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Senate

The Senate met at 1 p.m. and was called to order by the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

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

This week, as we celebrate Jewish Heritage Week, we pray for the Jewish people and for the crisis in the Middle East. My prayer is taken from the Jewish Book of Service, Daily Prayers. Let us pray.

We gratefully acknowledge that You are the Eternal One, our God, and the God of our fathers evermore; the Rock of our life and the Shield of our salvation. You are He who exists to all ages. We will therefore render thanks unto You and declare Your praise for our lives, which are delivered into Your hand and for our souls, which are confided in Your care; for Your goodness, which is displayed to us daily; for Your wonders and Your bounty, which are at all times given to us. You are the most gracious, for Your mercies never fail. Evermore we hope in You, O Lord our God. Amen.

PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 15, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to exceed beyond the hour of 2 p.m. with Senators permitted to speak for up to 10 minutes each.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Mr. President, as the Chair has announced, there will be a period of morning business until 2 p.m. Senator DORGAN, by virtue of a previous order, is going to use 30 minutes of that time. At 2 p.m., the Senate will resume consideration of the Border Security Act. There will be a rollcall vote this afternoon at 5:30 in relation to the Border Security Act or an Executive Calendar nomination.

MEASURE PLACED ON CALENDAR—H.R. 1009

Mr. REID. Mr. President, I understand H.R. 1009 is at the desk and is due for its second reading.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. I ask that H.R. 1009 be read for a second time, and then I object to any further proceedings at this time.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bill.

The legislative clerk read as follows:

A bill (H.R. 1009) to repeal the prohibition on the payment of interest on demand deposits.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

PRESCRIPTION DRUGS

Mr. DORGAN. Mr. President, last week a number of pharmaceutical companies announced a new program by which some Medicare enrollees, particularly those at the lower income levels, will be able to access prescription drugs at a lower price. Let me compliment them for that. These companies are certainly moving in the right direction by recognizing that price is a very serious problem for a lot of Americans with respect to prescription drugs. The companies that founded Together Rx are Abbott Laboratories, AstraZeneca, Aventis Pharmaceuticals, Bristol-Myers Squibb Company, GlaxoSmithKline, Johnson & Johnson, and Novartis Pharmaceuticals Corporation. Pfizer and Eli Lilly have separate programs that they have already announced. I think it is a step forward, and I compliment these companies.

We have much more to do, but having been very critical of the prescription drug manufacturers for price increases, let me say thanks for these programs because they will benefit a good number of lower income senior citizens.

However, let me describe one of the problems that still exists. This chart is of a Washington Post article, from within the last month, ''Prescription Drug Spending Rises 17 Percent in the Last Year.'' There have been double-digit increases year after year after year after year for prescription drugs.

Taking a prescription drug is not a luxury. It is a necessity. Prescription drugs can only save lives if you can afford to access them.

We talk a great deal about senior citizens and the need to help them by adding a prescription drug benefit to the Medicare Program. We do that because senior citizens are about 12 percent of America's population, but they take one-third of all the prescription drugs. Many senior citizens are taking five, eight, and ten different kinds of prescription drugs. The price increases that have been occurring have been devastating, not just to senior citizens but to all Americans trying to access the supply of prescription drugs they need.

It is useful to understand that the debate about access to prescription medicines is not just a theoretical one. From time to time, I have described to my colleagues the experience I have had holding town meetings and hearings across North Dakota and the country on prescription drug prices. The issue of the pricing of prescription drugs is a very serious one for real people every day.

The U.S. consumer is charged the highest prices for exactly the same prescription drugs than anyone else in the world. The same pill made by the same company put in the same bottle costs much more in the United States than in other countries.

Tamoxifen, to treat breast cancer, is 10 times more expensive in the United States than in Canada, as an example. I ask unanimous consent to demonstrate the point.

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

Mr. DORGAN. I am holding here empty prescription drug bottles from the United States and Canada. It is useful to compare the prices of these drugs. This is a drug called Zoloft which is used to treat depression. There are two bottles here; the same tablet made by the same company put in different bottles. But if you buy it in the United States, it is $2.34 per tablet. The same tablet purchased in Canada is $1.28. So the same company makes the same pill and puts it into two different bottles. The difference is, when an American consumer buys it, they pay $2.34. If you buy it in Canada, $1.28.

