODD. Madam President, what is the business before the Senate?

The PRESIDING OFFICER. The pending business is the motion to proceed to S. 2290.

EDUCATION

Mr. DODD. Madam President, I want to take a few minutes and talk about an issue off the pending matter, if I may, before the Senate. While it may not be germane to the subject matter before the Senate, the matter I want to talk about is extremely germane to the American public and what they are interested in. That is education. I particularly want to focus for a few minutes on higher education.

We are now coming into the months of April and May when students will be wrapping up their academic year and taking exams. Those who are in their last year will be graduating and going out into the private sector or graduate school.

As we focus on graduation and the termination of an academic year, I think it is important to take stock of the financial availability of most students to access higher education in this country, and what we are doing about it as we conclude this academic year. It is also important to ask what will be available next year to students who are either starting higher education or are continuing their higher education.

What are the economic challenges these individuals and their families face as it relates to affording college? I want to spend a couple of minutes describing what the present situation is as it relates to college cost, how important it is to have access to college, and where we are today in our ability to try to make college more accessible and more affordable.

In the 21st century we must have the best educated and best prepared generation of Americans we have ever produced if we are going to be highly competitive in a global marketplace and have a growing and expanding economy to produce goods and services of increasing value; that is, more technology and more sophistication to offer the 95 percent of the population which lives outside the United States all over this globe.

We have seen tuition and fees at public colleges and universities go up 26 percent over the last 38 months. Since President Bush took office on January 20 of 2001, tuition and fees at public colleges and universities has gone up more than 25 percent—close to 26 percent in 38 months.

Last year alone, on average, tuition at a public university rose 14 percent, and over 10 percent in my own State of Connecticut. The average total cost of attending a public 4-year college is now over $9,000, and for private colleges the average cost is $24,000.

As tuition rates increase, so does the portion of a family's income needed to pay tuition. On average, 29 percent of a family's income goes toward public university tuition and 41 percent goes toward private university tuition. Just think about that: almost 30 percent of a family's income paying a public college tuition and more than 40 percent to go to a private university or college. In comparison, a family's mortgage payment represents 32 percent of annual income. Education is now eating up more of a family budget than a home mortgage—the largest single investment most families ever make is owning their own home.

It is estimated that approximately 200,000 college-ready high school graduates will not pursue higher education this year because they do not have the resources to do it and don't have access to the various programs that may provide them some assistance.

Apart from initial affordability, students also often graduate with huge

amounts of debt. In Connecticut, the average student graduates in 4 years $15,000 in debt. The numbers are rather clear.

We are seeing a tremendous economic burden growing with each and every passing year, for families and individuals who wish to go on and get that absolutely critical higher education they need and we need them to have.

Pell grants are such a great cornerstone of the Federal financial aid system, but they are shrinking in value. Pell grants originally covered 80 percent of the cost of attending a public university. Today, at $4,050, they cover only 30 percent; and at a 4-year private college, 16 percent. Imagine that, from 80 percent down to 34 percent.

The maximum Pell amount remains stagnant at a time when tuition is going up, people are losing jobs and extra income, and when higher education is increasingly the ticket to a better life not only for the students but for us, as well.

Today, the average low-income student has an annual unmet need of almost $4,000 in college expenses, costs not covered by grants, loans, work, or family savings. These are the students that an increase in the Pell grant would most directly help.

What are we doing about this? The President's budget is clearly not in the best interest, at all, of serving this critical need that, by all accounts, we admit is necessary. I don't know of anyone who does not go back to their respective States and talk about the importance of education, the importance particularly of higher education, that people have the ability to earn that degree.

I am sure every one of my colleagues has said exactly the words I am about to share, or something similar: No one ought to be denied a higher education because they lack the financial resources. It goes to the depth of a person's drive, the depth of their character, the depth of their ambition. It ought not be the depth of their parents' or their pockets that determines whether someone can have access to a higher education. I am sure we all feel that way.

Mr. KENNEDY. Would the Senator be good enough to yield?

Mr. DODD. I am happy to yield to my colleague.

Mr. KENNEDY. The Senator has appropriately pointed out the explosion of increased costs of tuition for the sons and daughters of middle-income families. This is basically a middle America working-class family issue. As the Senator has pointed out so well and so eloquently, it is at the heart of the hopes and dreams of every family in this country.

I am sure the Senator would agree with me, when we talk about education, we are not only talking about a better educated society; we are talking about individuals who are going to be the stewards of our democratic institutions and also the individuals who are going to be able to lead this country in terms of the international global economy and beyond that; individuals who are going to be able to be in the Armed Forces of this country.

The Senator is mentioning the increases in tuition. The Senator pointed out the costs to families: in many families, the children cannot go to college. And if they are able to go, they experience increased debt.

I understand the Advisory Committee on Student Financial Assistance has said as a result of the increase in tuition, there are almost 200,000 young individuals, young men and women, sons of working class families in this country, who effectively have been priced out of the opportunity to continue in higher education. And reports point out the enormous increase in indebtedness of even those who are going to schools. We know that over the last 10 years, indebtedness has actually almost doubled. The average debt families have when they graduate is some $17,000.

I am wondering if the Senator remembers that it was a few weeks ago the Senate passed a $2.4 trillion budget. We had an opportunity to provide a helping hand to students in this country who come from working families, by increasing the Pell grants for the young people in this country. It was the judgment and the decision of this body and the Republican administration, the Bush administration, to effectively say no, we will not increase the Pell grants, in spite of the fact—I know the Senator remembers this—that this President, when he ran for the Presidency of the United States, said in the final days of the campaign in the State of New Hampshire, that he was committed to increasing the Pell grants to $5,100. He said, in the State of New Hampshire on August thirtieth, in the year 2000: Pell grants significantly affect the ability of a child to stay in college or to stay in school. The future of a child eligible for a Pell grant will be affected by the size of the Pell grant. I am going to ask Congress to bolster first year aid from $3,300 to $5,100.

Does the Senator from Connecticut remember when we had an opportunity to do something about helping middle-class families in this country, to provide some help and assistance to them, to ease the burden of the increase in tuition, whether there was any effort from the Republican side to increase the Pell grants to provide this important help and assistance to these qualified young students who are seeking to continue their education?

Mr. DODD. In response to my colleague, I very clearly remember supporting the senior Senator from Massachusetts and his amendment that would have increased the higher education budget, including, obviously, an increase in the Pell grants to meet exactly what the commitment of the President had been on this subject matter. We were unable to get that.

It is important to point out to people the effects. We have now had a freeze in Pell grants over the last 3 years, despite the President's campaign promise to raise them. I mentioned earlier that a Pell grant now pays about 34 percent of the cost of public higher education. It was at 80 percent when it was originally passed.

Let me also state what shrinking resources and rising costs have done. My colleague from Massachusetts has pointed out that the average student now finishes college in excess of $17,000 debt. As a result of freezing the Pell grant over the last 3 years, and the administration's proposal to raise freshman loan limits, we are now told that student debt could increase nationally by almost $5 billion. If we take student debt, that will now grow as a result of not having Pell grants trying to keep some pace with the increased cost of education, if students have to take out more loans, we will have student debt amount to $5 billion more nationally than presently is the case.

The President's budget also froze funding for work-study programs in addition to Pell grants. We watched, over the last 38 months, tuition costs go up at public universities 26 percent. Costs go up and the President's budget says: No, no, I am not going to give you a nickel more for Pell grants. Freeze work-study. Freeze Pell grants. Not a penny more for higher education despite costs going up and here is $5 billion more debt to shoulder as you leave higher education to go out and try to get a job, get into the workforce, raise a family.

I don't know of anyone who believes that is a sound investment in the 21st century. I thank my colleague for raising those points.

Mr. KENNEDY. Does the Senator agree with me that at one time we, as a nation, made a commitment to every child in this country that if they were qualified to get into any institution of higher learning based upon their academic standing, a series of grants and loans would be available to them so they would be able to go to the school, the college to which they were admitted?

We saw over the period of time going back to the 1970s, going back to the time this whole program, the Pell grants and the Stafford loans were established, a balance between grants and loans so young people of talent could go to the schools and universities to which they were admitted.

Now if I could direct the attention of the Senator from Connecticut, what we have seen is a complete abdication of that commitment in the fact of the declining purchasing power of the Pell grants, and in the reduction of the Work-Study Program. Fundamentally we are saying to the young people, and particularly to their parents: You are on your own. Go on out there and borrow, and pay a good deal for that additional $5 billion you will borrow. And

there is just going to be paying the interest and indebtedness for those young people in the years ahead.

Would the Senator be good enough to indicate whether he agrees with me, that the whole pattern in the recent years under Republican leadership has been to reduce the purchasing power, the value of the Pell grant, and to require the students to borrow a good deal more, which has meant an increase in indebtedness to these students? And would he not agree with me, when you visit schools and colleges and you meet with these young people around recess time or lunchtime, they are talking about their loans rather than talking about their books?

Mr. DODD. Madam President, the Senator, again, is exactly correct. As I noted earlier, we are talking about families who are middle-income families, who are lower middle-income families who are out there struggling to make ends meet. As I pointed out, the increased cost of a public education, as well as a private education, in 38 months has gone through the ceiling, outpacing the cost of anything else. Inflation has been relatively flat in the last number of months with the economy where it is. But yet in the midst of all that, we have seen a 26-percent increase in the cost of going to a private college or university, and a 14-percent increase to go to a public institution.

So we have seen this tremendous increase in a family's income going toward education and tuition. As I pointed out earlier, 29 percent of a family's income goes to pay for public university tuition; 41 percent goes to pay for private university tuition.

The debt these kids are faced with, their families are faced with, is an additional strain on families who are already paying so much to see to it their kids can get the education they need. And we know so clearly the importance of education. You find yourself almost wondering why you have to say this. I don't know of anyone who believes that for a single second this country's ability to maintain itself in a leadership position economically and politically can be sustained without the proper education. Thomas Jefferson said, 200 years ago this year, in 1804, any nation that ever expects to be ignorant and free expects what never was and what never possibly could be.

If you believe that had validity in 1804, you certainly must believe that in 2004 it has even more validity, not only in terms of embracing and supporting our constitutional principles, but also as to the importance of being able to get the education to produce the goods and services of high value which 5 percent of the world's population, which lives in this country, will be able to market to the 95 percent of the world's population which lives outside this country.

Anyone who believes for a single second that you can deny 200,000 young people, as you will this year—almost a quarter of a million young people—the opportunity to go on to higher education because we cannot come up with a few extra bucks to put into a Pell Grant Program or a Work-Study Program—if you think America benefits from that, then you are deluding yourself. This will be the first generation where the older generation is actually cutting back on its commitments in its attempts to provide access to higher education for people in this country.

I hope in the coming days as we move through the appropriations process and the like, our colleagues will find it possible to break this freezing of the budgets to make it possible for students who are completing this academic year and thinking about next year, or thinking about graduate school, or leaving high school and wanting to go on to college—that the Congress of the United States, the President of the United States, would stand up and say: We are going to do what we can. We are going to meet that promise I made in New Hampshire in the fall of 2000 when I promised I would increase Pell grants to more than $5,000 per child. I am going to meet that promise before this term is over.

My hope is we will achieve that particular result.

I see my colleague from Rhode Island.

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

Mr. DODD. Yes.

Mr. REED. Mr. President, I say to the Senator, you were speaking about increasing the Pell grant, which strikes a chord with me. Senator Pell was my predecessor, the architect of this great program. I am sure you are aware, but if you can confirm this awareness, the Pell Grant program has a $3.7 billion shortfall because of an increase in the number of students who have qualified for the Pell grant since our economy has not produced jobs over the last several years and has been dead in the water until very recently. We, in our budget, included the $3.7 billion, but I am told this funding might be in jeopardy in the conference, which would be a grievous blow to the Pell Grant Program in addition to what you have described. Are you aware of this difficulty?

Mr. DODD. Madam President, I thank my colleague from Rhode Island. He very appropriately points out he succeeded Claiborne Pell, whom the Senator from Massachusetts and I had the great privilege of serving with. The Senator from Rhode Island knows the wonderful contribution he made to millions of young Americans, Americans of all ages, but particularly young Americans.

I was not aware of what my colleague from Rhode Island told me. I think that is extremely important information. I would hope, as I am sure he does, the conferees and the American public would let conferees and the leadership here in Congress know this shortfall must not be allowed to exist if we are going to have any hope at all of meeting some of the obligations we have.

I might ask my colleague from Rhode Island, give us some indication how that is working now. Does he believe that is going to be the case? And what would be the implications of that?

Mr. NICKLES. Regular order.

Mr. DODD. Madam President, I believe the Senator has the floor.

The PRESIDING OFFICER. The Senator from Connecticut may yield only for a question.

Mr. DODD. Madam President, I am responding to a question. Without yielding my right to the floor, I am asking my colleague from Rhode Island to respond to a question.

Mr. REED. Will my colleague yield for another question?

Mr. DODD. Yes.

Mr. REED. First, the Pell Grant Program is in jeopardy because of its low funding levels. As you and Senator KENNEDY have pointed out so accurately, the maximum award has not been raised, contrary to the President's promise. In addition, the $3.7 billion shortfall exists today. We have taken a step on our side to remedy the shortfall, but it is unclear what the other side and the conferees will do. So that is another detriment to the Pell Grant Program.

But I will ask a final question of the Senator. The President's budget not only inadequately funds the Pell Grant Program, but it eliminates the LEAP Program—Leveraging Educational Assistance Partnerships—a collaboration between the State and Federal governments to provide need-based grants to low-income students.

The President's budget also zeroes out funds for the Perkins Loan Capital Contributions, which provides low-interest loans to millions of low-income college students.

Additionally, the President's budget fails to increase funding for the campus-based programs, Supplemental Educational Opportunity Grants and Federal Work-Study, as well as the early awareness programs, TRIO and GEAR UP.

I again inquire whether the Senator is aware that in addition to the blows that have been taken to the Pell Grant Program, so many other Federal programs that aid particularly low-income Americans are not being adequately funded. I think that goes directly to your point, I say to the Senator, that 200,000 young Americans with talent, ambition, and drive are unable to go to college because we are not providing the resources.

Mr. DODD. Again, Madam President, I am very grateful to my colleague from Rhode Island for pointing out matters I had not addressed; that is, these other areas of higher education.

This is an assault on higher education. But more importantly, it is an assault on young people in this country who are going to provide the well-being. I always like to point out this

Nation historically, even during times of our most significant crises, has found a time and a place to support higher education. I have often pointed out one of the first acts of Congress in 1789, as we were still struggling to get on our feet, was the Northwest Ordinance, which set aside lands for education. It was a rather remarkable accomplishment. Think of all the things the first Congress had to deal with. Education was one of the top priorities on their list.

Then right in the middle of the Civil War—imagine the country divided, wondering whether we would survive as a nation—the Congress of the United States passed something called the Morrill Act, which was the land grant colleges. I believe the University of Rhode Island—I know the University of Connecticut got started as a land grant college, and I know colleges all across this country got their start because of the Morrill Act. Congress found the money during the great Civil War to fund higher education.

Even before the end of World War II, before the defeat of nazism and the Japanese empire, the Congress passed the GI Bill. And think, if you will, of the investment made in those years, coming off the war years, and how we have benefitted, when you consider a generation of Americans which was able to get an education and go on, and how we have been paid back a thousandfold by the contributions of a generation of young Americans who fought in World War II, who were able to get an education, and then provide the kind of innovation and creativity and jobs and incomes that has helped us grow to the great Nation we are in terms of economic strength.

So there was the Northwest Ordinance, the Morrill Act, the GI bill, generations that understood the importance of investing in education. Here we are in the 21st century, we have a President that not only doesn't have an idea about how to increase resources for higher education, he wants to cut back on what we have. How do you explain that to the American people when we are trying to increase the opportunities for higher education?

I thank my colleagues.

Mr. KENNEDY. Madam President, if I may ask the Senator, we have talked about higher education. Does the Senator not agree with me that we have seen cutbacks in support for K- 12 as well? We have seen the failure of funding No Child Left Behind, which has left 4.6 million children behind. So we are leaving the children behind in higher education. We are leaving them in No Child Left Behind.

I would like to ask the Senator from Connecticut as well whether he is not concerned, as I am, about the failure to fund the Head Start Program which reaches out and helps 4-year-olds and 5-year-olds prior to the time they enter kindergarten, to give them skills and help in building confidence so they can gain knowledge and understanding in their early years in school.

Would the Senator not agree with me that what we are talking about is basically failing almost a whole generation? There are 54 million elementary and secondary school students across this country, and then we have the millions of children going on to college. And now we are talking about the millions who are eligible for the Head Start Program, who failed to receive the support they need.

Would the Senator agree with me that money isn't everything, but it is a pretty clear indication of a Nation's priorities? We make choices about what the Nation's priorities are. What we are doing now, with the conclusion of the budget which we passed here, is failing the children in higher education. We have failed children with No Child Left Behind. We are failing the children with the funding of the Head Start Program. What does that say about the commitment of this Nation in terms of the young people? And to their families, hard-working American families, what does that say about our willingness to reach out a helping hand to these families to make sure the education system is going to be the best that it can be?

Mr. DODD. I would say to my colleague, he has hit the nail on the head in talking about elementary and secondary education, beginning with, obviously, Head Start and preschool efforts. He has cited the numbers, and he is absolutely correct. But more than the numbers, when you start to talk about the dollar amounts, I think you can probably see the eyes of even the most determined listener to glaze over. When I talk about an $8.6 billion shortfall to No Child Left Behind this year alone, shortchanged more than $26 billion since passage, I am disturbed. It is the children and the families themselves that feel the shortfalls. Families lacking the kinds of investments that we know make a difference in their children's educational lives.

We know categorically, after more than a quarter of a century of watching, the benefits of the Head Start Program. It gives them that even start. When they enter kindergarten or the first grade, it puts them on a level playing field with other children who come from slightly more advantaged situations than they may have.

We know that getting Title I money into our school districts has made a huge difference to schools, and certainly we need to be doing far better on special education. But to give some idea of what these shortfalls mean, this year alone over 7,500 school districts are going to see their elementary school funding cut this July. Millions of disadvantaged children will be left behind because of inadequate resources in Title I. More than 1.3 million children won't receive afterschool services because of funding freezes that have occurred. Teacher quality, English language acquisition, impact aid, rural education all have been frozen in this country despite the increasing demands that have occurred.

The President's budget eliminates 38 programs in areas such as arts education, school counseling, small school support, dropout prevention. You don't need to tell the American public about the importance of these things. They make a difference every day. The fact is that we are just decimating these significant efforts, many of which were achieved and were created through bipartisan effort and support.

I am deeply concerned about what is happening to these younger people as they enter the school system, where we want them to have an equal opportunity to learn, where they get uncertified teachers and old textbooks, some that say today maybe one day we will land a man on the moon. We actually have children using textbooks that predate 1969 when we landed a man on the moon. Imagine in 2004, you discover your child has a science book that says that. That happens today. Or that your child walks into a biology class or chemistry class in elementary school and almost 35 percent of them in poor rural districts and poor urban districts do not have a certified teacher who is teaching.

This is the United States of America. If you want us to grow and be stronger, you are going to have to make the investments.

I thank my colleague from Massachusetts for raising these issues about both elementary and secondary education as well as higher education. The American public needs to know this.

Mr. KENNEDY. If the Senator will yield for a final question, I think the Senator from Connecticut has the floor. Before we leave this discussion, I have heard the resolution of the Senator from Connecticut, his determination. I would like to ask him whether he intends to battle with the rest of us in the remaining days of this session to try to provide that kind of help to these working families in these areas of education. Does he not agree with me that this ought to still be a priority, and that even as we are coming into the critical times of the appropriations committees, we will have some opportunity to continue this battle and call Senators to account to find out whether they believe it is the responsibility of this institution to continue to invest in the children of our country and to continue the opportunities of education, and that is the highest priority we have here? Do I hear from the Senator that he will join in that battle and continue to fight for those children?

Mr. DODD. Madam President, I commit to my colleague and to others as well. This has been an ongoing effort. It will be a continuing one. Nothing is more important. I have often said, if you can only solve one issue, I would choose this one. I don't think there is any more important problem to solve. Not that others are not important, but if we fail to address the education question effectively, then we leave every other issue in jeopardy, to chance.

That goes to the heart of endorsing and supporting our constitutional principles, our values system, as well as our economic growth.

I am not minimizing other issues. I am often asked, as we all are, what is the single most important issue we have to deal with. Obviously issues of going to war, sending young men and women into harm's way, amending the Constitution, confirming a justice to the Supreme Court are high on that list. I would place education as the No. 1 priority, a substantive issue that ought to be on every one of our lists.

I thank the Senator for taking a few minutes out of today to talk about this. There will be other opportunities to raise these concerns and these questions, and I hope that before this session of Congress ends, we will have a more effective result for the American people.

The PRESIDING OFFICER (Mr. ALEXANDER). Under the previous order, the Senator from Utah is recognized.

Mr. HATCH. Mr. President, I have been interested in this discussion. It has nothing to do with asbestos, but nevertheless an important discussion. I have to say I have taken great interest in the education processes myself. The other side just thinks there is money growing on trees. Frankly, there is never enough money to satisfy them.

All of us wish we could do better. I wish every school district in the country would teach music because it softens kids' lives. When I was a young kid, I was born on the wrong side of the tracks. I was a tough little kid. My mother made me learn the piano for 6 months and then made me play the violin, and that made me even tougher, carrying that violin to school. I have to say that softened me and gave me a soft side to what some people think is a fairly tough guy. So I commend my colleagues for wanting to do more. But having Democrats call for more and more spending is a little bit like a glutton who has eaten everything on the table and now wants more.

There is no end of the spending that they would do, even if we do have a $1.2 trillion deficit. This President has all he can handle. There is no question about it. I commiserate with him. I also look at the outrageous costs of some aspects of higher education brought into discussion here, what a gravy train it is for some people in many universities, and how tuition has gone up so much to pay for the gravy train. It reminds me of the trial lawyers we have been talking about with respect to asbestos reform.

Mr. President, I wish to respond to some criticism some friends across the aisle have made regarding my comments about personal injury lawyers. In particular, I have been criticized for repeating in public on the floor of the Senate what many people are saying in private—that there is a political tie between many of these trial lawyers and many of my friends across the aisle. I don't think it is news that, as a rule, you will find that, all things being equal, most trial lawyers will likely support with their voices, and especially their wallets, the Democratic Presidential nominee and other Democrats across the aisle. They are the largest single hard money donors to the Democrats—the liberal Democrats. It is hard to find any conservative Democrats, other than one I know of over there.

If I offended anybody by repeating in public a widely known dynamic, I guess I should apologize. I also recognize that I am unlikely to be the American Trial Lawyers' man of the year awardee. I am a member of that organization. I know a lot of great trial lawyers who are honest, decent, and do what is right in serving the American people. They know that when they are right, I am on their side. But in this case they are not right—the few who are abusing the laws.

Seriously, if in this debate I have sometimes come down too hard on personal injury lawyers, I have done so because I am concerned that what stands in the way of a much needed asbestos bill is the handful of overzealous, greedy personal injury lawyers—just a handful of lawyers in this country. I don't intend to malign personal injury lawyers as a class. I believe personal injury attorneys can serve and, in many cases, have served a vital function for many injured plaintiffs.

While I don't always see eye to eye with the personal injury bar, when I think they are right, I don't hesitate to say it and they know it. I had plenty of them thanking me for saying so when they were right during the discussion over the tobacco legislation in 1998. I was impressed with Richard Scruggs, or Dickie Scruggs, in the Castano group of trial lawyers. I think many trial attorneys played a constructive role in reaching a historic compromise with the tobacco industry. I helped them, and they know it. They were right and I backed them. Some in Congress held out for so much money that it was impossible to pass Federal tobacco legislation. The theme of some in Congress holding out for too much money is applicable to the asbestos debate.

In any event, the work that a gifted group of trial lawyers did with Mississippi Attorney General Mike Moore deserves a lot of credit. I supported their efforts publicly and even provided my support for reasonable compensation for those attorneys. I am not afraid to speak up for trial attorneys when I think they are right. I irritated people on my side who felt they should not get the compensation that I think they more than earned.

Frankly, as a former medical malpractice defense lawyer, I liked nothing more than to go up against the best plaintiffs' attorneys for the pure challenge of competing against the most skilled adversary. As a plaintiffs' lawyer, I liked nothing more than having gone up against the best defense lawyers in the country, having the thrill to be able to compete with them. In many cases, I would win against them.

We all have to recognize that the work of personal injury attorneys on asbestos litigation has dated back 30 or more years. Without the hard work of these lawyers, it is unlikely the U.S. would have come so far in responding to the dangers of asbestos. It is the success of the trial attorneys that put us in the position of recommending legislation that calls for a private trust fund to compensate asbestos victims without the need for each one to establish causation.

In short, personal injury lawyers have won the case, and they won it long ago. What this legislation is trying to do is sort out who pays and how much, and do so in a fashion that minimizes the transaction costs so that more of the money goes to the injured persons and less of the money gets swallowed up in litigation, and the courts can get unclogged, and so that other fairly brought litigation can be heard.

In compensating asbestos victims, we must be mindful not to corrupt more and more firms, which results in more and more job losses, and more and more loss of health care, and losing more and more value in retirement stock portfolios, and more and more loss of pensions. That is what we are trying to do here.

All I hear is whining from the other side. We have heard a lot of talk about how much the bill costs and how much it will pay out to victims. We heard talk about who pays, and how much, and whether they are paying enough.

If we ever get on the bill, we will hear more talk about these important issues, as we should. I have no problem with that. But they are filibustering even the motion to proceed. My gosh, when are the American people going to understand what is going on? They have filibustered virtually everything that has come up this year. It is going to take a supermajority to pass the simplist of bills the way they have been carrying on. It boggles my mind. But that is what is at stake in tomorrow's cloture vote.

Will we vote for cloture so we can talk about the issues on the bill itself? I hope we will proceed to the bill. But it shows the politics that are being played. For my friends on the other side to come on the floor and say this bill doesn't do enough, after we have given and given and given in to their suggestions time after time, or to say it is not procedurally proper or not written right, after 15 months of dedicated, hard effort—I have to say by a few Democrats, and by many on our side—it goes beyond the pale.

It is true that I have irritated some personal injury lawyers in some of my remarks. The ones I am talking about deserve irritation. I don't believe they are honest. I believe they are exploiting a system and taking moneys that should go to people who are sick. What

I am about to say may further irritate them and some of those across the aisle.

I have some important questions to raise with respect to attorneys' fees. Frankly, the issue of attorneys' fees is a key issue because it is critical in determining how much of the funds will actually end up in the pockets of the injured people. As I have said, today about 60 percent of the funds wither away to lawyers on both sides of these cases. You can expect that about one-third of any recovery will go to the plaintiffs' attorneys. In a no-fault, nonadversarial compensation system, there should be no place for the routine attorneys' fee level of one-third of the recovery.

Accordingly, in our bill, we employ the same fee schedule used by the Radiation Exposure Compensation Act, or RECA. In the RECA law—a bill I wrote and passed through this body a number of times—the lawyers' cut is 2 percent of the recovery in noncontested cases, and 10 percent for complicated cases. These cases are like rolling off a log if this is passed. Lawyers do not deserve 60 percent in defendant and plaintiff attorneys' fees, in addition to the transaction clause. The fee schedule results in the lion's share going to the injured persons and their families. This is the way it should be in the radiation exposure cases involving downwinders of nuclear tests, and this is the way it should be for asbestos victims. This is what is in our bill. It is a long settled way of solving these problems and a reasonable way that pays the attorneys what they should be paid—actually more, in many instances—but it stops the gravy train that is ripping off the sick and needy who have suffered from asbestos.

What is unknown is what our friends believe to be a fair level of compensation for personal injury lawyers in this new no-fault system. I ask today for our colleagues to come to the floor and tell us if they support or oppose our proposed attorneys' fees levels, if they believe our 2 percent for uncontested cases that are like rolling off a log, and 10 percent for those who might have some small contest, and they will still be like rolling off a log compared to litigation in trial. If this provision is not proper, please tell us how they would do it. We have not had the slightest suggestion from them.

If they believe it is still appropriate to retain attorneys' fees of 33 percent to 40 percent or higher, please explain why this is fair or necessary in a no-fault, nonadversarial system that this bill would make into reality. In the spirit of good faith, we agreed to move the program into the labor-friendly Department of Labor. The Secretary of Labor does not favor this. The White House does not favor this. I, frankly, do not favor this. I am afraid that will run the program into the ground because the Labor Department has been controlled by liberal bureaucrats for many years. But we are willing, in the interest of getting this done, in the interest of helping these people, to even do that.

Running a program to compensate workers out of the Department of Labor may be somewhat akin to voluntarily playing the Celtics in the Boston Garden. We made a genuine concession on the administrative process, as our colleagues know. We have repeatedly asked them to recognize it is appropriate for them to act in a spirit of genuine compromise with respect to attorneys' fees.

Let's face it, numbers are flying around in this debate. One way that the difference between our respective proposed level of total claims can be bridged is to reach agreement on the appropriate level of compensation for attorneys' fees. But we cannot even get them to talk about that. Even if we could, we could not talk about it because we are on a filibuster on the motion to even proceed to the bill. Once we go to the bill, we would have a filibuster on that, if we can ever get to that point, but at least we would be able to be on the bill.

We believe the RECA, the Radiation Exposure Compensation Act, exposure level of 2 percent of noncontested cases and 10 percent for contested cases is both fair and reasonable because both cases will be easy for the plaintiffs or those who claim to be sick to get compensation if they are sick.

What do our friends across the aisle think about this? What are they proposing on this important issue? I ask they be specific so we and other interested parties can evaluate their position on this essential question. We have only been negotiating with them for 15 solid months, and we still do not have their suggestions. Yet they are saying: Oh, this is just too premature. That is after many of them said last year we should have gotten this bill done before the end of last year's session.

When is it going to end? When is this kind of phoniness going to end? A great deal of the difference in the compensation levels, in each of our respective levels of total compensation, in our bill it is $114 billion plus a $10 billion set of contingency funds, and in one widely cited Democratic claim values amendment $167 billion can be bridged by factoring in the share that can go to personal injury attorneys.

I do not want to cut them out from reasonable fees, but I do think $60 billion is unreasonable because that money comes out of the hides of the sick people. No wonder attorneys in this country are so looked down upon, especially personal injury lawyers. I happen to know about 90 percent of the ATL people are sick of this and sick of this 10 percent who are running wild taking advantage of the whole system and basically destroying the right of individual sick people to get adequate compensation.

This bill would take care of that problem. If the Democrats are advocating that the customary one-third of the award can go to the lawyers, then we are not that far apart as to how much money should go to injured workers and families. We should work together to see if we can agree on a reasonable level of compensation for these attorneys. I call them the Fred Barrons of this world and other personal injury lawyers who are bringing these suits in selected favored jurisdictions so they can get easier verdicts. I challenge them to come in and tell us what would be a reasonable level of attorneys' fees, and let's quit playing the game.

This is a no-fault, nonadversarial system that does not justify the type of attorneys' fees that have been ripping off the public, especially the sick, the weak, the feeble, and the injured the way the current broken tort system is. I have no doubt that public discussion of this issue may bring great consternation among the ranks of some of my Democratic friends due to their close relationships with many in the trial attorney bar. But if we are ever going to have a meaningful no-fault trust fund asbestos bill, we are not going to be able to guarantee and should not be asked to guarantee the usual one-third to 40 percent of the take going to the plaintiffs' trial lawyers regime. One-third or more going to the lawyers is simply too much, especially in a no-fault, nonadversarial system.

The unions should recognize this, and the public should recognize this, but most of all these lawyers ought to recognize this and quit ripping off the sick and the downtrodden and those who really deserve these moneys.

The silence of my friends across the aisle on this issue, both in private and public talks, is deafening. When we did the RECA bill, I was chairman of the Labor Committee. I fought that bill through for years until we finally were able to get it done. All these people are asking for more money for education, more money for all the social programs, more money for this, more money for that, and they were the ones who were giving us a rough time. Finally, after I was reelected, they then realized we better get on the ball and do something about this. That is how the radiation exposure compensation law, which is now followed by countries all over the world because of what we did, is now law, compensating people, not very much for the suffering they went through, nothing like we are going to compensate from the private sector, no way near what we are going to compensate here.

The silence of my friends on the other side of the aisle, both in private and public talks, is deafening. I heard some of my colleagues, who I respect, come on this floor with a straight face and say this is not the right way to do it, although last year it was. They were talking about this administrative approach is the right way to do it. Why isn't it the right way to do it during a

Presidential election year? I ask the people out there watching and listening, why is it they suddenly think this is not the right way to do it when we put up even more money before, giving in on at least 53 different amendments, have moved this into an administrative process in the Department of Labor that many on our side question? Why is it that they are still balking at this in this Presidential election year?

I think there is only one conclusion most people are drawing, and I hate to see that. I hate to see that. If they do not like this bill, they should offer a substitute amendment. Let's have it out. Maybe they will win. Maybe these 8,400 companies and 16 insurance companies will get clobbered even worse so they can barely survive, and some are still going to go into bankruptcy. They certainly will if some of these people with their outrageous demands get their way. It is time to stop talking generalities and start voting on specific amendments.

I want next to make a few remarks about the process that has been observed to date and why I will be very disappointed if we are not allowed to proceed to the bill tomorrow after the cloture vote. Just think about it; they are filibustering the motion to proceed. They could have easily given in just like that and said, No, let's go to the bill, and we will filibuster the bill. That would be the straight up way of doing it. But to filibuster the motion to proceed means they must be beholden to somebody to pull that kind of a procedural mechanism. That does not happen very often, and it should not be happening here.

Frankly, that we are being forced to vote cloture is disturbing to me and should be disturbing to everyone, although I do recognize if cloture is not invoked, it would be pleasing to these few trial attorneys who are milking this system dry at the expense of those who are sick and afflicted and downtrodden. They will not have to see if their customary one-third or 40 percent of representation in the asbestos claims in the new no-fault system can be justified on the floor of the Senate. That is just matter of fact and people need to know it. That is why I am here on the Senate floor.

I rise today in response, again, to complaints that I have been hearing from some Members on the other side of the aisle about being rushed to consider a national solution to this asbestos mess. As many of my colleagues know, the asbestos litigation crisis is not new to this body. We have been talking about the problem for the better part of a decade, but now that we find ourselves on the verge of considering a proposed solution, I am puzzled to hear that the process has somehow been unfair, that we are not acting as ''proper legislators'' for bringing this bill to the floor under the current circumstances.

I think anybody with brains would find these complaints devoid of any merit whatsoever, especially when viewed against the legislative history of this asbestos bill.

While we have tried to build consensus over the past 15 months, thousands of asbestos victims have gone uncompensated or left with only pennies on the dollars they deserve. Veterans and people like those in Libby, MT, are left with no one to sue. More than 70 companies have gone bankrupt and dozens more will soon follow.

Since we started working on this legislation, 60,000 jobs have been already lost at a cost of more than $2.2 billion in lost wages alone. Let me repeat these numbers so they can sink in. Sixty thousand jobs have been already lost at a cost of more than $2.2 billion in lost wages alone, and sadly another 400,000 jobs will soon be lost. Yet we still talk. There are compelling calls for action. There are empathetic expressions of compassion for victims. There are meetings and letters, promises of solutions to come and proposals to be made, and yet for all of this ocean of good intentions we are all still stuck.

Frankly, much of the current asbestos litigation is all too reminiscent of the mythical Jarndyce case from the Charles Dickens ''Bleak House.'' As my colleagues will recall, this was a case in which most of the estate was swallowed up by lawyers' fees and court costs.

One has to ask how and why we got to this point. In September 2002, when Senator LEAHY chaired the Judiciary Committee, he held a hearing on the asbestos litigation crisis. I commend Senator LEAHY for his efforts. The hearing was balanced. It was instructive, providing valuable evidence of the dire circumstances for asbestos victims, employees, companies, and insurance carriers. The judicial system and the American economy at this national embarrassment was left intact. That was a year and a half ago.

When I became chairman of the committee 4 months later, I immediately made it clear that I wanted to build on that record, draft a bipartisan legislative solution and pass it. Almost immediately, concerns were raised, warnings were issued: You are moving too fast, some said. The issue is not ripe, others advised. You better get it right, others still warned.

Two months later, on March 5, 2003, I chaired another hearing. Some of the same witnesses from before appeared again and the testimony made it abundantly clear that while the problem had gotten worse, there was bipartisan interest in the idea of creating a national trust fund. We heard solutions from a variety of perspectives—from academia, from business, from the unions, and from trial bar experts. I made clear I would incorporate any constructive proposals offered. I wanted a bill that would work. I wanted it to be a bipartisan bill.

As a result of hearing the magnitude of the asbestos problem, we worked toward drafting a bill that would create a national privately financed no-fault compensation fund for asbestos victims. As word spread about our efforts, warning flags were raised. Some in the minority on the other side of the aisle urged us to move slowly, not to rush; more time was needed; more talk was needed.

We finished drafting the bill and we shared it with others, both in the Senate and among interested shareholders. There was real interest and we were given several good ideas and suggestions. Unfortunately, for the first time the minority's caution chorus took voice: We're being rushed; we're being jammed.

This is the minority's caution chorus of worrisome lions. This is what we have been going through now for 15 solid months: Do not rush us; do not do this; do not do that; we must be cautious.

We were rushing them, we were jamming them; according to them; I was acting unfairly. All this drama was over a bill that I had not even introduced.

I had listened for hours and hours, worked with my colleagues on both sides of the aisle for days, weeks, and months. They asked that I delay introduction. They asked that I delay introduction so they could have more time to study the issue and my proposal, which I did. We had more meetings, more talk. I incorporated several of their ideas into the bill and asked if they would cosponsor it.

Now I am pleased that a few did. I am forever grateful to those on the Democratic side who did. There were two who did—two, after all this work. Fifteen months later, we are down to one. More said that it was not the right time. They were upset with the way I had shared my draft legislation.

On May 22, 2003, Senators NELSON, MILLER, DEWINE, VOINOVICH, ALLEN, CHAMBLISS, HAGEL, and I introduced S. 1125, the FAIR Act. The minority's caution chorus sang again. These miserable, cowardly lions sang again. They were being rushed. They were being jammed.

In truth, I introduced the bill 78 days after my hearing, 20 weeks after the beginning of the session, 6 months after the hearing of 2002. This was clearly no sprint.

On June 19, I held the first markup. Again, the minority caution chorus took over again and took voice. The issue was still too complex. The bill was too complicated. We were not doing it right. They were being rushed. They were being jammed. They asked for more time, and they were given it.

Unlike ever before, the committee's markup of the legislation was spread over 3 weeks, 3 solid weeks. We spent 4 separate days—not many bills take 4 days to mark up—considering changes, often working late into the night. We invited experts to sit with us as we worked through complicated medical issues. This was no sprint, no rush to judgment. There was no mad dash.

Interestingly, when there was engagement from the other side, agreements were reached. In fact, the committee was able to resolve what at the time was supposed to be the biggest impediment to reaching a consensus, an issue so fraught with partisan disagreement that it could never be resolved.

In the end, we accommodated scores of concerns raised by the minority and found a common ground on medical criteria that everybody, Democrats and Republicans, agreed to. It was a major victory. This bipartisan accord was achieved and the committee adopted it unanimously. This was one of the most ideologically divided committees in the Senate, some say the toughest committee in the Senate with those who are the most ideologically challenged, I should say, and I cannot disagree with that.

The next impossible hurdle was claims values. Again, I was told there was no way a group so divisive, so argumentative, so plainly disagreeable as the Judiciary Committee could reach an agreement on how much to pay victims. Now, despite the dire predictions, a bipartisan agreement was reached again. The committee adopted the Graham-Feinstein amendment on claims values by the whopping bipartisan vote of 14 to 3. Now I just want to mention to my colleagues on the other side that every one of the Democrats voted for that. Three of our Republicans thought it was too much money and they voted against it, and they may not have been wrong. The only problem is that we are way beyond that money today.

I might add that all of these negative votes were cast by Republicans who thought some values were too high. As my colleagues know, we are more moderate to conservative over here, and I cannot blame them for raising those issues.

On July 10, 2003, despite the constant wailing from the minority's caution chorus again, we reported the bill out of committee by a vote of 10 yeas and 8 nays and 1 abstention. We all knew more work had to be done before the legislation could be brought to the floor. We also knew there would be no bill unless there was a willingness on both sides to pass a solution to move towards the middle.

As summer turned to fall, there were sporadic attempts at additional negotiations involving committee staff, as well as among the leadership. Minor matters were resolved, but there was no evidence on the part of the minority's leadership of any real interest to engage in the kind of meaningful effort needed to finalize a bill. Individual members of the minority were very public about their interest in legislating, but those purportedly tasked with the negotiations did not possess the same zeal.

We have heard, for my whole 28 years, how much more concerned the other side is about people and their problems. Well, it does not take much to figure out their concern here is more about the trial lawyers and the personal injury lawyers who are involved, because they are sure not working hard, in my eyes, or I think anybody else who looks at it objectively, to find a way of helping those who are truly injured and hurt.