To give another example, Norvasc is a drug used to treat high blood pressure. You buy it in Canada—same tablet, put in the same bottle, made by the same company, shipped to two different places, the United States and Canada—and it costs 90 cents and in the United States it costs $1.20.

Cipro is a drug commonly used to treat infections. This bottle holds a hundred 500 milligram tablets and costs $171 in Canada and $399 in the United States—the same tablet, the same bottle, and manufactured by the same company. Often drugs are produced in a U.S. manufacturing plant to be sent to Canada and sold at a much lower price. And you have the same thing happening in Italy, France, Germany, England, Sweden.

Now, why is that happening and what should we do about it? It is happening because we are the only country in which there is not some kind of governmental regulatory system to limit what is charged for prescription drugs. Actually, we do have price controls on prescription drugs here in the United States. It is just that the pharmaceutical manufacturers are the ones in charge of controlling the price. They ratchet up the price as high as they possibly can, and the result is an industry that is the financially healthiest in the United States.

But these high prices for drugs ultimately affect the relationship between a doctor and his patient. A doctor from Dickinson treats a woman with breast cancer. The woman, who is on Medicare, comes back to the doctor after having a mastectomy, and the doctor says: ''Here is what we have to do given the type and grade of your breast cancer. You have to be on some prescription drugs that will substantially lessen the recurrence of breast cancer for you.'' She says: ''What would this cost?'' When told what the cost of the drugs would be, she says, ''Well, doctor, I don't have the money to pay for that. There isn't any possible way I can take those prescription drugs. What I will have to do is just take my chances with the breast cancer.''

That is repeated in doctor's office after doctor's office around the country. I have senior citizens telling me they cannot possibly afford their drugs, so they cut them in half and take only half a dose so it will last twice as long. In the small community of Michigan, North Dakota with perhaps 300 or 400 people, after a farm meeting one evening—a woman in her late 70s grabbed my arm at the end of the meeting and said: ''Mr. Senator, can you help me?'' She began to tear up. Her eyes got full of tears and her chin began to quiver, and she said: ''I am supposed to take these prescription drugs in order to stay alive, but I can't afford them. The doctor says that I must take them. Can you help me?''

This is repeated all over the country. I am talking about senior citizens. But you could be talking about anybody who needs prescription drugs and finds that the prices are simply out of reach. There was a 17 percent increase last year in the cost of prescription drugs.

Reimportation of drugs from Canada will save our citizens a lot of money. Dr. Alan Sager from Boston University was a witness at a hearing I held at which he described a study that showed that Americans would save $38 billion a year if we paid Canadian prices for prescription drugs. North Dakotans alone would pay $81 million less in a year.

Some would say that by allowing the reimportation of prescription drugs, we are trying to import price controls. But what we are trying to do is force a repricing of prescription drugs in this country—a fairer price for the United States consumer. Why should we pay a dollar for the same market basket of drugs for which the Canadians pay 60 cents? Why should we pay a dollar, when virtually every other consumer in the world is paying a fraction of that for the same drugs? We should not and it is not fair.

There is a law on the books that prevents the reimportation of drugs from other countries, except by the manufacturer. If this is a global economy, we say let's allow the reimportation of drugs as long as there is a clear chain of custody and we can do it safely. I will offer, along with my colleagues, a proposal that would allow licensed pharmacists and distributors to access that lower-priced, identical prescription drug from a Canadian supplier and pass the savings along to the U.S. consumer.

I understand why the pharmaceutical manufacturers would not like that. But the point is, if this is a global economy, why should it only be good for the big interests? How about for other interests as well? Why should we not allow the reimportation of prescription drugs? The same drug put in the same bottle, manufactured in a FDA-approved plant. Why should we not allow that to be reimported to the U.S. as long as there is no safety concern?

All we need is to import a less expensive drug that is identical and made in an approved facility, to be able to provide a substantial benefit to the American consumer. So we are going to be proposing another amendment on that in the coming months. I know that the manufacturers will resist us aggressively. I started by complimenting them on the programs they are developing, but, frankly, we can't continue to see these cost increases in prescription drugs every year.