Now, while these efforts were making little progress, work was underway on another front beginning in August. Senator SPECTER began an intriguing, arduous mediation among the major stakeholders. That means the victims, the alleged victims, the trial attorneys, the personal injury lawyers, the insurance companies, the companies that have been sued, and companies that are about to be sued. He took on this job. I give him a lot of credit for it. He convinced Judge Edward Becker, former Chief Judge of the Third Federal Circuit Court of Appeals, to play a lead role as a negotiator, as a mediator, for which Judge Becker is eminently qualified. He and the judge forced the parties to spend dozens and dozens of hours together. We were there, so we do know.

We spent hours and hours, days, weeks, and months, arguing the positions and searching for a common ground. Senator SPECTER and Judge Becker should be commended for their Herculean efforts to keep the parties talking and, despite the objections of the representatives and the personal injury lawyers, there was progress—slow, incremental, but progress. The unions played a significant role. They were there virtually all the time.

However, we have never been able to satisfy them, even though their workers are the ones who are going to be hurt the most if this bill doesn't pass. They are the ones who are not going to get compensated because the moneys are being sopped up by personal injury lawyers and people who are not sick because these personal injury lawyers are going to jurisdictions that basically are out of whack, that really will not look at these things in a reasonable way and who basically find for whoever brings the case and find in huge amounts for people who are not even sick in many cases.

I compliment Senator SPECTER and Judge Becker. There has been some slow progress during that period of time.

During the fall, Senator FRIST and I spent considerable time working with those who would be paying for the fund to ensure its solvency. It was imperative that the bill establish a steady and sufficient flow of moneys without allowing the fund itself to perpetuate the same kind of economic disasters caused by the tort system as a whole and by the tort system with regard to this type of case.

By the end of October, these issues had been completed and there was a renewed attempt to begin negotiations with those on the other side of the aisle, but every time an overture was made, the caution chorus was being rolled out: We are being rushed. We are being jammed. Every time it was rolled out by the other side of the aisle.

There was always some reservation; Things were moving too fast; There were other more important issues; They hadn't been asked the right way; They were being rushed; They were being jammed. The reasons changed but the result was always the same—no real negotiations. In fact, to this day we do not have a substitute or an offer by those who are complaining on the other side—to this day. We don't even have a monetary amount other than they have thrown out $170 billion, which everybody knows cannot be the number.

During my tenure in this body, I worked with my colleagues in the minority on a number of issues, on landmark drug legislation, the Hatch-Waxman Act, which gave life to the generic drug industry and saved consumers and our Government tens of billions of dollars since 1984. I worked with minority Members on children's health insurance, on childcare, on tax reform, job training. I have worked with them on issues involving crime, on legal reform, and a whole raft of other issues.

The Members of the minority are excellent legislators and skilled negotiators. They have insightful and creative staffs. I have worked with them when they wanted to pass a bill, and I know what it is like when they want to pass a bill. I have worked with them when they do not, and I know what it is like when they do not. I am telling you this is a time when they just don't seem to want to, because there has been plenty of opportunity to resolve this matter.

It is not hard to tell the difference. When there is a genuine interest in legislating, one of two things happens. A member of the minority leadership comes on at the outset and his or her presence and commitment helps to generate sufficient pressure on both sides to move legislation.

The second way, the minority offers their own version of the bill enabling both sides to sit down and work through the differences and craft a compromise.

Here there was no move by the minority's leadership and there was never, despite repeated and frequent requests, any interest by the minority in introducing their own solution. Instead, they chose to spend their time finding fault with our legislation and complaining about our process.

Another concentrated effort to move the bill was made in November, last year, and not surprisingly the caution chorus came out and began singing its song again: We are being rushed; we are being jammed, even though there were a number of Democrats who stood up and said they had to get this done before the end of this year.

Where are the real Democrats? That is what I would like to know. The pressure continued, however. Interested

stakeholders would not take no for an answer. Hints were made about bringing the bill to the floor, even if it resulted in a filibuster. Suddenly the message changed. Now we were told the minority's leadership wanted to find a resolution, that there was bipartisan interest in passing a solution. It was implied if we would just postpone consideration to early next year, there would be ample time to finish work on this bill.

The majority leader agreed and on November 22, 2003, he announced he would not bring up the asbestos bill prior to the end of the session. Instead, he would give the parties additional time to complete their negotiations. But he made clear his intention of bringing the bill to the floor this year.

His announcement was well received by the other side. I remember. As this year began, it was clear from the outset that, despite the promises of November, little had changed; there were no real breakthroughs. So, in February, the majority leader announced his intention to bring the bill to the floor the third week of April. But yet again the caution chorus rolled out its usual objections: The issue was too complex; the legislation was too complicated; they were being rushed; they were being jammed. Indeed, we even offered to engage in protracted negotiating sessions, but again the Democrats demurred.

In February, my staff sent an e-mail to Democratic staffers proposing a multiday negotiation to seek a resolution of the issue. It contains an offer to meet during all-day sessions, ''during recess weekends, or weekends during session.''

The response from the minority was unambiguous: Don't rush us. Don't rush us.

Senator SPECTER, to his credit, kept pushing forward and, as a result of his efforts, the stakeholders reached agreement on what was supposed to be another impossible hurdle, the administrative structure, which I mentioned earlier.

The proposal was not to our liking. It would require a fundamental change in our position, allowing the fund to be run out of the Department of Labor, but because organized labor signaled its strong support for this change and because we wanted to reach consensus on other critical issues remaining on the bill, we agreed and we agreed despite the objections from many on our side of the aisle and in spite of the objections from the White House.

The minority, instead of accepting this concession, instead of endorsing this considerable victory for organized labor, made it clear that this significant agreement meant nothing more than a chance to bank an advantage. They offered no alternative. They revealed no new proposal or compromise. In fact, it is reminiscent of the style of negotiation that says: What is mine is mine; what is yours is negotiable.

Nonetheless, additional proposals were made but there was no counteroffer, none of the typical give and take that is the hallmark of serious negotiations in this most important legislative body in the world. It was like trying to play tennis with a curtain. There is never any meaningful discussion of what the payers, the ones who have to pay these bills, most desire and, frankly, they deserve: a fair and predictable payment schedule.

Whatever we do is going to be tough on the payers here. This bill is plenty tough on the payers. Don't think they are not squealing; they are.

It was now obvious even to the most optimistic Member of this Chamber that it would be impossible to bring a consensus bill to the floor, one supported by the leadership of both parties. We are hearing Senator LEAHY has at last put together an alternative proposal on this national trust fund. Has it been introduced? Have we even seen it? Of course not. The only choice left was to bring a bill to the floor and hope enough Members of the minority thought the issue was of sufficient importance, as they have repeatedly said, to allow the Senate to consider this bill.

To help facilitate discussion, I introduced, with Senator FRIST and Senator MILLER from the other side of the aisle, S. 2290, a second version of the bill which incorporated many significant changes that have been made since the legislation was first introduced and first reported from the committee.

That is the legislation before us today. It contains the bipartisan agreement on medical criteria. It contains the agreement reached by the stakeholders on the revised administrative structure and numerous other changes adopted during the Specter negotiations that have all been to try to get the Democrats to move on this bill. It contains the handful of changes agreed to by both sides since the bill was reported out of committee. It also contains higher claims values passed by an overwhelming bipartisan vote of committee and incorporates yet another monumental change and another fundamental concession to address the complaints by the minority.

We have included provisions in the bill to make clear that the risk of insolvency will not be borne by the asbestos victims; it will fall on the defendant companies and their carriers. If there are insufficient moneys, the fund will terminate and parties will return to the tort system—to Federal courts. There is no point in sending it back to the State jurisdictions that created the asbestos crisis in the first place.

Here we are today. The time has come to act. The day of decision has arrived. Unfortunately, to no one's surprise, the caution choir is on its feet again, or somewhat on its feet, I guess I should say: They need more time; the issues are too complex; the bill is too long; they weren't consulted the right way; they were being rushed; they are being jammed.

I was told by many at the beginning of last year that when I embarked on this legislation the Democrats would simply run out the clock. They will never let us vote on a bill that could deprive them of their huge cash cow.

First, Democrats would push into the election year, they said. Then they would filibuster a motion to proceed. That is exactly what has happened so far in their zeal to make sure that their hard money donors get their way at least this year—an election year. It is not too late to change that.

Let me just say that the caution chorus is sounding like a broken record that needs to be shut off. It has been 333 days since S. 1125 was introduced.

A hundred years ago, it took Christopher Columbus only 222 days to discover the new world and return to Spain—one of the most remarkable discoveries in the history of the world. It took Neil Armstrong only 8 days to travel to the Moon and back. Our forefathers were able to write the U.S. Constitution in only 4 months. But somehow there hasn't been enough time for the minority to help write this bill although they have had a lot of say and have had a lot of concession. We have tried to do everything to bring them to the table and get things done. Here we find ourselves in a filibuster on the motion to proceed.

This caution chorus of cowardly lions reminds me of what is going on. Of course, there was one big difference. In those historical examples, the players actually wanted to finish. They actually wanted to discover an America. They actually wanted to go to the Moon.

Over these 333 days, we have had numerous congressional recesses and holidays. Just look at this. Over 333 days, and we are now under a filibuster. That comes from the Spanish word ''filibustero,'' meaning pirating or hijacking. It is just one more obstruction. We have had nothing but obstruction since George Bush has become President of the United States—over and over. There have been very few bills passed, and the ones that have passed have had to overcome the obstructionism. My goodness. There are some Democrats who have been willing to overcome obstruction, but on this one, it has not been brought to conclusion.

We have had one entire summer, the fall, winter, and we are quickly working our way through spring. How much more time is needed to sit down and get this matter resolved? The time has come for the minority to stand up and be counted.

If they are genuinely troubled by our proposal and all the agreements we have reached with them, they have an obligation—indeed a responsibility—to offer their own solution. The challenge is on them. Introduce a bill. Make sure it strikes the same balance demanded of us. Make sure it is fair in the way we have tried to make it fair. Make sure it provides adequate moneys for asbestos

victims. Make sure it provides compensation quickly, efficiently, and fairly. Make sure it does not reward the unimpaired, those who aren't sick. Make sure it is not hijacked and turned into a smokers' compensation fund. Make sure it does not bankrupt more companies and throw hundreds of thousands of Americans out of work and out of their health plans, their pensions, or wipe out their lives financially.

That is what is going to happen. For the life of me, I can't understand why many in the trade union movement aren't jumping on this bill in every way they possibly can because their employees are the ones who are getting hurt. They will never get the money we have in this bill if we don't pass a bill.

Make sure it doesn't stick the Federal Government with a bill at end of the day.

Now you on the other side of the aisle have claimed that the asbestos crisis must be fixed. You have all agreed there is a crisis in our country. You have conceded that the tort system is broken, that we have a historic opportunity to act. The end is within reach, and we must grasp it.

But here we are. I think the time has come to act, to make good on the promises which have been made on the other side of the aisle, to demonstrate the leadership and responsibility our Nation demands when we are asked to do our job to fix a national crisis. It is time to move past our alleged mistakes and complaints about perceived procedural insensitivities.

It is time for the caution choir, which we have been looking at here today, to quit singing ''We are being rushed; We are being jammed.'' It is time for the real interests to take a stand and to do what is right.

It is getting late in the day to appoint another committee and schedule more meetings and talk. It really bothers me that they are filibustering the motion to proceed, which has only been used on rare occasions before the last few years, before the obstructions that have been occurring on a regular basis. People in the past were willing to debate these bills and were willing to try to amend them if they didn't like them, willing to be legislators and not obstructionists, willing to do what is right for the American people.

We have now been on this bill 15 solid months and we still have not seen, other than demands during negotiations, what our friends on the other side must have to resolve this problem, which in many respects is the most dangerous problem hanging over America today, especially for employees, especially for union members, especially for those who want health care and who want their pensions to be saved, especially for 8,400 companies on the one hand, and maybe more if these voracious personal injury lawyers continue to conjoin people who really have had nothing to do with asbestos but have been conjoined in these actions where they are stuck with humongous defense costs and attorneys' fees themselves, so the moneys that would go to the sick and the needy, those who really need it, go down the drain of legal fees, clogging our courts so that other legitimate cases can't be brought.

Again, I will return to that message. Why is it that we are going through this type of chorus charade? Why is it that we haven't had more cooperation? Why is it that we can't get them to come up with what is needed to resolve this morass? Why is it during this election year?

All I can do is ask the question. I think anybody observing knows what the answers are. At least that is what has been alleged to me. That is what has been suggested. I hope it is not true.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I want to express my appreciation to the distinguished chairman of the Judiciary Committee. He has served in this Senate for many years. He is himself a superb lawyer, a constitutional scholar, and has been through many of these debates.

I remember on one night after 11 o'clock at night when the chairman met with everybody who had a problem. He urged them to come forward. He compromised and compromised.

Frankly, sometimes I think maybe the bill has gone too far—really seriously. We need to talk about that, offer amendments to fix it. We ought bring the bill to the Senate floor and start to discuss that.

But Senator HATCH has bent over backwards to make sure this legislation which is critically needed for America passes. It is critically needed for people who are sick from asbestos and those who fear they might get sick from it. I thank the chairman for his leadership. I have not known any effort that I have seen in which a chairman has gone further to try to win the support of other members in the committee and the Senators who might be dubious, to get their support. And the Senator continues to get it.

I thought we had the bill completed. I thought we had everybody signed up. I yield to the chairman.

Mr. HATCH. I thank my colleague for his kind remarks. I appreciate the hard work the Senator and others have put in on this side. There are some on the other side who have worked hard. Particularly, I express my gratitude to Senator MILLER, Senator NELSON, and Senator FEINSTEIN. I understand Senators NELSON and FEINSTEIN are probably going to vote against cloture. I don't know. I cannot speak for them. I hope not. They are two who have tried to work with us on this bill.

If that is laid down, I don't know where we will go. I am afraid an awful lot of people will be left high and dry while these trial lawyers, the personal injury lawyers, walk off with $60 billion in fees and costs that could go to people who are sick. I don't begrudge attorneys the fees they earn. We have more than made a case that the system is broken. There are a certain limited number of personal injury lawyers who are taking advantage of the system and doing it in ways that are reprehensible.

Mr. SESSIONS. I thank the chairman. I agree with his comments. I thank him for doing all that humanly could be done to win the support necessary for this bill.

I had a brief period of time in which I filed plaintiffs' lawsuits for individuals who had asbestos injuries. These individuals were sick; asbestos is a debilitating disease. They had been heavily exposed to asbestos. One individual worked in a submarine, where the air inside was thick with asbestos fibers. He was severely debilitated as a result of that. I believe people who are injured ought to be compensated.

It was discovered that manufacturers of asbestos knew at some point before they told people who were working on it that it was dangerous. And they should have told them it was dangerous and their health was at risk and they did not do so. That is the fundamental cause of the litigation.

I filed my asbestos litigation in the 1970s. I eventually turned it over to a group of lawyers who were experts in this matter. They took the case. I was not able to do it. They did a lot of work. They had to break down barriers, win the liability questions, and prove knowledge on the part of the companies. They overcame legal objections such as whose asbestos did you breathe.

Most plaintiffs' lawyers today involved in litigation are not proud of what has happened with asbestos. The companies have been tagged. The companies are stuck. They admit they did wrong. They are willing to compensate, as they are able to compensate. There is only so much money. We are talking about billions of dollars, maybe $54 billion already paid out.

I was there as a lawyer and earned part of a fee out of the litigation. I didn't know how it would come out or what the statute of limitation was. Maybe my claim has expired. But things have changed. The companies are willing to pay. Some victims are sick and need compensation. They need it now. They do not need to have a big chunk of what they are entitled to paid to lawyers or to experts or testing companies. They need to be paid. It is a blight on the legal system.

I see the distinguished assistant Democratic leader. He is a superior lawyer, and would do an admirable job in court, no doubt. But, these cases are not going to trial. It is a process. These cases are filed and settled, and sometimes victims are paid. Certain defendants do not have money, so they cannot pay. Sixty asbestos companies are in bankruptcy today because they cannot pay or cannot fully pay all the claims. Thousands of new claims are being filed on a regular basis.

The new trend is that people not sick are filing. They may have been exposed to asbestos, and there may be some showing of asbestos in the pleura or their lungs, but it has not had a debilitating effect or not caused cancer or anything like that, and they are filing by the tens of thousands, saying they might get sick. But they are not sick yet.

What do you do? It is perfectly appropriate that this Congress act. We do it with workmens' compensation. A person is injured on the job, they get compensation under certain circumstances. It is a lot easier to get it, but it is limited and you do not have to pay so much expenses and it works pretty well. That is all by regulation. We do not leave everything totally to juries, judges, and lawyers to settle.

I believe in the principle of the Congress stepping in, when necessary. The fundamental reason I believe, is that, in my view, in the history of the most magnificent legal system we have, the Anglo-American heritage of law, we have ever had a system that has been as abused. Sixty percent of the money paid out by the defendant companies, over half of it, 60 percent according to testimony we had a number of years ago in the Judiciary Committee, does not get to the people who are sick. It does not get to any plaintiff. It is eaten up by court costs, lawyer fees, expert witnesses, and testing companies. That is not right.

It is not right when the defendants themselves admit they are wrong and are willing to pay. In fact, they do pay and they agreed to pay and they have trusts that are supposed to pay, but the trusts are getting drained of money. Companies are going into bankruptcy and fewer and fewer victims are getting paid.

If we care about the rule of law, if we care about decency, fundamental fairness, if we respect law, if we love the law, we should not allow a situation to continue where the defendant companies are willing to pay, and the plaintiffs, some of them desperately need payment, but the plaintiff only ends up getting 40 percent of what is paid out. The defendant companies have to hire lawyers, too, whole law firms. They file papers and disclosures and depositions and expert witnesses. This is just chewing up money, money, money, money.

Now, if somebody has mesothelioma, a cancer that causes death, they ought to be paid. They do not need 60 percent of what they are entitled to, to go to some lawyer, some defense lawyer or some expert witness or court cost. And they ought not to die before they get it.

Under this bill, if you file a claim and you have mesothelioma—which is tied directly to asbestos—it is caused very few times other than by asbestos, and you can demonstrate exposure to asbestos and mesothelioma, you get $1 million. That is what the latest figure is. And you do not need a lawyer at all. You get it now. Under the current system, they file lawsuits, months go by before anything results. The plaintiff wants $25 million. The defendant wants to pay $500,000.

They go along and along, and all the time the families are suffering, the plaintiffs are suffering, and maybe even dying. That is not good. Then, when it is paid, finally, some of the companies do not have the money. Some insurance companies say they are not liable for this part of the claim, and it goes on and on and on.

I deeply believe we need to end this spasm. This is not good. It is not something any lawyer can be proud of. In fact, I think everybody is embarrassed by it.

Let me read from Justice Ruth Bader Ginsburg of the Supreme Court, a former member of the ACLU—one of the more liberal Justices. This is what she wrote in 1997:

> The argument is sensibly made that a nationwide administrative claims processing regime would provide the most secure, fair and efficient means of compensating victims of asbestos exposure. Congress, however, has not adopted such a solution.

In 1997 she wrote that; and we have been battling this ever since. Every effort has been made.

Now we have proposed a $100 billion fund—not millions—$100 billion, set aside for payment of these claims. That is apparently not satisfying everyone. In Ortiz v. Fiberboard Company, in 1999, Justice Souter—another one of the liberal members of the Supreme Court—said:

> The elephantine mass of asbestos cases defies customary judicial administration and calls for national legislation. To date, Congress has not responded.

We have people here who are filibustering this bill from even coming up, saying they are being rushed. This bill and this idea and this concept of creating a nationwide claims processing regime, as Justice Ginsburg called it, is overdue by decades. It is wrong what we are doing. It is being blocked, I can only conclude, by a partisan special interest effort. The only people who have an interest in continuing this despicable regime are a few lawyers who are getting absolutely rich from it—$54 billion, and you have a 40-percent contingency fee.

Senator HATCH said, when this thing is over, lawyers would make $100 billion. And don't think it is a lot of them. It is not a lot of them. It is not the basic plaintiff bar. These lawyers have 10,000, 20,000, 30,000 cases they are handling. It is not right. It is wrong. The people who are blocking this need to be ashamed of themselves.

The Supreme Court Justices have called for reform. It is threatening our economy. They develop schemes now where companies that had even the most tangential connection to asbestos are getting sued. If you can just ever tap them. If a company bought a company that dealt in asbestos, and that company had ceased dealing with asbestos for 10 years, they can be bankrupted because they have become liable for the company they bought, their actions 10, 15 years before they bought it. Do you think that is not possible? It is possible. It is happening right now.

These companies and the insurance companies and the reinsurance companies have come together and put up $100 billion—$100 billion. All we need to do is set up an administrative claims processing system where persons who are sick, who have any disability, really any health defect can file a claim. Those who are not ready, those who do not have a claim, who fear they might be sick at some time in the future, can file their notice and will be given a constant monitoring of their health. If they do get sick, they can be compensated fully.

So we would be getting money to the people who are sick. We would be reducing the need for these huge, outrageous legal fees from the plaintiffs' lawyers. We would be eliminating all the lawyers' fees paid by the asbestos companies.

There are companies that bought asbestos companies, and people who sold brake shoes, and anybody who had anything to do with asbestos, who are being sued. Now there are 8,400 companies being sued. Most of them never produced asbestos, never knew anything about asbestos, never dealt with asbestos. So these people are willing to put up $100 billion.

We simply ought to be able to establish a system by which sick people can be paid, and paid promptly, without these costs. If we do not, who is going to lose most? The plaintiffs are going to lose. These companies are going into bankruptcy. It is hurting this economy. It will continue to hurt America's economy.

I thank the Presiding Officer. I appreciate the opportunity to share these remarks. I think it is important. I hope the Senate will move forward.

I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, it is my understanding the majority leader is on his way.

I will withhold and ask the distinguished majority leader to do the close and then allow me to finish my speech.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I appreciate the consideration. I will move through, fairly quickly, some business that finishes up on today and explains what we will be doing tomorrow.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

2004 NATIVE FAMILY WELLNESS CONFERENCE

Mr. DASCHLE. Mr. President, I would like to take this opportunity to honor an outstanding collaboration taking place between organizations of the Yankton Sioux Tribe and the neighboring town of Wagner—the Native Family Wellness Conference. This 3-day initiative is the result of the tireless work and cooperation among the Boys and Girls Club of the Yankton Sioux, Brave Heart Society, Canku Teca Treatment Center, and the Indian Health Service's Wagner Service Unit. In particular, I want to commend Faith Spotted Eagle, Jenny Noteboom, and Amy Schwenk-Doom for their leadership in this effort.

As we know all too well, the lack of quality health care in Indian Country is having a devastating impact on the health of far too many Native Americans. The availability of only ''life or limb'' treatment in our IHS hospitals has heightened the importance of health and wellness education in Native American communities, and I applaud the initiative demonstrated by this collaborative in developing the Native Family Wellness Conference.

The great leader Sitting Bull once said: ''Come, let us put our minds together and see what kind of life we can make for our children.'' The Native Family Wellness Conference embodies Sitting Bull's hope for the future by teaching children, both Native and non-Native, about the importance of health and wellness in both their cultural heritage and personal future.

Children and families will have the opportunity to learn about the effects of diet, drug abuse, and exercise on personal and family wellness during a series of breakout sessions on April 29 and 30. Those who participate in the sessions will be invited to join a fun run/walk with the Lakota Olympian Billy Mills and a concert by the band Brule of Lower Brule.

Billy Mills and his organization, Running Strong for American Indian Youth, have dedicated almost 20 years to providing Native Americans with the tools needed for survival and to build self-esteem and self-sufficiency. Billy Mills' participation in this conference demonstrates the importance of this collaboration, and I also want to thank him for his dedication and commitment to the health and well-being of Native Americans.

In recent months, countless organizations from the Yankton Sioux Tribe and Wagner have joined in support of the Native Family Wellness Conference. The Bureau of Indian Affairs police department, Fort Randall Casino and Hotel, Indian Health Services Diabetes Project, Native American Community Board, Lewis and Clark Mental Health Services, Marty Indian School, Wagner School District, Wellmark Foundation, the Yankton Sioux Tribe's Business and Claims Committee, Tribal Health Program, Healthy Start Program, Housing Authority, Tribal Courts, and Tribal Youth Program have also contributed their time and talents to the conference. These organizations and their members are to be commended for their involvement in this important event.

Our children are our greatest resource, and the Native Family Wellness Conference is a great investment in the health of our future generations. That is why I am proud to honor this outstanding effort.

HONORING OUR ARMED FORCES

LANCE CORPORAL BENJAMIN CARMAN

Mr. GRASSLEY. Mr. President, I rise today to pay tribute to LCpl Benjamin Robert Carman who bravely gave his life for our country in Operation Iraqi Freedom. I offer my deepest sympathy to his parents, Marie and Nelson, as well as his siblings; James, Catherine, and Amelia. LCpl Carman was killed in action by small arms fire during combat operations in the Al Anbar Province of Iraq on Tuesday, April 6, 2004.

LCpl Carman is the eleventh Iowan to be killed in Operation Iraqi Freedom. I appreciate his faithful service to our country and the patriotic mission that he died supporting. The attitude that Ben had toward his military service was summarized by his pastor at his funeral; ''Ben died because he loved freedom. He died because he loved justice.'' LCpl Carman was not afraid to courageously serve his country and accomplish his duty. As an Iowan, I am proud of this exemplary young man who will be missed by many.

Ben Carman graduated from Jefferson-Scranton High School in 2002 where he excelled in the industrial arts, winning first in the State on several occasions in the sheet metal category of an industrial skills contest. He also participated in football and golf and was well loved by his classmates. Ben also loved the outdoors and his hobbies included fishing, hunting and camping. He was a proud Marine who proved himself to be a true hero and patriot. LCpl Ben Carman lived out the Marine motto, Semper Fidelis, always faithful, and is a credit to his State and to his country. I again express my sympathy for Ben's family and my gratitude for his courageous service.

VETERANS SHOULD RECEIVE TIMELY ACCESS TO HEALTH CARE

Mr. GRAHAM of Florida. Mr. President, I recognize the dedication of the Paralyzed Veterans of America, PVA, and their support of spinal cord injury research. Through their Spinal Cord Research Foundation, PVA support has aided researchers in making huge advances in this crucial field.

Last Friday, in conjunction with PVA Awareness Week 2004, three spinal cord injury researchers detailed the contributions PVA has made toward improving treatment for and, hopefully, eventually ending paralysis. Stephen G. Waxman, M.D., Ph.D., professor and chairman of neurology at Yale University, discussed ''Protecting and Repairing the Spinal Cord: Gifts from the Molecular Revolution.'' Among other topics, Dr. Waxman discussed how his lab had created chronic neuropathic pain in a rat, which the lab was then able to successfully ''turn off'' and ''turn on'' through chemical manipulations.

Mindy L. Aisen, M.D., the deputy chief research and development officer and rehabilitation research and development service director for the Department of Veterans Affairs, VA, addressed ''Spinal Cord Injury Reasearch: The VA Perspective.'' She spoke about the large scope of VA research, which extends well beyond spinal cord dysfunction. She specifically discussed the diaphragmatic pacer used by Christorpher Reeve, which was invented at the Cleveland VA Medical Center, and she noted the wound healing studies conducted by VA.

Alessandro Ghidini, M.D., a specialist in high-risk pregnancies and director of perinatal research for the department of obstetrics and gynecology at Georgetown University Medical Center, spoke about ''Obstetrical Outcomes of Women with Spinal Cord Injury.'' Dr. Ghidini is just beginning a PVA research foundation grant to document the obstetrical experiences of 60 women with spinal cord injuries, and she talked about the main concerns that arise when these two major conditions interact; complications from both can create a number of medical emergencies that healthcare professionals and women with spinal cord injuries must know about in order to carefully and successfully manage them.

These medical professionals demonstrated the great strides the PVA Spinal Cord Research Foundation has helped to make in alleviating the hardships of paralysis, and they provided a glimpse into the promising future of spinal cord injury research.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

Chicago police issued a community warning the week of April 5, 2004, alerting North Side residents of slayings of two gay men under similar circumstances. The bodies of Kevin Clewer and Brad Nelson were found in their apartments in March and August, respectively, with multiple stab wounds, police said.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement

Enhancement Act is a symbol that can become substance, I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

NATIONAL LIBRARY WEEK

Mr. SARBANES. Mr. President, this week, from April 18th to 24th, we are celebrating the 46th anniversary of National Library Week. As a strong and vigorous supporter of Federal initiatives to strengthen and protect libraries, I am pleased to have this opportunity to take a few moments to reflect on the significance of libraries to our nation.

When the free public library came into its own in this country in the 19th century, it was, from the beginning, a unique institution because of its commitment to the free and open exchange of ideas embodied in the Constitution itself. Libraries have always been an integral part of all that our country stands for: freedom of information, an educated citizenry, and an open and enlightened society. They are the only public agencies in which the services rendered are intended for, and available to, every segment of our society.

It has been my longstanding view that libraries play an indispensable role in our communities. From modest beginnings in the mid-19th century, today's libraries provide well-stocked reference centers and wide-ranging loan services based on a system of branches, often further supplemented by traveling libraries or on-line libraries serving outlying districts. Libraries promote the reading of books among adults, adolescents, and children and provide the access and resources to allow citizens to obtain reliable information on a vast array of topics.

Libraries have gained even further significance in this age of rapid technological advancement because they are called upon to provide not only books and periodicals, but many other valuable resources as well. In today's society, libraries provide computer services, Internet access, audio-visual materials, facilities for community lectures and performances, DVDs, CD-Roms, tapes, and works of art for exhibit and loan to the public. In addition, special facilities libraries provide services for older Americans, people with disabilities, and hospitalized citizens.

Of course, libraries are not merely passive repositories of materials. They are engines of learning—the place where a spark is often struck for disadvantaged citizens who for whatever reason have not had exposure to the vast stores of knowledge available. I have the greatest respect for those individuals who are members of the library community and work so hard to ensure that our citizens and communities continue to enjoy the tremendous rewards available through our library system.

My own State of Maryland has 24 public library systems providing a full range of library services to all Maryland citizens and a long tradition of open and unrestricted sharing of resources. This policy has been enhanced by the State Library Network, which provides interlibrary loans to the State public, academic, special libraries, and school library media centers. The Network receives strong support from the State Library Resource Center at the Enoch Pratt Free Library, the Regional Library Resource Centers in our Western, Southern, and Eastern Shore counties, and a Statewide database of periodicals from over 100 libraries.

The State Library Resource Center alone gives Marylanders free access to approximately 2 million books, over 1 million U.S. Government documents, 600,000 magazines, newspapers and books in microform, 11,000 periodicals, 90,000 maps, 20,000 Maryland State documents, and 19,000 videos and films.

The result of this unique joint State-County resource sharing is an extraordinary level of library services available to the citizens of Maryland. Marylanders have responded to this outstanding service with almost 58 percent of the State's population registered as library patrons. Additionally, the total holdings of catalogued and uncatalogued book volumes, video and audio recordings, periodicals, electronic formats, and serial volumes have increased by 1.2 million from 1998 to 2002 to total almost 16.8 million library holdings.

I have had a close working relationship with members of the Maryland Library Association and others involved in the library community throughout the State, and I am very pleased to join with them and citizens throughout the Nation in this week's celebration of ''National Library Week.'' I look forward to a continued close association with those who enable libraries to make their unique and vital services available to all Americans.

CHINESE COMPETITION

Mr. GRAHAM of South Carolina. Mr. President, one thing I have learned in the last couple of years is that everywhere I go the manufacturing community at home keeps bringing up on topic, Chinese competition. Due in large part to China's unfair trade practices; South Carolina alone lost 41,000 jobs in 2003. Most of these jobs were textile and related industries. In the last five and a half years, three million American manufacturing jobs have been lost. Since 1997, the U.S. textile industry has closed more than 250 textile plants in the country and more than 200,000 U.S. textile workers have lost their jobs.

Why is this happening? Why are American manufacturers not able to keep up with the Chinese? It is not because our workforce is intellectually inferior, and I don't believe our workforce is lazy. And it certainly isn't because we haven't invested in the most modern equipment.

It is because China cheats. China's accession agreement to enter the WTO consisted of numerous commitments by China to transition to a market and rules based economy. China has yet to live up to their commitments. The theory of free trade is a great theory, but it only works if other people buy into that theory. It is hard to have free trade if you do not even believe in free speech. Through its unfair trade practices, China continues to steal market share, and the U.S. manufacturing industry is at serious disadvantage.

China's currency, the yuan or renminbi, has been tightly pegged at 8.28 yuan to the U.S. dollar since 1994, which most economists believe to be a severe undervaluation of their currency. Most economists estimate China's currency to be undervalued by as much as 15 to 40 percent. This undervaluation makes China's exports less expensive for foreigners, while making foreign products more expensive for Chinese consumers, resulting in an effective subsidization of Chinese exports and poses a virtual tariff on Chinese imports.

Consequently, since 1994, China's economy has grown dramatically, averaging over 8 percent per year. The U.S. trade deficit with China in 2003 reached a record $125 billion. In 1994, when China first began to peg its currency to the dollar, the United States trade deficit with China was $29.4 billion.

China has been in clear violation of International Monetary Fund, IMF, and world Trade Organization, WTO, commitments by maintaining an unfairly low exchange rate to gain a competitive advantage. IMF Article IV states that members should ''avoid manipulating exchange rates . . . in order . . . to gain an unfair competitive advantage over other members.'' The U.S. China Economic and Security Review Commission, a bipartisan commission created by Congress, found in its September 25, 2003 hearing, that: ''China, in violation of both its IMF and WTO obligations, is in fact manipulating its currency for trade advantage'' and recommends that the Treasury Department ''immediately enter into formal negotiations with the Chinese government'' over its undervalued currency. The Commission further ''urges the Congressional leadership to use its legislative powers to force action by the U.S. and Chinese Governments to address this unfair and mercantilist trade practice.''

At this hearing, Fred Bergsten, Ph.D., Director of International Institute of Economics, testified that a revaluation of 20 to 25 percent of the yuan should permit other Asian currencies, including Japan, Taiwan, North Korea, to go up at least partway, maybe 10 percent or so, because with the yuan appreciating, they would be willing to appreciate against the dollar since it would actually create a depreciation of their own currencies against the Chinese currency, their main competitor. If you put all those currency

changes together the result would be a $50 billion reduction in the U.S. current account deficit, which in turn translates to about 500,000 high-paying jobs, mainly in manufacturing in this country.

Senator CHARLES SCHUMER and I have introduced legislation that would require China to abide by its international trade agreements and stop manipulating their currency. The goal of this legislation is to remove China's unfair currency advantage and the detrimental impact that it is having in the U.S. and abroad.

Our legislation would require the Secretary of the Treasury to immediately enter into formal negotiations with China to ensure that China initiates a process to adopt a market-based system of currency within 180 days of enactment of this Act. If China refuses to do so, a 27.5 percent tariff will be imposed on all China's exports to the United States in order to reduce the export advantage provided by China's unfairly and illegally valued currency. The President of the United States has the authority to remove the tariff once he certifies to Congress that China has moved to a market-based system of currency valuation.

This legislation works within the framework of international trade laws. Article XXI of the General Agreement on Tariffs and Trade allows a member of the World Trade Organization to take ''any action which is considers necessary for the protection of its essential security interests,'' particularly ''in a time of war or other emergency in international relations.'' The President has stated a view that many of us hold, that our nation's manufacturing capability is a vital national interest. I know I am not alone when I say that this national interest is threatened by China's unfair currency practices.

Something must be done to alleviate the detrimental economic impact China is having on our manufacturing industry or at the very least, to level the playing field for future generations. I urge the Leadership to allow a vote on this important legislation. I believe it will receive overwhelming bipartisan support and give the Administration one more tool to get the Chinese to uphold their WTO obligations.

As long as we sit by and allow China to maintain its unfair trade advantage, the United States will continue to hemorrhage jobs. Passing this legislation is one step further to ensuring that China abides by the rules.

ADDITIONAL STATEMENTS

HONORING ALYSON MIKE

● Mr. BAUCUS. Mr. President, I rise today with great pride to honor Montana's 2004 Teacher of the Year Award winner, Alyson Mike. Alyson overcame a lengthy list of quality teachers in Montana to secure this award. It is an honor to recognize her outstanding contribution to Montana.

Alyson represents the type of teacher Montana has come to expect from its teaching community. She is an educator who meets the highest standards of professional excellence. Alyson is a student's teacher. She delivers to each and every one of her students without expectation of reward.

Alyson teaches middle school science at East Valley Middle School in Helena, MT, my home town. Sadly, like so many other rural communities, Helena has struggled economically in recent years. In this community, bake sales, garage sales, and silent auctions have become the norm, simply to raise funds for the school. But this has not stopped Alyson and members of the community from making sure the students receive what they need to succeed.

Like so many Montana teachers, Alyson takes a hands-on approach to ensure her students have access to a variety of materials and equipment. In Alyson's mind, there are no limits to what her students can accomplish.

Alyson earned her National Board Certification and has become a State leader in Montana's professional development. She is a leader to her students and encourages other teachers to make a difference in student's lives. Alyson's extensive background and knowledge in science, proven teaching strategies, and great sense of humor make her a Montana treasure.

We in Montana are very fortunate to be able to claim a teacher like Alyson Mike as our very own. She is a fabulous representative of the very best of public education in Montana and across our Nation.●

HONORING STUDENTS REPRESENTING RHODE ISLAND IN THE ''WE THE PEOPLE: THE CITIZEN AND THE CONSTITUTION'' COMPETITION

● Mr. CHAFEE. Mr. President, from May 1–3, 2004, more than 1,200 students from across the United States will visit Washington, DC, to take part in the national finals of ''We the People: The Citizen and the Constitution,'' an educational program developed specifically to educate young people about the U.S. Constitution and Bill of Rights. Administered by the Center for Civic Education, the ''We the People'' program is funded by the U.S. Department of Education by act of Congress.

I am proud to announce that students from Central Falls High School will represent the State of Rhode Island in this national event. These outstanding students, through their knowledge of the U.S. Constitution, won their statewide competition and earned the chance to come to Washington and compete at the national level.

The three-day ''We the People'' National Finals Competition is modeled after hearings in the U.S. Congress. The students are given an opportunity to demonstrate their knowledge before a panel of judges while they evaluate, take, and defend positions on relevant historical and contemporary issues.

I wish these students the best of luck at the ''We the People'' national finals and applaud their achievement. I am sure that this valuable experience will encourage these young Rhode Islanders to remain engaged with government and public policy issues in the future.●

ERNIE HARTUNG, UNIVERSITY OF IDAHO'S TWELFTH PRESIDENT

● Mr. CRAIG. Mr. President, today I pay my respects to Ernie Hartung, the 12th president of the University of Idaho, who passed away last fall.

I felt a special kinship to President Hartung for two reasons. The first was that we both came to the university as freshmen in 1965. He as a freshman president and I as a freshman student. As he often said, he considered himself to be a member of the class of 1969 because of that freshman connection.

The second reason for our special kinship was that I served as student body president in 1968–69 and had a close working relationship with President Hartung. He was a tireless advocate for student involvement, and the students responded by becoming strong, vocal supporters of President Hartung.

It is unlikely that any University of Idaho president ever generated the degree of grassroots student support that Ernie Hartung did. The best indication of this came on March 17, 1969. The university was facing a number of serious issues, and President Hartung had been publicly criticized by the Governor. In response, 4,500 students showed up at a campus rally on a cold, rainy night to voice their support for their university president. It was a remarkable showing of support for an extraordinary leader.

Ernie Hartung had a significant impact on the lives of thousands of Idahoans. On April 24th, 2004, the University of Idaho will be honoring this leader and his contributions. I appreciate my colleagues joining me today while I acknowledge all that President Hartung did, not only for me but for thousands of other University of Idaho alumni and Idahoans. While we miss him sorely, it is comforting to know that Idaho is a better place because of Ernie Hartung.●

NATIONAL PRIMARY IMMUNE DEFICIENCY DISEASES AWARENESS WEEK

Mrs. MURRAY. Mr. President, I rise today to ask my colleagues to join me in recognizing the week of April 19 as National Primary Immune Deficiency Diseases Awareness Week. Primary immune deficiency diseases, PIDD, are genetic disorders in which part of the body's immune system is missing or does not function properly.

The World Health Organization recognizes more than 150 primary immune diseases, which affect as many as 50,000 people in the United States.

Fortunately, 70 percent of PIDD patients are able to maintain their health through regular infusions of a plasma product known as intravenous immunoglobulin, IGIV. IGIV helps bolster the immune system and provides critical protection against infection and disease.

I want to share with my colleagues the story of one family in Washington State affected by PIDD, the Trump family, who have common variable immune deficiency, CVID, one of the more common forms of primary immune deficiency diseases. Gary Trump's first wife, Tracee, carried CVID for at least 18 years prior to diagnosis. During that time, she suffered repetitive infections, even life-threatening disease, but was never properly diagnosed. In 1993, 8 days after the birth of their second son, Christian, Tracee was struck down by viral encephalitis, and suffered through 4 years of pain, amnesia, and total disability prior to passing away in 1997. Their first son, Darren, also had numerous infections, almost from birth. Within a year of Tracee's diagnosis, Darren was tested and found to have CVID. Christian, who nearly died of viral pneumonia at 2 months of age, was also diagnosed with CVID.