The miracle of medicine means nothing if you can't afford it. There has been a 12, 15, 16, or 17 percent increase year after year, and it is breaking the back of the American consumer and the back of health plans. The fact is, it cannot continue. The prescription drug manufacturers, pharmaceutical manufacturers, simply have to understand that.

They say that if you do anything that restrict our ability to charge these prices, there will be less research for the new miracle cures. But we have doubled funding to the National Institutes of Health. We are providing substantial amounts of public funding for research, from which the pharmaceutical industry often is a major beneficiary.

I might also say, with respect to the pharmaceutical industry, they spend as much or more on advertising, marketing, and promotion as they do on research. That is a fact.

So I think there is a lot to be done here. I pointed out that the industry has announced some positive steps, but there is much more to do, and we must take the right steps here in the Senate to address this issue.

That is why a group of us will, once again, offer an amendment that deals with the reimportation of prescription drugs—this time, only from Canada, where there can be no safety issue.

FAST-TRACK TRADE AUTHORITY

Mr. DORGAN. Mr. President, Senator DASCHLE, the majority leader, has now promised that before the Memorial Day recess, the Senate will be considering the administration's request for trade promotion authority; that is a euphemism for fast track. Fast-track authority allows an administration to negotiate a trade agreement somewhere and bring it back to the Congress, and Congress is told: ''You are not able to change a decimal point, a period, or a punctuation mark. You must vote up or down on an expedited basis on that agreement. No changes, no amendments. No opportunity to make any alterations at all.'' That is called fast track.

Well, let me talk just a bit about this fast track. First of all, it is a fundamentally undemocratic proposition. We have negotiated most agreements that we have had without fast-track authority. We negotiate and have negotiated nuclear arms control agreements. There has been no fast-track authority for that. Most trade agreements that have been negotiated have not had fast-track authority.

Let me make a couple of comments about trade. First of all, the Constitution says—article I, section 8—the Congress shall have the power to regulate commerce with foreign nations. That is the Congress that said that. The Constitution says that the Congress has that power, not the President.

Fast track itself, in three decades, has been used five times: GATT, U.S.-Israel, U.S.-Canada, NAFTA, and WTO. Look at what happened with respect to the trade agreements. Pre-NAFTA, using that as a good agreement, it has been one of the worst trade agreements we have ever negotiated. Pre-NAFTA, we had a slight surplus with Mexico and a small deficit with Canada. After NAFTA was fully phased in, we have a big deficit with Mexico, and getting bigger, and a big deficit with Canada. We have people who think this is successful. I have no idea where they studied if they think this is a successful trade relationship.

Let's take a look at what is happening in some of these areas of trade. Let me talk, as I have previously, about automobiles and Korea. Why do I do this? Only to point out that the appetite for going off to negotiate a new trade agreement ought to be replaced by an appetite to solve some of the problems that currently exist. But nobody wants to solve problems. All they want to do is negotiate a new agreement.

Now, we have automobile trade with Korea. Let me use that as an example. In the last year that was just reported, the Koreans shipped us 618,000 automobiles. We were able to ship to Korea 2,800. So for every 217 cars coming in from Korea, we were able to send them 1.

Try sending a Ford Mustang to Korea. The Koreans will put up so many non-tariff trade barriers that you would be lucky to sell a single one. What we have is one-way trade. Korea ships Hyundais and Daewoos to this country by the boatload, and we cannot get American cars into Korea. Yet our negotiators seem to move along blissfully happy to talk about how we are going to negotiate the next agreement.

How about saying to Korea on cars: Look, you either open your market to American automobiles or you ship your cars to Kinshasa, Zaire. Our market is open to you only if your market is open to us. That ought to be our message.

We have a number of problems in our trade with Europe. Here is a colorful example. We cannot get American eggs into Europe for the retail market. You cannot buy eggs in Europe if they come from the United States. Do you want to know why? Because we wash eggs in this country, and you cannot sell washed eggs in Europe. The Europeans put up a rule that says that eggs can only be sold at the retail level if they are not washed, because apparently their producers cannot be trusted to wash their eggs properly.

This is a picture of washed versus unwashed eggs, in case anybody wants to see the difference. Maybe our Trade Ambassador can take a look at this absurd trade barrier.