The Trump family is not unique with the difficulty and delay in diagnosis of primary immune deficiency disease. Despite the recent progress in PIDD research, the average length of time between the onset of symptoms in a patient and a definitive diagnosis of PIDD is 9.2 years. In the interim, those afflicted may suffer repeated and serious infections and possibly irreversible damage to internal organs. That is why it is critical that we raise awareness about these illnesses within the general public and the health care community.

I am proud to have the opportunity to recognize the week of April 19 as National Primary Immune Deficiency Diseases Awareness Week. I encourage my colleagues to work with us to help improve the quality of life for PIDD patients and their families.

TRIBUTE TO SISTER MARY EILEEN WILLHELM, RSM

• Mr. SESSIONS. Mr. President, I rise today to give tribute to Sister Mary Eileen Wilhelm, RSM, who has served as the chief executive officer at Mercy Medical for more than 36 years. She has led Mercy Medical in its mission to care for the sick, the injured, and the dying since she took on the role of CEO in 1967. Her passion for healthcare has led her to continually do what is best for the patients, the residents, and their families.

Since its founding in 1949 by the Sisters of Mercy, Mercy Medical has been a leader among healthcare providers in Alabama's Mobile Bay area. As CEO of Mercy, Sister Mary Eileen has remained focused on continuing the healing ministry of Jesus in the compassionate and excellent tradition of the Sisters of Mercy. This has helped Mercy grow from a small convalescent home by the bay in Daphne, into an integrated network of healthcare options throughout southwest Alabama and recognized throughout the Nation for its innovative procedures.

Mercy Medical works with patients of all ages, from the very young to the most senior, to maximize their functional abilities and return all patients to their highest possible level of wellness. In addition, Mercy Medical is renowned for its hospice services, providing quality living when individuals face the end of this Earthly existence. Working with physicians, interdisciplinary medical teams establish individualized treatment plans which direct overall courses of intensive therapy, specialized clinical services and/or other patient care and activities. Most importantly, the Mercy Medical team always ministers to not only the physical needs but offers comfort and healing to the spirit as well.

Catherine McAuley, the foundress of the Sisters of Mercy, has inspired Sister Eileen to be strong in the face of adversity, calm in the midst of crisis, and willing to take risks. This has allowed her to lead the Mercy Medical staff to identify and meet the healthcare needs of the weak and vulnerable. Additionally, due to her humility, tenacity, and commitment, Mercy Medical is recognized as a leader in the healthcare community. One of the core values of Mercy Medical is the empowerment of women, and Sister Mary Eileen, as an empowered woman, has led the fight to eradicate poverty nationally by taking on the cause of the poor to our Nation's capital. Indeed, her sincerity and power of persuasion, which I have directly felt, is remarkable. It is clearly a product of her selfless commitment to her vision for others.

On behalf of the United States Senate and the people of Alabama, I would like to recognize Sister Mary Eileen for giving more than 44 years of love and devotion to the sick, injured, and dying. She has been truly a blessing for the people of south Alabama, and her legacy will live on forever.•

THE 440TH BIRTHDAY OF WILLIAM SHAKESPEARE — RECOGNIZING THE SHAKESPEARE FESTIVALS IN CALIFORNIA

• Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to one of the greatest writers the world has ever known: William Shakespeare. As you may well know, this week marks the 440th birthday of the great author and playwright. As a foremost literary talent of his and every age thereafter, his works have stood the test of time and are still widely celebrated over four centuries later.

Scholars credit William Shakespeare with authoring 37 plays and 154 sonnets over the course of his life. These works continue to both move and entertain today, as they did the people of his time. His plays can be found performed daily the world round in their traditional fashion, and many of his works have been adapted to accommodate modern issues and themes. As a result, his genius and creative achievement have transcended time and touched people of all generations.

I am proud that my State of California shares a large population who take the time to celebrate the life and work of Shakespeare. California is home to some of the largest organizations dedicated to nourishing their communities through both artistic endeavors and educational programs celebrating the Bard's work. Combined, California Shakespeare festivals perform for more than 95,000 Californians annually.

It is my pleasure to congratulate the California Shakespeare Festival on celebrating their 30th anniversary this year. Beginning with a few Berkeley residents performing ''Hamlet'' to local community members, the California Shakespeare Festival has developed into a successful production company that runs four Shakespearian theaters. Through their Artistic Learning Initiative, the festival seeks to inspire and educate young artists of all backgrounds through the gift of Shakespeare's works.

Since 1983, when I was mayor of San Francisco, the San Francisco Shakespeare Festival has brought the works of Shakespeare to large and diverse audiences through their Free Shakespeare in the Park program. In cooperation with the Oakland-East Bay and Silicon Valley Shakespeare Festivals, the San Francisco Shakespeare Festival brings innovative and inspiring professional performances to over 50,000 each summer.

I also recognize the contributions of the American Friends of the Shakespeare Birthplace Trust to bringing the legacy of William Shakespeare to Washington, DC, with their gift of eight sculptures to the Folger Shakespeare Library. Sculpted by artist Greg Wyatt, the eight pieces are half-size replicas of the Shakespearian-inspired artwork in the Great Garden in Stratford-upon-Avon.

I ask that my colleagues join me in celebrating Shakespeare's birthday and the inspirational and lasting works he contributed to our world. William Shakespeare's poems and plays continue to inspire countless generations of young writers, further the world's love of the written word as well as performances, and reminds us all to ''be not afraid of greatness.''•

MESSAGES FROM THE HOUSE

At 11:52 a.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 bills, in which it requests the concurrence of the Senate:

H.R. 1822. An act to designate the facility of the United States Postal Service located at 3751 West 6th Street in Los Angeles, California, as the ''Dosan Ahn Chang Ho Post Office''.

H.R. 3855. An act to designate the facility of the United States Postal Service located at 607 Pershing Drive in Laclede, Missouri, as the ''General John J. Pershing Post Office''.

H.R. 4037. An act to designate the facility of the United States Postal Service located at 475 Kell Farm Drive in Cape Girardeau, Missouri, as the ''Richard G. Wilson Processing and Distribution Facility''.

The message also announced that the House has passed the following concurrent resolution, without amendment:

S. Con. Res. 97. Concurrent resolution recognizing the 91st annual meeting of The Garden Club of America.

At 3:35 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, without amendment:

S. 2022. An act to designate the Federal building located at 250 West Cherry Street in Carbondale, Illinois the ''Senator Paul Simon Federal Building''.

ENROLLED BILLS SIGNED

At 6:00 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1274. An act to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouse in that county.

H.R. 2489. An act to provide for the distribution of judgment funds to the Cowlitz Indian Tribe.

H.R. 3118. An act to designate the Orville Wright Federal Building and the Wilbur Wright Federal Building in Washington, District of Columbia.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1822. An act to designate the facility of the United States Postal Service located at 3751 West 6th Street in Los Angeles, California, as the ''Dosan Ahn Chang Ho Post Office''; to the Committee on Governmental Affairs.

H.R. 3855. An act to designate the facility of the United States Postal Service located at 607 Pershing Drive in Laclede, Missouri, as the ''General John J. Pershing Post Office''; to the Committee on Governmental Affairs.

H.R. 4037. An act to designate the facility of the United States Postal Service located at 475 Kell Farm Drive in Cape Girardeau, Missouri, as the ''Richard G. Wilson Processing and Distribution Facility''; to the Committee on Governmental Affairs.

MEASURE HELD AT THE DESK

The following bill was ordered held at the desk by unanimous consent:

S. 2329. A bill to protect crime victims' rights.

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–7131. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations (Including 2 Regulations): [CGD08–03–040], [CGD08–03–039]'' (RIN1625–AA00) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7132. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: [CGD05–04–066], Atlantic Ocean, Chesapeake and Delaware Canal, Delaware Bay, Delaware River, and its Tributaries'' (RIN1625–AA00) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7133. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations (Including 2 Regulations): [CGD08–03–049], [CGD05–03–121]'' (RIN1625–AA09) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7134. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations (Including 4 Regulations): [CGD01–04–023], [CGD07–04–039], [CGD05–04–071], [CGD05–04–070]'' (RIN1625–AA09) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7135. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area: (CGD07–03–147; Savannah River, Savannah, Georgia'' (RIN1625–AA11) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7136. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Emergency Medical Equipment; Docket No. FAA–2000–7119; Partial Revised Compliance Date'' (RIN2120–AG89) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7137. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Transportation Workplace Drug and Alcohol Testing Programs; Drug and Alcohol Managament Information System Reporting; Correction; Docket No. OST–2002–13435'' (RIN2120–AD35) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7138. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Electrical Equipment and Installations, Storage Battery Installation; Electronic Equipment; and Fire Protection of Electrical System Components on Transport Category Airplanes'' (RIN2120–AI21) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7139. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revisions to Passenger Facility Charge Rule for Compensation to Air Carriers; Doc. No. FAA–2002–13918'' (RIN2120–AH43) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7140. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Security Control of Air Traffic'' (RIN2120–AI11) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7141. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''IFR Altitudes; Miscellaneous Amendments (8); Amdt. No. 447'' (RIN2120–AA63) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7142. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions'' (RIN2137–AD41) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7143. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Policy Statement: Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activities; Doc. No. FAA–2002–11301'' (RIN2120–ZZ45) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7144. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (59) Amendment No. 3090'' (RIN2120–AA65) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7145. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (26); Amdt. No. 3091'' (RIN2120–AA65) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7146. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 9 14, 9 15, and 9 a5F Airplanes; Model SC9 20, 30, 40, and 50 Series Airplanes; and Model DC 9 81, DC 9 82, 9 83, 9 87, MD 88 and MD 90–30 Airplanes; Doc. No. 2002–NM–203'' (RIN2120–AA64) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7147. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Lycoming Engines AEO0–540, IO–540, ITIO–540, O–540, and TIO–540 Series Reciprocating Engines; Doc. No. 2002–NE–31'' (RIN2120–AA64) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7148. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Lancair Company Models LC40–55FG and LC42–550FG Airplanes; Doc. No. 2004–CE–07'' (RIN2120–AA64) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7149. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A318, A319, A320, and A321 Series Airplanes; Doc. No. 2004–NM–43'' (RIN2120–AA64) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7150. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dassault Model Mystere-Falcon 50 Series Airplanes; Doc. No. 2002–NM–232'' (RIN2120–AA64) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7151. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dornier Model 328–100 Series Airplanes; Doc. No. 2002–NM–300'' (RIN2120–AA64) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7152. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Correction Technical Amendment; Manual Requirements in Part 135; Doc. No. FAA–2004–17119'' (RIN2120–ZZ46) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7153. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: BAE Systems Limited Model 4101; Doc. No. 2002–NM–63'' (RIN2120–AA64) received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7154. A communication from the Special Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Winnsboro and Annona, Texas)'' received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7155. A communication from the Special Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Encinal, Texas)'' received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7156. A communication from the Special Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Crowell, Bonham, Bridgeport, Palestine, Ranger, Stephenville, Wellington, Texas; Apache, Ardmore, Bennington, Cache, Elk City, Lawton, Oklahoma)'' received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7157. A communication from the Special Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Freer, Hebbronville, and Orange Grove, Texas)'' received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7158. A communication from the Special Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Fort Collins, Westcliffe, and Wheat Ridge, Colorado)'' received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7159. A communication from the Special Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Clarksville, Texas and Haworth, Oklahoma)'' received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7160. A communication from the Special Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Ash Fork, Chino Valleu, Dolan Springs, Fredonia, Gilbert, Peach Springs, Seligman, and Tusayan, Arizona; Moapa Valley, Nevada, and Beaver and Cedar City, Utah)'' received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7161. A communication from the Special Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Sheffield, Texas)'' received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7162. A communication from the Special Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Mangum and Erick, Oklahoma)'' received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7163. A communication from the Special Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations (Nampa, ID)'' received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7164. A communication from the Special Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Section 76.51 Major Television Markets'' (DA 00–1337); to the Committee on Commerce, Science, and Transportation.

EC–7165. A communication from the Chief Financial Officer, Office of Managing Director, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Parts 0 and 1 of the Commission's Rules—Implementation of the Debt Collection Improvement Act of 1996 and Adoption of Rules Governing Applications or Request for Benefits by Delinquent Debtors'' received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7166. A communication from the Assistant Bureau Chief, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''International Settlements Policy Reform, International Settlements Rate, FCC04–53'' received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7167. A communication from the Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Review of Quiet Zones Application Procedures, WT Doc. No. 01–319'' received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7168. A communication from the Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Year 2000 Biennial Regulatory Review—Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and Other Commercial Mobile Radio Services, WT Doc. No. 01–108'' received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7169. A communication from the Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of International Bureau Filing System (IBFS)'' received on April 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7170. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, a report relative to oil spill response actions; to the Committee on Commerce, Science, and Transportation.

EC–7171. A communication from the Under Secretary of Defense for Acquisition, Logistics, and Technology, Department of Defense, transmitting, pursuant to law, three Selected Acquisition Reports for the quarter ending December 31, 2003; to the Committee on Armed Services.

EC–7172. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Cooperative Threat Reduction Act and the FREEDOM Act with respect to the Republic of Uzbekistan; to the Committee on Foreign Relations.

EC–7173. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to funds from the FREEDOM Support Act; to the Committee on Foreign Relations.

EC–7174. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Cooperative Threat Reduction Act with respect to Azerbaijan and Kazhakstan; to the Committee on Foreign Relations.

EC–7175. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to funds to be distributed with respect to the FREEDOM Support Act; to the Committee on Foreign Relations.

EC–7176. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 03–08; to the Committee on Appropriations.

EC–7177. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 02–15; to the Committee on Appropriations.

EC–7178. A communication from the Director, Fish and Wildlife Service, Department of

the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Determination of Threatened Status for the Beluga Sturgeon (Huso Huso)'' (RIN1018–AI11) received on April 20, 2004; to the Committee on Energy and Natural Resources.

EC–7179. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Clarification of Substituted Federal Enforcement for Parts of Missouri's Permanent Regulatory Program and Findings on the Status of Missouri's Permanent Regulatory Program'' received on April 20, 2004; to the Committee on Energy and Natural Resources.

EC–7180. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of two Uniform Resource Locators (URLs) for documents related to the Agency's programs; to the Committee on Environment and Public Works.

EC–7181. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revisions to the 2005 ROP Plan for the Cecil County Portion of the Philadelphia-Wilmington-Trenton 1-Hour Ozone Nonattainment Area to Reflect the Use of MOBILE6'' (FRL7648–3) received on April 20, 2004; to the Committee on Environment and Public Works.

EC–7182. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval of Section 112(1) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry; Commonwealth of Virginia'' (FRL7648–4) received on April 20, 2004; to the Committee on Environment and Public Works.

EC–7183. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Reclassification, San Joaquin Valley Nonattainment Area; California'' (FRL#7648–8) received on April 20, 2004; to the Committee on Environment and Public Works.

EC–7184. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Conditional Approval and Promulgation of Implementation Plans: Michigan: Oxides of Nitrogen Rules'' (FRL#7647–6) received on April 20, 2004; to the Committee on Environment and Public Works.

EC–7185. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Determination that State has Corrected a Deficiency in the Arizona State Implementation Plan, Arizona Department of Environmental Quality'' (FRL#7650–3) received on April 20, 2004; to the Committee on Environment and Public Works.

EC–7186. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Environmental Performance Track Program'' (FRL7650–6) received on April 20, 2004; to the Committee on Environment and Public Works.

EC–7187. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Section 102 of H.R. 3108'' (Ann. 2004–38) received on April 20, 2004; to the Committee on Finance.

EC–7188. A communication from the Assistant Secretary, Division of Investment Management, Securities and Exchange Commission transmitting, pursuant to law, the report of a rule entitled ''Disclosure Regarding Market Timing and Selective Disclosure of Portfolio Holdings'' (RIN3235–AI99) received on April 20, 2004; to the Committee on Finance.

EC–7189. A communication from the Executive Director, Neighborhood Reinvestment Corporation, transmitting, pursuant to law, the Corporation's 2003 Annual Program Performance Report; to the Committee on Governmental Affairs.

EC–7190. A communication from the Assistant Secretary, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Procedures for the Handling of Discrimination Complaints Under Section 6 of the Pipeline Safety Improvement Act of 2002'' (RIN1218–AC12) received on April 20, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7191. A communication from the Acting Administrator, Department of Health and Human Services, transmitting, pursuant to law, a report relative to the Inpatient Prospective Payment System; to the Committee on Health, Education, Labor, and Pensions.

EC–7192. A communication from Assistant Attorney General, Department of Justice, transmitting, pursuant to law, the Report of the Attorney General relative to the Foreign Agents Registration Act for the six-month period ending June 30, 2003; to the Committee on the Judiciary.

EC–7193. A communication from the Director, Regulations and Forms Services, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Adjustment of the Immigration Benefit Application Fee Schedule'' (RIN1615–AA84) received on April 19, 2004; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. EDWARDS:

S. 2325. A bill to strengthen telehealth programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD:

S. 2326. A bill to modify the optional method of computing net earnings from self-employment; to the Committee on Finance.

By Mr. CAMPBELL (for himself, Ms. COLLINS, and Ms. SNOWE):

S. 2327. A bill to amend title 38, United States Code, to clarify that per diem payments by the Department of Veterans Affairs for the care of veterans in State homes shall not be used to offset or reduce other payments made to assist veterans; to the Committee on Veterans' Affairs.

By Mr. DORGAN (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. MCCAIN, Mr. DASCHLE, Mr. LOTT, Ms. STABENOW, Mr. CHAFEE, Mr. JOHNSON, Mr. PRYOR, and Mr. FEINGOLD):

S. 2328. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. HATCH, Mr. LEAHY, Mr. FRIST, Mr. DASCHLE, Mr. MCCONNELL, Mr. DURBIN, Mr. GRASSLEY, Mr. KENNEDY, Mr. DEWINE, Mr. FEINGOLD, Mr. CRAIG, Mr. KERRY, Mr. GRAHAM of South Carolina, Mr. SCHUMER, Ms. COLLINS, Mr. BAYH, Mr. LIEBERMAN, Mrs. CLINTON, Mr. PRYOR, Ms. STABENOW, and Mr. NELSON of Florida):

S. 2329. A bill to protect crime victims' rights; ordered held at the desk.

By Mr. ALLEN:

S. 2330. A bill for the relief of Hyang Dong Joo; to the Committee on the Judiciary.

By Mr. ALLEN:

S. 2331. A bill for the relief of Fereshteh Sani; to the Committee on the Judiciary.

By Mr. ALLEN:

S. 2332. A bill for the relief of James Symington; to the Committee on the Judiciary.

By Mr. ALLEN:

S. 2333. A bill to prohibit members of criminal street gangs from possessing firearms; to the Committee on the Judiciary.

By Mr. BROWNBACK (for himself, Mr. TALENT, and Mr. ALLEN):

S.J. Res. 33. A joint resolution expressing support for freedom in Hong Kong; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 40

At the request of Mr. FEINGOLD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 40, a bill to prohibit products that contain dry ultra-filtered milk products or casein from being labeled as domestic natural cheese, and for other purposes.

S. 344

At the request of Mr. AKAKA, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 344, a bill expressing the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and for other purposes.

S. 538

At the request of Mrs. CLINTON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 538, a bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

S. 560

At the request of Mr. CRAIG, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 560, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 640

At the request of Mr. LEAHY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 640, a bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes.

S. 874

At the request of Mr. TALENT, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 874, a bill to amend title XIX

of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 952

At the request of Mr. CORZINE, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 952, a bill to amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident-physicians to ensure the safety of patients and resident-physicians themselves.

S. 1172

At the request of Mr. FRIST, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1172, a bill to establish grants to provide health services for improved nutrition , increased physical activity, obesity prevention, and for other purposes.

S. 1557

At the request of Mr. MCCONNELL, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1557, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia.

S. 1916

At the request of Ms. LANDRIEU, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1916, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 2099

At the request of Mr. MILLER, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2099, a bill to amend title 38, United States Code, to provide entitlement to educational assistance under the Montgomery GI Bill for members of the Selected Reserve who aggregate more than 2 years of active duty service in any five year period, and for other purposes.

S. 2100

At the request of Mr. MILLER, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2100, a bill to amend title 10 United States Code, to increase the amounts of educational assistance for members of the Selected Reserve, and for other purposes.

S. 2212

At the request of Ms. COLLINS, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 2212, a bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries.

S. 2236

At the request of Ms. CANTWELL, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2236, a bill to enhance the reliability of the electric system.

S. 2270

At the request of Mr. DEWINE, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 2270, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 2275

At the request of Ms. MIKULSKI, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2275, a bill to amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to provide for homeland security assistance for high-risk nonprofit organizations, and for other purposes.

S. 2278

At the request of Mr. ENSIGN, the names of the Senator from Utah (Mr. HATCH), the Senator from Alaska (Mr. STEVENS) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 2278, a bill to amend title 28, United States Code, to provide for the appointment of additional Federal circuit judges, to divide the Ninth Judicial Circuit of the United States into 3 circuits, and for other purposes.

S. 2311

At the request of Ms. SNOWE, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 2311, a bill to provide for various energy efficiency programs and tax incentives, and for other purposes.

S. RES. 269

At the request of Mr. LEVIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Res. 269, a resolution urging the Government of Canada to end the commercial seal hunt that opened on November 15, 2003.

S. RES. 310

At the request of Mr. CAMPBELL, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Res. 310, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

S. RES. 334

At the request of Mr. FITZGERALD, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. Res. 334, a resolution designating May 2004 as National Electrical Safety Month.

AMENDMENT NO. 2649

At the request of Mr. BAYH, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Arkansas (Mr. PRYOR), the Senator from North Carolina (Mr. EDWARDS) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 2649 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD:

S. 2326. A bill to modify the optional method of computing net earnings from self-employment; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, I rise today to address an injustice in the Tax Code that is threatening family farmers and other self-employed individuals. A number of my constituents, primarily Wisconsin farmers, have requested Congress's assistance to correct the Tax Code so they can protect their families. The legislation I introduce today, the Farmer Tax Fairness Act of 2004, will solve the problem for today and into the future.

Farming is vital to Wisconsin. Wisconsin's agricultural industry plays a large and important role in the growth and prosperity of the entire State. Wisconsin's status as ''America's Dairyland,'' is central to our State's agriculture industry. Wisconsin's dairy farmers produce approximately 23 billion pounds of milk and 25 percent of the country's butter a year. But Wisconsin's farmers produce much more than milk; they also are national leaders in the production of cheese, potatoes, ginseng, cranberries, various processing vegetables, and many organic foods. So when the hard-working farmers of Wisconsin need help, I will do all I can to assist.

One concern of Wisconsin farmers is that the Tax Code can limit their eligibility for social safety net programs, including old age, survivors, and disability insurance, OASDI, under Social Security and the hospital insurance HI part of Medicare. There programs are paid for through payroll taxes on workers and through the self-employment tax on the income of self-employed individuals. To be eligible for OSADI and HI benefits an individual must be fully insured and must have earned a minimum amount of income in the years immediately preceding the need for coverage. Every year, the Social Security Administration, SSA, sets the amount of earned income that individuals must pay taxes on to earn quarters of coverage, QCs, and maintain their benefits. An individual's eligibility requirements depend upon the age at which death or disability occurs, but for workers over 31 years of age, they must have earned at least 20 QCs within the past 10 years.

Self-employed individuals can have highly variable income, and, particularly for farmers at the whim of Mother Nature, not every year is a good year. During lean years, individuals

may not earn enough income to maintain adequate coverage under OASDI and HI. Therefore, the Tax Code provides options to allow self-employed individuals to maintain eligibility for benefits. These options allow individuals to choose to pay taxes based on $1,600 of earned income, thus allowing self-employed entrepreneurs to maintain the same Federal protections even when their income varies.

Unfortunately, both the options for farmers and nonfarmers—Social Security Act §211(a) and I.R.C. §1402(a)—have not kept pace with inflation, and they no longer provide security to families across the country. Decades ago, self-employment income of $1,600 earned an individual four QCs under SSA's calculations. In 2001, the amount needed to earn a QC rose to $830 of earned income, so individuals electing the optional methods were only able to earn one QC, making it much harder for them to remain eligible for benefits.

Congress's failure to address this problem threatens the ability of self-employed individuals to maintain eligibility for OASDI and HI. I have heard from several of my constituent who want these options to be fixed so they can make sure their families will be taken care of in the event that something unforeseen occurs.

Therefore, I am introducing the Farmer Tax Fairness Act of 2004 in order to provide farmers and self-employed individuals with a fair choice. Under this bill, they will continue to be able to elect the optional method if they so choose. When individuals do elect the option, this legislation provides an update to the Tax Code so farmers and self-employed individuals can retain full eligibility for OASDI and HI benefits. It indexes the optional income levels to SSA's QC calculations, allowing these farmers and self-employed individuals to claim enough earned income to qualify for four OCs annually. By linking the earned income level to SSA's requirements for QCs, the bill will ensure that the amount of income deemed to be earned under the optional methods will not need to be adjusted by Congress again.

In addition to providing security to self-employed individuals and farmers across the country, this solution is fiscally responsible. It actually provides a short run increase in U.S. Treasury revenues while having negligible impact upon the Social Security trust fund in the long run.

Let me take a moment to acknowledge the efforts of the Senator from Iowa, Mr. GRASSLEY, to address this problem in the 107th Congress. As chairman of the Senate Finance Committee, he included similar legislative language in the chairman's mark for the Small Business and Farm Economic Recovery Act of 2002. The Senate Finance Committee held a markup on the legislation on September 19, 2002, but the changes to the optional methods did not become law.

When incomes fall, the Tax Code provides optional methods for calculating net earnings to ensure that farmers and self-employed individuals maintain eligibility for social safety net programs. Due to inflation, the Tax Code has not kept up and many farmers are losing eligibility for some of Social Security's programs. Congress needs to provide security to farm families and other self-employed individuals. I urge my colleagues to support the Farmer Tax Fairness Act of 2004.

By Mr. CAMPBELL (for himself, Ms. COLLINS, and Ms. SNOWE)

S. 2327. A bill to amend title 38, United States Code, to clarify that per diem payments by the Department of Veterans Affairs for the care of veterans in State homes shall not be used to offset or reduce other payments made to assist veterans; to the Committee on Veterans' Affairs.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF DEPARTMENT OF VETERANS AFFAIRS PER DIEM PAYMENTS TO STATE HOMES FOR VETERANS.

Section 1741 of title 38, United States Code, is amended by adding at the end the following new subsection:

''(e) Payments to States pursuant to this section shall not be considered a liability of a third party, or otherwise be utilized to offset or reduce any other payment made to assist veterans.''.

By Mr. DORGAN (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. MCCAIN, Mr. DASCHLE, Mr. LOTT, Ms. STABENOW, Mr. CHAFEE, Mr. JOHNSON, Mr. PRYOR, and Mr. FEINGOLD.

S. 2328. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DORGAN. Mr. President, today I am introducing bipartisan legislation to allow prescription drug importation from Canada, the European Union, and a few other countries. I am very pleased to be joined on this bill by Senators SNOWE, KENNEDY, MCCAIN, DASCHLE, LOTT, STABENOW, CHAFEE, JOHNSON, PRYOR, and FEINGOLD.

This new bill, the Pharmaceutical Market Access and Drug Safety Act, is an important breakthrough for several reasons. First, it is a bipartisan effort, and as we all know, bipartisanship is the best way to get things done in Congress today or any day. Second, this bill addresses the safety issues that have been raised by some and makes certification by the Health and Human Services Secretary unnecessary. Therefore, it would take effect immediately and provide consumers with the urgent help they need accessing more affordable medicines.

It is my hope that the Senate will take up and pass this legislation on an expedited basis because American consumers, especially senior citizens, State and local governments, and businesses large and small are desperate for action by Congress to give them relief from high drug prices. It has been well documented that Americans are charged the highest prices in the world for the exact same medicines that consumers in other major industrialized countries buy at a fraction of the price.

For example, Lipitor, a cholesterol-lowering medicine that is the top-selling drug in the United States, is made in the same plant and put in the same bottle. One bottle is shipped to American pharmacies, and the other to Canadian Pharmacies. Both are approved by the Food and Drug Administration. The only difference? The price. One tablet purchased by a pharmacist in Canada costs $1.01; the same tablet purchased by an American pharmacist costs $1.86, 84 percent more than in Canada.

The high prices charged for prescription drugs in the United States are forcing Americans and state and local governments to turn to Canada to buy their medicines. Dozens of State and local governments—from Maine to Massachusetts to North Dakota—are now implementing drug importation programs with Canada to save their citizens and their health care programs millions of dollars. Individual Americans are now importing more than $1.1 billion in prescription drugs from Canada.

Unfortunately, they are doing so illegally, according to the FDA. The pharmaceutical industry is the only industry that benefits from a Congressional ban on re-imported products. The time has come to eliminate that barrier so American consumers, too, can benefit from the global marketplace.

Big, multi-national drug companies already reap the benefits of the world market. In fact, more than $40 billion of the prescription drugs consumed by Americans in 2002 were made in other countries, such as Ireland, Singapore, and Japan so that the drug companies could take advantage of tax breaks, cheaper labor and other incentives available abroad.

What's good for the goose should be good for the gander—American consumers, pharmacists, and drug wholesalers should be equally free to purchase FDA-approved medicines from Canada, Europe and elsewhere. The bill I am introducing today would allow just that.

This new bill is similar in many respects to the Pharmaceutical Market Access Act, sometimes called the ''Gutknecht bill'', which was passed by the House of Representatives by a wide bipartisan margin last July. For instance: Both bills allow prescription drugs to be imported from Canada, the

European Union, and some other major industrialized nations. Both bills require pharmacies and wholesalers to register with the FDA to be able to import prescription drugs. Both bills provide for the importation of FDA-approved medicines. Both bills allow for reliance on anti-counterfeiting technology to ensure drug safety. Both bills allow for drug importation to begin immediately, without first requiring certification by the HHS Secretary.

However, my cosponsor and I also believe that our bill makes a number of improvements over the Pharmaceutical Market Access Act both in terms of safety and closing loopholes to ensure that a drug importation program will not be thwarted by the big drug manufacturers. For example, this bill ensures that individual Americans who import their prescription drugs via the Internet or mail-order are doing so from safe, reliable Canadian pharmacies. This bill gives the FDA the ability to inspect Canadian exporters to assure safety. This bill enhances the FDA's ability to stop those drug imports that are unsafe. This bill would give the FDA the resources needed to ensure the safety of imported medicines.

In addition, this bill contains several provisions to close loopholes that would allow drug companies to circumvent drug importation. Unfortunately, a number of big drug companies are cutting off medicines to Canadian pharmacies that sell to Americans. This bill would make such tactics an unfair trade practice.

We will now work with the Senate leadership to get this bill enacted in the Senate promptly. The Senate has voted on drug importation legislation three times since 2000. There is no need for a protracted debate. In invite my colleagues to join me in cosponsoring this bill and in acting soon to give our constituents relief from high drug prices.

I ask unanimous consent that a summary of this bill be printed in the RECORD.

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

PHARMACEUTICAL MARKET ACCESS AND DRUG SAFETY ACT

I. IMPORTABLE DRUGS

Drugs must be approved by the Food and Drug Administration and manufactured in an FDA-inspected plant.

Drugs must be patient-administered and not a controlled substance, an infused or injected drug, a biologic, or a drug inhaled during surgery.

II. COMMERCIAL IMPORTATION BY PHARMACISTS AND DRUG WHOLESALERS

Allows importation by licensed pharmacists and wholesalers from Canada within 90 days of enactment and from the current European Union members, Australia, New Zealand, Japan, and Switzerland beginning one year from enactment.

Requires registration of wholesalers and pharmacies with FDA, and levies capped fees to support the costs of the program. Registration may only be of those entities that are fully licensed in accordance with applicable state and federal law to act as pharmacies or wholesalers of prescription drugs.

Importers and all resellers of imported products must provide a full chain-of-custody (pedigree), tracking possession of drugs from the point of manufacture to the sale to the consumer.

Drugs must be re-labeled in English to comply with FDA requirements. The FDA will provide approved labeling information to importers.

FDA may ban the importation of a product that has been determined to be counterfeit, contaminated, or is otherwise adulterated so as not to meet the requirements of this legislation. FDA may require testing of shipments of product or use of approved anti-counterfeiting technologies to verify the chain-of-custody of a drug.

This bill specifically protects pharmacies, wholesalers, and individuals from patient damages arising from the importation of drugs.

III. PERSONAL IMPORTATION BY INDIVIDUALS

Immediately upon enactment, an individual may import up to a 90 day supply of a prescription drug from Canada for their personal use or for the personal use of a family member, just as they do now. Once the FDA has implemented regulations, individuals may be shipped prescription drugs purchased via mail-order or websites only from a Canadian pharmacy registered under this Act. These Canadian exporters will be fully inspected and approved by the FDA. Canadian pharmacies must validate a U.S. prescription, review health and medication history, and track shipments.

The bill also allows individual Americans who travel outside the United States to bring back with them for their personal use a 90-day supply of medicine from Canada, Australia, current countries in the European Union, Japan, New Zealand, or Switzerland or a 14-day supply of medicine from another foreign country.

The bill continues the FDA's current ''compassionate use'' policy by allowing importation for patients with special needs.

IV. ''GAMING'' THE SYSTEM

The bill protects those selling or using drugs imported under the program by preventing an individual from taking actions that would have the effect of thwarting drug importation. Any individual who takes such an action against a pharmacist, wholesaler, or consumer to hinder their importation of prescription drugs will be in violation of the Clayton Act, and treble economic damages may be awarded.

The proposal includes features to prevent a drug manufacturer from blocking importation of drugs, such as by changing the color, dosage form, or place of manufacture of the drug so that it is no longer FDA-approved. Drug manufacturers that make these kinds of changes would be required to notify the FDA, and the FDA would be given the authority to take the steps needed to approve the drug.

V. LIMITING UNSAFE DRUG IMPORTS

Customs could seize and destroy small quantities of drugs imported by individuals from foreign exporters that are unapproved. The FDA would provide the individual whose drugs were seized with a simple notice explaining how the individual can import drugs from registered Canadian exporters safely and legally.

Mr. KENNEDY. Mr. President, I am pleased today to join my colleagues Senator DORGAN, Senator SNOWE, Senator MCCAIN, Senator DASCHLE, Senator LOTT, Senator CHAFEE and others in introducing legislation to allow the importation of safe prescription drugs from Canada, the European Union, Australia, New Zealand and Japan.

This issue is about fairness for middle class Americans who are struggling to afford costly prescription drugs. Americans understand fairness, and they know it's wrong that Americans pay far too much for prescription drugs—more than Canadians, more than the British, more than in any other country in the world. That's not right. Prescription drugs mean the difference between sickness and health—even life and death—for millions of average Americans. It's not fair that drug companies overcharge middle class families and patients have to do without the drugs they need.

We're here to say that help is on the way.

Our legislation will legalize safe imports of U.S.-approved drugs manufactured in U.S.-approved plants. It is a creative new approach to meeting the needs of our middle class families. We know it will be opposed by the drug companies, who are determined to continue to reap windfall profits at the expense of American patients. It will be opposed by the Bush Administration, which is determined to protect the pharmaceutical industry and its powerful campaign contributors. But it will be welcomed by someone else—by every family in every community in America who needs to fill a prescription.

Every pharmaceutical company in the world wants its drugs approved for sale in the United States. We're the largest market on Earth. A decision by the Food and Drug Administration that a drug is safe and effective is the gold standard for the world. But once that drug is approved for use in the United States, the drug manufacturer applies a greedy double standard. What's fair about a system that forces American patients to pay sixty percent more than the British pay or the Swiss pay for an FDA-approved drug manufactured to FDA standards? What's fair when, on average, Americans pay two-thirds more than Canadians? What's fair when Americans pay 80 percent more than Germans and twice as much as Italians?

This legislation will end that indefensible disparity, by enabling U.S. consumers to buy FDA-approved drugs at the same fair prices as they are sold abroad.

The drug companies and the Bush Administration claim that imported drugs threaten the health of American consumers because of the possibility of counterfeiting or adulteration. Under this bill, that argument can't pass the laugh test.

One-quarter of the drugs that Americans use today are already legally imported into the United States. The American people have no idea how large a percentage of the pills they take are out-sourced—produced for U.S. drug-makers in plants overseas,

where wages are cheaper. The catch is that the law allows that. Drugs can be legally imported by the drug companies themselves, who then sell them at the high U.S. price.

If drug companies can import drugs at high prices, why can't patients import them at fair prices?

Our legislation sets up iron-clad safety procedures to guarantee that every drug imported legally into the United States is the same FDA-approved drug that was originally manufactured in an FDA-approved plant—whether the drug is manufactured abroad and shipped to the U.S., or whether it is manufactured in the United States, shipped abroad and then imported back into the United States.

Under our bill, the FDA is given new legal authority and resources to enforce the law. In fact, under this legislation, the procedures to prevent counterfeiting or adulteration of drugs shipped into the United States are actually stronger than the protections against counterfeiting of drugs manufactured for the domestic market.

Our legislation also includes strict rules to close the loopholes that drug companies may use to evade the law. Violations will be considered unfair trade practices under the Clayton Act, and violators will be subject to triple damages.

No doubt, in the months ahead, as the election approaches and the political pressure builds, drug companies and their allies in the Bush Administration and Congress will offer an alternative program. They'll call it an importation bill, but consumers beware. Counterfeit drugs have no place in American medicine cabinets, and counterfeit proposals to reduce drug prices have no place in Congress.

Year in and year out, drug companies profits are the highest of any industry in the United States. Year in and year out, patients are denied the life-saving drugs they need because those astronomical profits are obtained by equally astronomical prices—prices that drug companies can't charge anywhere else in the world because no other country in the world would tolerate such high prices. It's time to end the shameful price-gouging here at home. It's time for basic fairness. It's time to pass this bill, and I urge my colleagues in the Senate to support it.

Mr. MCCAIN. Mr. President, I am pleased to join Senators DORGAN, SNOWE, KENNEDY, DASCHLE, and others in introducing the Pharmaceutical Market Access and Drug Safety Act of 2004. This bill represents a strong bipartisan compromise, and is designed to establish a system for American consumers to safely import lower cost prescription drugs.

American consumers are frustrated, and for good reason. We pay the highest prices in the world for brand name prescription drugs. Prices continue to rise at double digit rates—far outpacing inflation. With over 43 million uninsured Americans and millions more seniors without a substantial prescription drug benefit, filling a doctor's prescription is unaffordable for many people in this country. Every day, far too many families are forced to make difficult choices between life-sustaining prescription drugs and other daily necessities.

The United States represents the largest pharmaceutical market in the world. Our taxpayers make substantial investments into pharmaceutical research and development. And yet, Americans are still paying 30 to 75 percent more for their prescriptions than consumers in Canada, the European Union, and elsewhere.

In 2000, Congress passed the Medicine Equity and Drug Safety, MEDS, Act to provide Americans with a legal means to obtain lower cost prescription drugs from industrialized countries with prescription drug regulatory systems similar to our own. Yet here we are, four years later, and Americans still cannot legally access lower cost prescription drugs from other nations. The safety certification requirement contained in the MEDS Act proved to be a poison pill. In the bill we are introducing today, we have spelled out the safety measures that will be necessary for an importation program, making the certification requirement unnecessary.

According to recent polls, nearly two thirds of Americans believe the government should make it easier to import lower cost drugs from Canada and other countries. And, Americans have begun to take matters into their own hands. Last year, Americans spent an estimated $1.1 billion on prescription drugs imported from Canada, twice the amount that was spent the previous year. And states are now taking action too.

We also passed an enormous expansion to the Medicare program, last year. Unfortunately, that new law largely benefits the pharmaceutical industry and other special interests, and is already slated to cost $534 billion—$134 billion more than was estimated just a few months ago. That law, which will burden American taxpayers for generations to come and contributes substantially to the financial insolvency of the Medicare program, did practically nothing to rein in the cost of prescription drugs.

With all of the money the Federal Government will now be spending on prescription drugs, very little is being done to help reduce their costs. In fact, the Medicare package explicitly prohibits the Secretary of Health and Human Services from engaging in negotiations to lower prescription drug costs. This must change.

In the absence of Federal action, States such as Minnesota, Illinois, Iowa, Wisconsin, Vermont and New Hampshire, together with cities such as Springfield and Boston, MA, Montgomery, AL, and Los Angeles, CA, have moved this issue to the forefront. In fact, the City of Springfield recently announced that their drug importation program saved the city more than $2 million in the last 9 months alone. Despite these successes, our Federal regulators continue to oppose any effort to facilitate importation.

Throughout the debate surrounding prescription drug importation, much concern has been raised regarding consumer safety and the security of the U.S. drug supply, with a particular focus on the dangers of Internet pharmacies and counterfeit drugs. Let me be clear. None of us want American consumers to be harmed from purchasing imported prescription drugs. That is why throughout the development of this package, consumer safety has remained our primary concern. This bill includes a number of measures which will make imported drugs as safe, if not safer, than drugs purchased through the domestic supply chain. With proper government oversight, such as that which would be provided under our legislation, Americans should be able to obtain access to safe lower cost prescription drugs from Canada, the EU and other markets.