How about selling breakfast cereal in Chile? The Chileans restrict the importation of U.S. breakfast cereals that are vitamin-enriched, as many of our cereals are. They contend consumers already receive enough vitamins in their daily diet and there is a health risk from the consumption of too many vitamins. So you cannot sell Total in Chile. Just absurd.

How about this one? Our cattle operations sometimes give growth hormones to their cattle. There is no scientific evidence that the hormones do any harm, but the Europeans put up a rule that says that beef from cattle that got hormones cannot get into the EU. I have been to Europe and have read the press over there. They depict American cattle as having two heads, suggesting that these growth hormones produce grotesque animals like the one pictured here. Our negotiators actually tried to do something about this, and took the EU to the WTO. The WTO agreed with the United States, and authorized our country to retaliate against the WTO.

So what form of retaliation did our negotiators settle on? We took action against the Europeans by restricting the movement of Roquefort cheese, goose liver, and truffles to the United States. Now that will scare the dickens out of another country, won't it? We are going to slap you around on goose liver issues.

I do not understand this at all. Our country seems totally unwilling to stand up for our trade interests.

Try to sell wheat flour to Europe. We produce a lot of wheat in Nebraska and North Dakota. Try to sell wheat flour in Europe. There is a 78-percent duty to sell wheat flour in Europe.

Will Rogers said—I have quoted him many times—that the United States of America has never lost a war and never won a conference. He surely must have been talking about our trade negotiators. It doesn't matter whether it is United States-Canada, United States-Mexico, GATT, or NAFTA, this country gets the short end of the stick.

The reason I am going to oppose fast track is not that I am opposed to expanded trade. I believe expanded trade is good for our country and good for the world. But I believe trade ought to be fair trade, and I believe our country ought to stand up for its economic interests. When other countries are engaging in unfair trade, our trade officials have a responsibility to stand up and use all available trade remedies on behalf of American workers and American businesses, and say that we will not put up with unfair trade practices.

I must say that Mr. Zoellick, our current Trade Representative, has recently taken some heat for action against imported steel. The Administration also took some heat for its action against unfair imports of lumber. In both cases, I thought the actions were appropriate. But the Administration has been widely criticized. This weekend, George Will had an op-ed that was very critical.

But I hope that nobody is getting the impression that U.S. producers are being adequately defended from unfair imports. Nothing could be further from the truth. Take the example of Canadian wheat. The Canadians use a monopoly agency called the Canadian Wheat Board to subsidize their grain and undersell us all over the world. In February, the U.S. Trade Representative ruled that the Canadians had been using their monopoly power to undermine the international trading system. But to date, the USTR has done nothing about it. Our wheat growers had asked for tariff rate quotas to be imposed. USTR found the Canadians guilty, but has yet to impose tariff rate quotas. Instead, USTR proposes to take the matter to the WTO. By the time the WTO issues a ruling, our great grandchildren will still be dealing with the problem.

I expect a number of my colleagues who will join me in saying to those who want to bring fast track to the floor: Fix some of the problems that exist in the current trade agreements before you decide you want new trade agreements. Fix some of the problems—just a few. Fix the problem of grain with Canada. Fix the problem of wheat flour with Europe. Fix the problem of automobiles from Korea.

How about fixing a couple of the problems dealing with Japan? Almost

fourteen years after our beef agreement with Japan, there is a 38.5-percent tariff on every pound of beef that still goes into Japan. Japan has a $60 billion to $70 billion trade surplus with us, and they are still hanging huge tariffs on every pound of American beef we ship to Japan. How about more T-bones in Tokyo?

I am describing a few of a litany of problems in international trade that our country refuses to address. Why? Because we have trade negotiators all suited up. They have their Armani shoes and their wonderfully cut suits, and they are ready to negotiate. They will lose in the first half hour at the table if history is any guidance.

I am saying we ought not grant fast-track authority until our negotiators demonstrate they can fix a few trade problems. I did not believe Bill Clinton should have fast-track authority when he was President, and I do not believe George Bush should have fast-track authority. Not until the Administration is willing to demonstrate that it is willing to solve a few of the trade problems I have described.