Under our proposal, during the first year after enactment, the bill would enable individual American consumers, wholesalers, and pharmacists to import FDA approved prescription drugs from FDA approved and inspected Canadian exporters. Recognizing that the Canadian market is too small to satisfy the American demand, one year after enactment, the bill would allow FDA approved pharmacists and wholesalers to import FDA approved drugs from a larger group of nations, including the European Union, Switzerland, Australia, New Zealand and Japan.

To ensure the safety of this new system, the FDA would be required to regularly inspect Canadian exporters as well as domestic importers. The legislation also would require all importers and exporters to maintain a full chain of custody, or pedigree, for the drugs imported into the U.S.

I want to mention my concerns over actions recently taken by several powerful brand companies. Putting profits before patients, they have limited the supply of pharmaceuticals to Canadian pharmacies and wholesalers who export to the United States. Such a practice is unacceptable. Therefore, our bill seeks to close potential loopholes that would allow companies to game the system and unfairly discriminate against pharmacists or wholesalers.

Prescription drug importation may not be the silver bullet that will make prescriptions more affordable for all Americans, but it is a step in the right direction. At a minimum, Americans deserve fairer prices for the prescription drugs their tax dollars helped to develop.

I have long supported prescription drug importation, and I find it remarkable that our Federal regulations still do not give American consumers the right to access the same markets as consumers in other parts of the developed world.

We are under no illusions that this is a perfect bill, however, it does represent a solid, bipartisan compromise. We are committed to continuing to consider ways to technically improve the bill and ensure that the system we are developing is as effective and efficient as possible to provide all American consumers access to more affordable prescription drugs.

We cannot allow election year politics to distract us from passing critical legislation that will substantially benefit the millions of Americans who struggle to afford the high cost of prescription drugs. Despite the challenges of passing this legislation in an election year, we are committed to this effort.

I believe American consumers deserve access to safe and affordable imported prescription drugs. I am committed to working with my colleagues, on both sides of the aisle, to move this issue forward expeditiously and to ensure that our strong bipartisan compromise is enacted this year.

I urge my colleagues to support this measure.

By Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. HATCH, Mr. LEAHY, Mr. FRIST, Mr. DASCHLE, Mr. MCCONNELL, Mr. DURBIN, Mr. GRASSLEY, Mr. KENNEDY, Mr. DEWINE, Mr. FEINGOLD, Mr. CRAIG, Mr. KERRY, Mr. GRAHAM of South Carolina, Mr. SCHUMER, Ms. COLLINS, Mr. BAYH, Mr. LIEBERMAN, Mrs. CLINTON, Mr. PRYOR, Ms. STABENOW, and Mr. NELSON of Florida):

S. 2329. A bill to protect crime victims' rights; ordered held at the desk.

Mr. LEAHY. Mr. President, this past Sunday marked the start of National Crime Victims' Rights Week. We set this week aside each year to refocus attention on the needs and rights of crime victims.

This year, the Senate had been scheduled to mark the occasion by taking up S.J. Res. 1, a proposed constitutional amendment. Once again, we were going to devote days or weeks debating that proposal, even though the Republican leadership knew it had no real chance of garnering the two-thirds super-majority needed to pass. We went through a similar process four years ago, in April 2000, when the Senate debated an earlier version of the amendment during the last presidential election year.

I noted then, during that earlier debate, the fact that I have long worked to protect and advance crime victims' rights. As a prosecutor, I worked day to day and year to year alongside victims, seeking justice on their behalf. I have worked on and led many legislative efforts on behalf of victims throughout my service in the Senate. One of the most recent of those efforts was the creation of the September 11 Victim Compensation Fund, and I am grateful to have been able to take part in something that has brought some relief to so many victims.

I will never forget the victims I worked with as a prosecutor or the needs of the new victims minted each day through the crimes committed against them. I believe that victims should be notified when the defendant is in court or when he is about to be released. I believe that victims should be heard at critical stages of the prosecution. I believe that victims are entitled to restitution from offenders. In recent years, the debate was never about whether victims should be protected—of course they should. Rather, the debate was about how they should be protected, and whether the proposed constitutional amendment was the best way to do that.

I did not think the proposed amendment was the best way forward. The one thing about which every witness who testified on this issue agreed was that every right provided by the Victims Rights Amendment can be, or already is, protected by State or federal statutory law.

We have long had it in our power to enhance victims' rights through regular legislation legislation that could pass with a simple majority and make an immediate difference in the lives of crime victims. Legislative enhancements are more easily enacted, more directly applied and implemented, and more able to provide specific, effective remedies. In addition, as Chief Justice Rehnquist and others have pointed out, statutes are more easily corrected if we find, in hindsight, that they need correction, clarification or improvement.

I am delighted to be here today with the principal sponsors of S.J. Res. 1, the distinguished Senators from California and Arizona, and with others, both supporters and opponents of the constitutional amendment, to join together in our support of this crime victims' rights statute. I commend and admire Senator FEINSTEIN and Senator KYL for their dedication to this issue. They are deeply committed to the cause of victims' rights as are all of us who have joined together to offer this bill. It is my hope that this statute will establish more effective and enforceable rights for crime victims in the federal system, and that it can do so without delay, by a majority vote.

First, unlike S.J. Res. 1, which is limited to victims of violent crime, our statute establishes enhanced rights and protections for all victims of crime. Therefore, the elderly woman who is defrauded out of her life savings will have the same rights of notice and participation as other crime victims.

Second, our statute spells out how these rights are to be enforced, using language that Senator KENNEDY and I developed in S. 805, the Crime Victims Assistance Act. In addition to providing victims with standing to assert their rights in mandamus actions, our statute would establish an administrative authority in the Department of Justice to receive and investigate victims' claims of unlawful or inappropriate action on the part of criminal justice and victims' service providers. Department of Justice employees who fail to comply with the law pertaining to the treatment of crime victims could face disciplinary sanctions, including suspension or termination of employment.

Third, our statute incorporates additional proposals from S. 805 to help States implement and enforce their own victims' rights laws. In this way, instead of replacing programs that have already been implemented by a majority of States, our statute enables States to retain their full power to protect victims in the ways most appropriate to local concerns and local needs.

Fourth, our statute calls for two annual reports, one by the Administrative Office of the Courts, and the other by the General Accounting Office. These reports will provide Congress with feedback on how the rights and procedures established by the statute are working in practice. Over time, we will be able to modify and fine-tune the statute so that it provides an appropriate degree of protection for the rights of crime victims.

I emphasize that passage of this bill will necessitate careful oversight of its implementation by Congress. If, as I hope, Federal judges and prosecutors take victims' rights seriously, there should be little need for victims to bring mandamus actions to enforce their rights. But if, for whatever reason, victims feel that they are not being treated fairly, we may see a wave of new litigation in the Federal courts, with victims and their lawyers having to insert themselves into criminal cases. We will need to monitor the situation closely.

I am committed to giving victims real and enforceable rights. But I am convinced that prosecutors should be capable of protecting those rights, once we make them clear. In my experience, prosecutors have victims' interests at heart.

Senator KENNEDY and I proposed in the Crime Victims Assistance Act a limited-standing provision, which applied with respect to the victim's right to attend and observe the trial, and under which a victim could assert her right if the prosecutor refused to do so. Passing such a provision would have allowed us to observe over a period of time whether direct participation of victims in criminal proceedings has any unanticipated consequences for the administration of justice.

This Victims' Rights Act proposes a bolder experiment, entitling victims to assert a panoply of rights, regardless of whether the prosecution is already asserting the same rights on their behalf. For example, at the insistence of other sponsors, this bill will enable victims to bring mandamus actions alleging the denial of their statutory right ''to be treated with fairness and with respect for the victim's dignity and privacy,'' which may be difficult claims to adjudicate.

I note with some regret that our statute picks up language from S.J. Res. 1 denying victims a civil cause of action for damages in the event that their rights are violated. Allowing victims to vindicate their rights through separate civil proceedings instead of through mandamus actions in the criminal case could well be a more efficient as well as a more effective way of ensuring that victims' rights are honored. Certainly the prospect of being sued would provide a powerful incentive to take victims' rights seriously. But the Republican sponsors of the bill did not want to provide for damages.

Similarly, some Republican Senators did not want to allow courts to appoint attorneys to help crime victims. It is my hope and belief that victims will seldom need representation, since they already have powerful advocates in our public prosecutors. Still, it is possible that a judge would want to appoint an attorney for a victim in an extraordinary case, as for example if there is a material conflict between the victim's interests and the interests of the prosecution. By failing to provide for this possibility, our new bill may perpetuate a system of unequal justice for victims, where the wealthy have the benefit of counsel, and the poor do not.

Finally, I want to comment on the unusual genesis of this bill, and the extraordinary procedure that I expect it will follow in the Senate. As I mentioned earlier, the Senate was scheduled to begin work this week on the proposed constitutional amendment, S.J. Res. 1. On Wednesday, the Republican leadership moved to invoke cloture on the motion to proceed. I would not have opposed this motion. I voted to proceed to an earlier iteration of this constitutional amendment 4 years ago, and I would have been prepared to proceed to it again this week. Given the time this would take and the expected outcome, it could be argued that the Senate already has many pressing matters on its agenda, but I would not have opposed a debate on the constitutional amendment.

Given the Republican leadership's insistence on proceeding to the constitutional amendment this week, there has not been as much time as I would have liked to craft the statutory alternative that we introduce today. And because this bill will come to a vote almost immediately, we will not get to hold hearings on it and polish the text in Committee. I would have liked to get the views of the Office for Victims of Crime. Many victims' groups and domestic violence organizations opposed the constitutional amendment, as did many law professors, judges, and prosecutors. I would have liked to hear their views on this statute. I am concerned that the statute may not adequately address the special problems raised in domestic violence and abuse situations. Fortunately, however, this is a statute, not a constitutional amendment, and it can be modified with relative ease if the need arises.

I commend my good friend, Senator FEINSTEIN, for mediating this consensus legislation. I know that she would have preferred to pass a constitutional amendment—she has made that clear. Nevertheless, she worked hard to produce a bill that we all can support, showing once again that she is first and foremost a legislator who wants to get things done. Due in large part to Senator FEINSTEIN's efforts, we now have an opportunity to advance the cause of victims' rights with strong, practical, bipartisan legislation. I have never doubted Senator FEINSTEIN or Senator KYL's commitment to victims' rights. I am delighted that we have come together to advance that common cause.

Over more than 20 years I have sponsored and championed legislation to help victims. I have mentioned the recent September 11 Victim Compensation Fund, and I am also proud of such other advancements on behalf of victims as a law to provide assistance to victims of international terrorism, and bills to raise the cap on victims' assistance and compensation programs and to protect the rights of the victims of the Oklahoma City bombing. The legislation that we introduce today should provide us the opportunity to make progress on yet another important measure to address the needs of victims, and I urge my colleagues to support it.

By Mr. BROWNBACK (for himself, Mr. TALENT, and Mr. ALLEN):

S.J. Res. 33. A joint resolution expressing support for freedom in Hong Kong; to the Committee on Foreign Relations.

Mr. BROWNBACK. Mr. President, today I introduce, along with my colleagues Senator TALENT and Senator ALLEN, an important resolution regarding recent developments in Hong Kong. Hong Kong has been a great friend of the United States, a key ally in the war on terrorism and an invaluable trading partner. In recent weeks, however, it has become increasingly clear that Beijing will stand in the way of Hong Kong's development into a full democracy. Such actions compel support from the members of this body.

The Hong Kong Policy Act of 1992 sets forth the guidelines for the U.S. relationship with Hong Kong. It provides for a very special and distinct relationship with the Hong Kong Special Administrative Region, even as we recognize the Hong Kong is a part of China. This special relationship rests on the notion that Hong Kong will be governed differently than the rest of China.

Unfortunately, Beijing continues to suggest that it has no intention of realizing Hong Kong's democratic potential. Recent decisions by the Standing Committee of the National People's Congress push direct election of Hong Kong's Chief Executive into the future. Hong Kong's Legislative Counsel faces a similar fate. Some observers even suggest Beijing will wait another 30 or 40 years to allow universal suffrage in the selection of executive and legislative office holders to become a reality. By then, the 50 year special arrangement will be near expiration, threatening everything the people of Hong Kong have achieved.

I traveled to Hong Kong in January. My Subcommittee on East Asia and Pacific Affairs held a hearing last month where we heard testimony from Hong Kong's leading democracy advocates. A clear message emerges from everyone with whom I have spoken on this issue: Hong Kong is ready for full democracy. The people have demonstrated the ability to create a vibrant society and they deserve universal suffrage and the ability to participate fully in the functions of government.

The resolution I submit today is simple. It recognizes the recent report from the State Department dealing with the U.S.-Hong Kong relationship. It highlights Hong Kong's autonomy as envisioned by the Hong Kong Policy Act, and it highlights the unfortunate steps taken in Beijing to frustrate Hong Kong's democratic development. As the resolution says, Congress ought to declare ''that the people of Hong Kong should be free to determine the pace and scope of constitutional developments'' and that anything less violates the vision of democracy set forth in the 1984 Joint Declaration signed by Great Britain and the People's Republic of China.

When Martin Lee came to testify about the importance of democratic development in March, Beijing referred to him as a dreamer. They meant it as an insult, but Mr. Lee embraces the label as he looks to a future of freedom in Hong Kong. This body can make a powerful statement of support for Martin Lee's democratic dreams by passing this resolution, and I hope they will move quickly to do so.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, April 21, 2004, at 2 p.m. to conduct a hearing on the nominations of the Honorable Romolo A. (Roy) Bernardi, of New York, to be Deputy Secretary of Housing and Urban Development; Mr. Dennis C. Shea, of Virginia, to be Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development; and Ms. Cathy M. MacFarlane, of Virginia, to be Assistant Secretary for Public Affairs, Department of Housing and Urban Development.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 21, 2004 at 9:30 a.m. to hold a hearing on Iraq Transition: Civil War on Civil Society (II).

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, April 21, 2004, at 9:30 a.m. in Room 106 of the Dirksen Senate Office Building to conduct a business meting on S. 344, a bill expressing the policy of the United States regarding the United States' Relationship with Native Hawaiians and to provide a process for the recognition by the United States of Native Hawaiian governing entity, and for other purposes; and S. 1721, a bill to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes, to be followed immediately by a hearing on S. 297, the Federal Acknowledgement Process Reform Act of 2003.

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

JOINT ECONOMIC COMMITTEE

Mr. HATCH. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to conduct a hearing in Room 216 of the Hart Senate Office Building, Wednesday, April 21, from 10 a.m. to 1 p.m.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Lands of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, April 21, at 2:30 p.m. in room SD–366.

The purpose of the hearings is to receive testimony on implementation of the recreation fee demonstration program by the Forest Service and Bureau of Land Management, and on policies related to the program.

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

PRIVILEGE OF THE FLOOR

Mrs. MURRAY. Mr. President, on behalf of Senator HARKIN, I ask unanimous consent that Natalie Dupecher of his staff be granted the privilege of the floor for the duration of today's debate.

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

UNANIMOUS CONSENT REQUEST—H.R. 3550

Mr. FRIST. Mr. President, in a moment I will propound a unanimous consent request with respect to the highway bill, but first let me explain to everybody where we are. We passed our version of the bill in the Senate on February 12 by an overwhelming majority, 76 to 21. Subsequent to that, the House passed their bill, H.R. 3550, on April 2 by, again, an overwhelming majority of 357 to 65. That bill is now at the desk.

Therefore, I ask unanimous consent that the Senate proceed to the consideration of the House-passed highway bill, H.R. 3550; provided further that all after the enacting clause be stricken and the text of S. 1072, as passed, be inserted in lieu thereof; the bill then be read a third time and passed; further, the Senate then insist on its amendment, request a conference with the House, and the Chair then be authorized to appoint conferees on the part of the Senate, with a ratio of 11 to 10.

The PRESIDING OFFICER. Is there objection?

The assistant Democratic leader.

Mr. REID. Reserving the right to object, Mr. President, this is legislation I really understand. Senator INHOFE and a couple others worked hard to get this legislation passed. I would say, initially, this legislation could not have passed but for the support, under some very difficult times, of the majority leader. I commend him for his outward support and inward support. He supported us openly on the Senate floor and in all of the discussions we had off the Senate floor. I am very grateful for that.

We have a very fine bill. The House bill is a bill that is OK. It is not as good as ours. But let me say this. We were moving along just fine on this legislation until, for reasons unknown to most people, the President said he is going to veto the bill if it is more than X number of dollars. Keep in mind that this legislation that passed the Senate does not create a single new tax. A vast majority of the money comes out of the trust fund to take care of this. It takes care of highways and transit—a good bill. It would create more than a million new jobs—high-paying jobs—directly.

So I say to my friend, the distinguished majority leader, I believe if conferees were appointed tonight what we would do is the Senate would designate staff people to work on this bill with the House people. I would suggest—and I don't care what it is called; call it whatever you want to call it—our staffs should start working on this legislation.

It is obvious, because the Speaker has indicated why he does not want this bill. He said he does not want his Members to have to cast a tough vote. Mr. President, 357 to 65—I served in the House. I know how many votes it takes to override a veto. Over here I know how many votes it takes to override a veto. This bill is a good bill, and the majority of the House and the Senate would vote to override the President's veto. I believe the President, when confronted with the facts of what good legislation this is, would not veto the bill anyway, with the need for creating jobs. But I would hope the majority leader would allow the staffs to begin working on this to see if we can get to a point where a conference committee can be appointed. I want this bill to pass. I think it is something that needs to pass for our country. But I would hope we don't get in a position where our staffs can't work on this. I am sure the majority leader knows the staffs have already had one productive meeting. We could have a couple more and maybe get to the point where the majority leader would be satisfied that the staffs are doing the right thing, in his estimation. I would be happy to talk to my distinguished leader. He knows my interest in this bill. Hopefully, we would get it passed.

I apologize, this late in the evening, for talking as long as I have. But I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, we are in a unique situation, as you just heard explained quite well. This is a bill I very much want. It is a nonpartisan bill about which this body has spoken very loudly. I appreciate the leadership of my colleague from Nevada on this bill. We are very proud of the product we have produced. My whole intention of coming to the floor, which is the normal process, to appoint conferees, Republican and Democratic conferees, is to continue in an orderly fashion and bring the bill to completion so it is law, not just a bill. We passed it February 12. The House passed it on April 2. We passed two extensions of the previous highway bill already and the deadline for the next temporary extension will be next Friday. We will have to do it once again.

I am working very hard so we can have a conference committee, and we can't have a conference committee until we have conferees. It is time to act on the highway bill.

As the distinguished assistant Democratic leader said, over a million, and I would say 2 million, new jobs will be created by this bill. It is vital to our economy. It is vital to the Nation's infrastructure. Regular order would be for us to appoint conferees. We will continue to work, having heard the objection, in regular order which, in my mind, would accelerate passage of the bill. We will continue to work with the other side, although I am disappointed we cannot proceed with this regular order. But I am committed to the bill. The assistant Democratic leader is. Over 70 Members of this body are. So we will continue to work diligently in that regard.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session

to consider the following nominations on today's Executive Calendar: Calendar Nos. 624, 625, 626, 627, and nominations on the Secretary's desk. I further ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

COAST GUARD

The following named officer for appointment as vice Commandant of the United States Coast Guard and to the grade indicated under Title 14, U.S.C., Section 47:

To be vice admiral

Vice Adm. Terry M. Cross

The following named officer for appointment as Commander, Atlantic Area of the United States Coast Guard and to the grade indicated under Title 14, U.S.C., Section 47:

To be vice admiral

Rear Adm. Vivien S. Crea

The following named officer for appointment as Commander, Pacific Area of the United States Coast Guard and to the grade indicated under Title 14, U.S.C., Section 47:

To be vice admiral

Rear Adm. Harvey E. Johnson

The following named officer to serve as the Director of the Coast Guard Reserve pursuant to Title 14, U.S.C., Section 53 in the grade indicated:

To be rear admiral (lower half)

RADM (L) James C. Van Sice

NOMINATIONS PLACED ON THE SECRETARY'S DESK

COAST GUARD

PN1433 Coast Guard Nomination of Glenn M. Sulmasy, which was received by the Senate and appeared in the Congressional Record of March 12, 2004

PN 1434 Coast Guard Nominations (243) beginning George W. Molessa, and ending Yamasheka Z. Young, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

UNANIMOUS CONSENT AGREEMENT—S. 2329

Mr. FRIST. Mr. President, I ask unanimous consent that if cloture is not invoked on the motion to proceed to S. 2290, the asbestos bill, the Senate proceed to the immediate consideration of S. 2329, a bill relating to victims' rights, which was introduced earlier today by Senators KYL and FEINSTEIN. I further ask that S. 2329 be held at the desk, that there be no amendments in order to the bill, and debate be limited to 2 hours, with 30 minutes each under the control of Senators KYL, HATCH, LEAHY, and FEINSTEIN respectively. I further ask that upon the use or yielding back of the time, the bill be read a third time and the Senate proceed to a vote on passage without any intervening action or debate. I further ask unanimous consent that the cloture vote on the motion to proceed to S. J. Res. 1 be vitiated.

Mr. REID. Mr. President, I believe—although I am never certain—that cloture will not be invoked on the asbestos bill. The reason I mention that is I think the work done by Senators FEINSTEIN, HATCH, KYL, and LEAHY has been tremendous on this piece of legislation that we are going to debate tomorrow. It was originally in the form of a constitutional amendment. Even though I was a cosponsor of that early on, I think this is the appropriate way to do it.

I am very happy this most important legislation will be completed tomorrow. We don't often get to pat each other on the back around here for cooperation, but certainly this is an indication that people have worked well together and it is very good for the people of our country.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, I will just add to the assistant Democratic leader's comments. There is a lot of work most people don't see. Certainly, you didn't see very much of it on the Senate floor over the last couple days. People have worked in a bipartisan way to pass a bipartisan bill. So I, too, congratulate the appropriate leaders on that bill.

ORDERS FOR THURSDAY, APRIL 22, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m.; that following the prayer and the pledge, the morning hour be deemed to have expired and the Journal of proceedings be approved to date; that following the time for the two leaders, the Senate begin a period of morning business for 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; provided that following that 60-minute period the Senate resume consideration of the motion to proceed to S. 2290, the asbestos bill; provided further, that there then be 60 minutes of debate equally divided between the chairman and ranking member and, following that debate, the Senate proceed to a vote on the motion to invoke cloture on the motion to proceed to the bill.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow morning, following morning business, the Senate will resume consideration of the asbestos bill and the motion to proceed to the asbestos bill.

There will be an additional hour of debate prior to that vote on invoking cloture on the motion to proceed. I take this opportunity to thank Chairman HATCH and the many Members who have come to the floor to speak on the importance of this legislation. Indeed, both sides of the aisle have spoken to the critically important issue of an asbestos litigation system which is inefficient and, in many ways, run amok over its initial intention.

This vote is the beginning of the process and not the end. I have made that clear, hopefully, in every public statement and in every statement with my colleagues, as we have worked to negotiate this bill over the last week. It began several weeks ago when we set out on this course of bringing this to a real focus.

It is time to legislate on this important issue, and tomorrow's vote is an effort to work through many issues of the bill and to eventually produce an outcome.

If we are unable to invoke cloture on the asbestos bill, we are going to proceed to the victims' rights bill under the previous consent agreement. There will be up to 2 hours for debate prior to vote on passage of the victims' rights bill that was introduced earlier by Senators KYL and FEINSTEIN.

Therefore, Senators should expect at least two votes tomorrow. The first one will occur at approximately 11:30 in the morning on the motion to invoke cloture on the motion to proceed to the asbestos bill.

ORDER FOR ADJOURNMENT

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator REID.

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

ASBESTOS LITIGATION REFORM

Mr. REID. Mr. President, let me, first of all, say I tried to not be the last person speaking in the Senate, as people want to go home. We have lots of people here, including the Presiding Officer. I was asked early yesterday to give a statement today, and certain people are expecting me to do this. So I apologize to all the staff. I will try to be as quick as I can. I do believe that the statement is one that is important.

Let me, first of all, comment on the statements made by Senators HATCH and SESSIONS—those statements I heard today dealing with the asbestos legislation. I acknowledge that it is important legislation.

For example, I met in my office with Ken Bowa from Nevada, one of the vice presidents of the Pfizer Company. You would not think that a company that manufactures pharmaceuticals would have an asbestos problem, but they do. They bought a company 30 years ago,

or thereabouts, and that company at one time produced a material that had asbestos in it. Even though this is a multibillion-dollar company, that small purchase they made is causing them a lot of grief. So I know the problems from the business perspective. There are lots of problems. I understand that. I understand that my friend, Ken Bowa, had the interests of his client at heart, as do the other businesspeople, and their representatives come to see us.

One of the issues we always have to understand with asbestos is that in addition to the companies having problems, people are killed as a result of messing around with asbestos, working with it, working around it. Women who washed their husbands' clothes now have very serious illnesses, such as asbestosis, mesothelioma. With mesothelioma, it is not a question of dying; it is only a question of how soon. The average life expectancy is 14 months.

There is no question that as a result of some of the books written in the past year on Libby, MT, ''Fatal Deception,'' where companies knew the danger of this product and they covered it up, they hid it, as a result of that, people will get sick and will die.

This is an issue about which we must be very cautious before we do something. The main thing we need to do is make sure there is enough money to take care of the people who are tragically ill as a result of this substance.

My friend from Alabama, the distinguished junior Senator from Alabama, said: Why don't we take care of this bill; there has been a lot of work that has gone into it, speaking about the bill on which we are going to vote regarding cloture tomorrow.

We reported out a bill—the way it should be done around here—we reported a bill out of committee on a bipartisan vote. That bill had a price tag of $154 billion. The bill we are being asked to deal with tomorrow has a price tag of $109 billion. That is a huge difference. We were not allowed to work on the committee-reported bill. We are now being asked to vote on this aberration of that bill.

This is not about greedy lawyers. It is about sick people. It is about companies that are in dire straits as a result of asbestos.

In spite of all this, we have not taken appropriate action to ban the importation of this toxic, poisonous, horrible substance, asbestos. I have joined with Patty Murray to deal with the importation of this substance into our country, as other countries have done. We have not done that. This will need a lot of work.

NEGATIVE IMPACT OF NO CHILD LEFT BEHIND ACT

Mr. REID. Mr. President, the reason I came to the floor is, first, to express my appreciation to the former chairman, now the ranking member, of the Education Committee, the senior Senator from Massachusetts, for constantly reminding us of the importance of education, enabling America's families to improve the quality of their life.

I want to talk about the negative impact of the No Child Left Behind Act.

Congress is not expected to pass much legislation this year, even though there is much more that should be done. Of the dozens of issues we have yet to consider, addressing the consequences of the No Child Left Behind Act is paramount.

When the No Child Left Behind Act was passed, there were many who lauded President Bush's commitment to education. After all, who among us would allow any child to slip through the cracks of our educational system if it could be prevented? None of us would do that. At the time, many thought this was sweeping legislation and that sweeping legislation would fill those gaps.

Sadly, this has not been the case. The No Child Left Behind Act has done more harm than good in more States than not. In the State of Nevada, we are suffering under the burden of unfunded mandates this law imposed. In fact, a leading headline in the Reno newspaper, the second largest newspaper in the State of Nevada, reads:

Educators Give No Child Left Behind Act a Failing Grade.

The man who stated that is the superintendent of public instruction of Washington County, the second largest school district in the State of Nevada. He said it is not working. It took a lot of courage for this man to do this. He comes from a county that is a Republican county by registration, but it is a county that is very fair and very independent. I am sure they recognize that Jim Hager, the fine man that he is, the long-time superintendent he has been, would not say anything unless he truly believed it was true:

Educators Give No Child Left Behind Act a Failing Grade.

When I talk about Jim Hager, I am talking about the Washington County School District superintendent, but he is also president of the Nevada Association of School Superintendents. We have 17 counties in Nevada, 17 school superintendents, and he is speaking for them. He is speaking for the Nevada Association of School Superintendents.

Let me give a snapshot of the education landscape in Nevada. We have 17 counties, as I have mentioned, in the State of Nevada. Clark County, of course, is the county Las Vegas is in. Well over 70 percent of the people of the State of Nevada live in Clark County. It is a big county. The State of Nevada has approximately 400,000 students. About 280,000 students are from Clark County. It is the fifth or sixth largest school district in America.

I also want to say here, for future understanding of my remarks, in the Clark County School District, about 30 percent of the children in that school district are Hispanic. The vast majority of those Hispanic students come from Mexico. Many of those children, even though they are as smart as any other kids in America, have language problems because some of their parents do not speak English.

Clark County, which has this huge school district, needs $1 million annually for recruitment efforts. They have to hire 2,000 new teachers a year.

We have a real problem graduating minority students. We are 49th in the Nation. We graduate overall about 63 percent of all students. That is not good. We recognize that. But you will not meet a single parent, teacher, principal, superintendent, or school administrator of any kind who is not concerned about preserving and improving the quality of education for the kids in Nevada. In fact, there is no one within the sound of my voice who is not committed to giving every child an opportunity to graduate and go on to higher education, whether that higher education is college or some kind of trade school.

Whatever it takes for us to get there, we are going to do that. In fact, Nevada did create its own accountability system that will work in our States. It addresses the needs of our children in our own way. The No Child Left Behind Act was passed and now we are living in its wake. It reminds me of when I went to Hawaii for the first time. There was this beautiful beach on the island of Maui. We were eating in a restaurant and it was such a beautiful view. We had a conversation with the waitress and she told us when she was a little girl the beach that we could see opened up and went out for a football field, way out into the ocean. The kids ran out there. There was a school nearby where the restaurant is now. They ran out there. What they did not realize is that was a tsunami and it pulled the water out and you could not see the waves coming in. It washed over everybody and killed a lot of kids and a lot of people were hurt.

That is what has happened with the No Child Left Behind Act. One cannot see on the surface what has happened, but the undertow, the tsunami, has wiped out a lot of children. It is ironic that this sweeping education reform legislation authored by President Bush is receiving a failing grade from every school system it was intended to help. There is no question about it, as I indicated before, that it is hurting kids in Nevada. It is so bad in Utah, they have withdrawn from the program. The State of Utah—I am sure it is the first of a number of States to do that—said: We want no part of it. We want to educate our kids the way we think we should, and not have these burdens that I will talk about in just a minute.

So more than 2 years after this legislation was passed, parents are still struggling to understand the basics of the law, especially when they learn about terms such as ''annual yearly progress'' and ''failing school.'' As a parent, people want the best for their children. It is disturbing to be told

that the school their child attends is now considered failing.

As a result of this legislation, as my colleagues can see on this second chart I have, we have come up with some terms but hardly anyone understands them. In this glossary of terms, AYP—we will see that a lot—adequate yearly progress is a minimum level of improvement that school districts and schools must achieve each year as determined under the Federal No Child Left Behind Act.

Individualized educational plans are specific goals set by an educational team for a special education student and includes any special supports that are needed to help achieve these goals.

We can run through this whole list of definitions: Safe harbor, a provision intended for schools and districts that are making progress, at least 10 percent, in student achievement but are not yet making adequate yearly progress targets goals. It is designed to prevent the over identification of schools not making adequate yearly progress.

The definitions are unbelievably difficult. The people back in Washington do not understand them. The people in Nevada certainly do not understand them, nor do people around the rest of the country.

I have tried to help improve this legislation by introducing and supporting measures that will help, not hurt, our most vulnerable educational communities. I will give an example. Every day in Nevada, rural communities are confronted by a shortage of resources. We have 17 counties in Nevada. We have one county, Esmeralda County, that does not have 1,000 people living in it, and it is a pretty good size county. We have some schools that are very sparsely populated. We only have two counties that are heavily populated. Clark, I have talked about, that 70 percent of the people live there, and 20 percent in the metropolitan area of Washoe County. That leaves 10 percent of the people around the rest of the State.

It may surprise some people to know that there are still small towns in rural America where the citizens wait for a doctor to make rounds or a mail truck to drop off mail. These families have elected to stay in their communities despite all the obstacles, and they deserve an opportunity to enjoy a good quality of life.

We have rural schools in Clark County. My home is in Searchlight, NV. I am very fortunate the school there is named after me. It is not a very big school. There are about 50 kids in it, grades 1–6, but in Clark County we have schools that are rural schools. In Nevada, we still have one-room schools. So we are concerned about what is happening in rural America.

I have not traveled to Minnesota very much. After they immigrated to this country, my in-laws settled in Minnesota, and I know that a lot of very small communities are in Minnesota. People think of Minnesota as Minneapolis and St. Paul, but I am confident there are a lot of rural communities, just like in Nevada. That is why I introduced legislation entitled ''Assisting America's Rural Schools Act'' that addressed the concerns of rural school systems trying to comply with the teacher quality standards set by No Child Left Behind.

When I went to school in Searchlight, we had one teacher who taught all eight grades. There is a small town in Nevada called Austin in Lander County. It is a community much like the one I was raised in. Austin boasts a total of 63 students in grades K–12. For grades 6–12, there are only three teachers for all subjects. These teachers are considered highly qualified in science, English, math, and physical education. In order for Austin to acquire a teacher who is highly qualified in the subject of history, the local education agency must either find and recruit another teacher or send one of its three current teachers back to school to get accredited in history via distance learning.

Unfortunately, Lander County does not have the money to do any of this. The issue is not whether teachers in rural areas should be qualified to teach multiple subjects. They should. However, requiring them to obtain highly qualified status in all subjects simultaneously is unreasonable.

So my legislation gave rural school systems some flexibility in meeting the definition of a highly qualified teacher without diminishing high accountability standards for teachers. Rural school districts would be able to give a one-year exemption to any teacher who is already qualified in at least one core academic subject. A highly qualified teacher who is working toward that certification in another subject can still teach both subjects. The Department of Education adopted the principle of this bill last month.

The Secretary of Education came to Reno and made that announcement. Teachers in eligible rural school districts who are highly qualified in at least one subject will now have 3 years to become highly qualified. I am certain rural school districts and teachers are relieved the administration recognized the burden No Child Left Behind had placed and they recognized that my legislation was important.

That was just one of the many glitches in this mammoth bill. How many more will we face in years to come? Superintendent Jim Hager—I have talked about him—is responsible for 60,000 students in Washoe County. He gave an honest assessment of what is going on with the Leave No Child Behind Act throughout the State, and probably every other State. One of his chief frustrations is that all students who come into the Nevada school system are facing formidable challenges—learning disabilities, language barriers, or influences beyond their control attributed to their living conditions.

These challenges are significant and oftentimes the school system is intended to be the primary system to fix, help, or remove these obstacles. No Child Left Behind expects these school districts to turn these troubled children into top flight students within 1 year without receiving full funding from the Federal Government to do so.

If the schools do not turn these children around in a timely manner, they go on what is called a watch list, a badge that is not good, a badge these schools have to wear. This badge puts these schools on the verge of being branded failure.

Let me show a chart that depicts Clark County's failing school cells. If we look here, we will find in the Clark County school district where the problems are. If we look across, we will find that white kids are doing just very nicely. They are doing very fine. The schools that are mostly white have no problem, but if we go to a school that is Hispanic, there is a problem. Every place we see the red, which is failure, is Hispanic—one, two, three, four, five categories, and if we look at other minorities, African Americans, the same thing. I think this is a glaring example of why this legislation is bad.

It would be nice if you had a school which represented the percentage of people within the community, but that is not how schools are. We find in Nevada, as every place else, schools that are heavily Hispanic. You have schools that have large numbers of African-American children. In these schools, these people who are teaching have problems with language arts.

Let's say you have somebody starting school who has bad English. The way I look at this, even though my skin is white, I look at every one of these problems here as me. When I grew up, my parents were uneducated. They were not dumb; they were uneducated. My father never even graduated from the 8th grade. My mother never even graduated from high school.

I would have been part of this failing school system. If they had tried to test me out of the schools then, I couldn't have made it. It is just like a lot of these children.

These children here are not dumb. They have social problems. Maybe their parents didn't graduate from the 8th grade. Maybe their parents didn't graduate from high school. Maybe they don't have both parents at home. That doesn't mean they are dumb. Maybe what these children need, rather than a badge that they are in a failing school is extra help. That has not happened.

I believe we should hold our teachers and students accountable. But if we expect them to achieve miracles without providing the resources they need, we are setting them up for failure. That is what this bill has done. It is not helping children learn and it is not helping teachers teach.

Testing a child to make him learn is like weighing a steer to make him gain weight. By weighing a steer, he doesn't

gain weight. You have to feed him. That is how you get a steer to gain weight. Testing a child to make him learn is the same thing. You can't test a child into being proficient in English or Spanish.

The No Child Left Behind Act is having a ripple effect throughout the State of Nevada and throughout the country. That is why I am going to sit down with every county superintendent in the State next month and ask them what needs to be fixed. I think I know, but I want to hear them. I want them to have the opportunity to speak to me. We need relief in Nevada, and if we have to do it bit by bit we will. But this law as it stands puts our educational system in peril.

Nevada is not the only State that has problems. I was pleased the Department of Education adopted the principle of this bill last month, as I said. But if we look at the failing school system—look at another chart I have. Look at this one. This really, as far as I am concerned, is showing that it is pathetically horrible.

You can have a school that meets every criterion that is important under the No Child Left Behind Act—except one. Everything is just fine. But if there is limited English proficiency in that school, they are a failing school. If everything else is fine but they have limited English proficiency, they are given the red badge and now they are held up to being a failing school.

It is because they have children in the school who have come to school not being able to speak very good English. They are not dumb. They deserve an education. The No Child Left Behind Act is having a ripple effect throughout Nevada and throughout the Nation.

Nevada is not the only State having difficulties implementing this law; it is a national problem. Thousands of school districts are already trying to juggle school construction costs, increase graduation rates, find money for textbooks that they don't have. Reducing class sizes is impossible. They are figuring out what to do about overcrowded schools.

During the April recess I spoke with concerned citizens of Nevada. I went to several schools in what I call my Capitol Classroom program. I talked about overcrowded schools. There is one high school in Clark County with about 5,000 students in it. There are others almost that big: a high school with 5,000 students. More than 70 percent of our Nation's high schools have 1,500 or more students.

When the President signed the No Child Left Behind Act, he signaled his support for programs that were supposed to help students learn, including smaller schools and smaller classes. In contrast to that promise, in this year's budget the President zeros out the Smaller Learning Communities Program—zero.

I had the good fortune at one time in my career to be chairman of the Democratic Policy Committee. We had one of our retreats up in Wilmington, DE. I brought in there a woman by the name of Deborah Meyer. She was from New York. Deborah Meyer was a school principal of a big school in New York, an elementary school. Her kids were doing so awful that she decided to go to the school authorities and she said: Look, this is not working. Trust me. I want to try something. I want to take this school and, instead of having one school, we are going to have four schools. We are going to have four principals, four separate faculties, four separate lunch hours—everything is going to be like a separate school.

The school administrators said: We have nothing to lose. You are doing so bad you can't do any worse than you have done.

She did that and within one quarter, in 3 months, the scores had risen in every category and Deborah Meyer has become famous because of that and she has gone other places and tried the same thing. We need to understand smaller schools help.

Senator BINGAMAN and I, along with 14 other colleagues, sent a letter to the labor subcommittee requesting funding be restored. Not enough, but $200 million in the Smaller Learning Communities Program. We really need that.

The President has been given bad advice by the budgeteers down there. Common sense tells us students do best when they receive plenty of personal attention from their teachers. Studies tell us the same thing. According to the Department of Education, research suggests that positive outcomes associated with smaller schools stem from their ability to have close, personal environments where teachers can work with a small set of students, challenging and inspiring them.

They build big schools because it is cheaper. Smaller learning communities can achieve in different ways: small learning centers, core academics, magnet programs, schools within a school, as I have just described. It would seem to me, if this administration really wanted to help our teachers teach and help our students learn they wouldn't be trying to eliminate a program like this, to create smaller learning communities, which have been proven to do just that.

I touched only on a few things tonight dealing with problems of the No Child Left Behind Act. It is going to take a lot of work to improve this bill and make it what it promised to be, a tool that will help teachers and students in every public school in America. It is a difficult job but we must keep our promise to America's children. We can't afford to leave them behind.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:27 p.m., adjourned until Thursday, April 22, 2004, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 21, 2004:

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE COMMANDANT OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 47:

To be vice admiral

VICE ADM. TERRY M. CROSS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, ATLANTIC AREA OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 47:

To be vice admiral

REAR ADM. VIVIEN S. CREA

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, PACIFIC AREA OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 47:

To be vice admiral

REAR ADM. HARVEY E. JOHNSON

THE FOLLOWING NAMED OFFICER TO SERVE AS THE DIRECTOR OF THE COAST GUARD RESERVE PURSUANT TO TITLE 14, U.S.C. SECTION 53 IN THE GRADE INDICATED:

To be rear admiral (lower half)

RADM (L) JAMES C. VAN SICE

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

COAST GUARD NOMINATION OF GLENN M. SULMASY.

COAST GUARD NOMINATIONS BEGINNING GEORGE W MOLESSA AND ENDING YAMASHEKA Z YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 12, 2004.