Fast track is going to be on the slow track in the Senate. There will be many amendments proposed. I, for one, will offer a good number of amendments dealing with the issues described. I will also offer an amendment that says that NAFTA tribunals should not operate in secret. We should not be a party to any deal that determines international trade outcomes behind closed doors. The public should be able to see what NAFTA tribunals are up to.

This country will have done a service to its citizens if we say no to fast track.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. DORGAN. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

PRESIDENTIAL WITHDRAWAL FROM ABM TREATY

Mr. KYL. Mr. President, Secretary Powell at this very moment in the Middle East is striving mightily to effect a cease fire and develop more support for our war on terror, especially to the extent we may have to take military action against the country of Iraq.

It is in that context that I discuss today another way the administration has prepared to deal specifically with the threat from Iraq and other countries similarly situated in the Middle East.

On December 13, following a period of high-level negotiations, President Bush notified Russia of his intent to withdraw the United States from the 1972 Anti-Ballistic Missile Treaty. Since then, I have addressed the Senate on the military justification for the President's decision and the question of how much a national ballistic missile defense system will cost. Today, I would like to discuss the President's constitutional authority to unilaterally exercise the right of withdrawal without the consent of the Senate or Congress as a whole.

The President withdrew the United States from the treaty pursuant to Article XV, which allows either party to withdraw upon 6 months' notice if it determines that ''extraordinary events . . . have jeopardized its supreme interests.'' I believe his action is a proper exercise of the authority of the chief executive to terminate a formal treaty to which the Senate had given its consent pursuant to Article II, Section 2, of the Constitution.

The question of Presidential authority is illustrated by the following assertion in a New York Times editorial by Bruce Ackerman, a professor of constitutional law at Yale:

> Presidents don't have the power to enter into treaties unilaterally . . . and once a treaty enters into force, the Constitution makes it part of the ''supreme law of the land'' just like a statute. Presidents can't terminate statutes they don't like. They must persuade both houses of Congress to join in a repeal.

While the Constitution is silent with respect to treaty withdrawal, the preponderance of writings and opinions on this subject strongly suggests that the Framers intended for the authority to be vested in the President. Article II, Section 1 of the Constitution declares that the ''executive power shall be vested in the President.'' And Article II, Section 2 makes clear that the President ''shall be Commander-in-Chief,'' that he shall appoint, with the advice and consent of the Senate, and receive ambassadors, and that he ''shall have power, by and with the advice and consent of the Senate, to make treaties.''

The Constitution approaches differently the duties of Congress, giving the legislative branch—in Article I's Vesting Clause—only the powers ''herein granted.'' The difference in language indicates that Congress' legislative powers are limited to the list enumerated in Article I, Section 8, while the President's powers include inherent executive authorities that are unenumerated in the Constitution. Thus, any ambiguities in the allocation of a power that is executive in nature—particularly in foreign affairs—should be resolved in favor of the executive branch. As James Madison once wrote in a letter to a friend, ''the Executive power being in general terms vested in the President, all power of an Executive nature not particularly taken away must belong to that department . . .''

The treaty clause's location in Article II clearly implies that treaty power is an executive one. The Senate's role in making treaties is merely a check on the President's otherwise plenary power—hence the absence of any mention of treaty-making power in Article I, Section 8. Treaty withdrawal remains an unenumerated power—one that must logically fall within the President's general executive power.

A careful reading of the writings of the Framers strongly also confirms that they viewed treaties differently than domestic law, and that, while they desired to put more authority over domestic affairs in the hands of the elected legislative representatives, they believed that the conduct of foreign affairs lay primarily with the President. As Secretary of State Thomas Jefferson observed during the first Washington Administration, ''The constitution has divided the powers of government into three branches [and] has declared that 'the executive powers shall be vested in the president,' submitting only special articles of it to a negative by the Senate.'' Due to this structure, Jefferson continued, ''The transaction of business with foreign nations is executive altogether; it belongs, then, to the head of that department, except as to such portions of it as are specially submitted to the Senate. Exceptions are to be construed strictly.''

In the same vein is the history of Supreme Court rulings on the subject of presidential powers. The Court has concluded that the President has the leading constitutional role in managing the nation's foreign relations. As one commentator, David Scheffer, noted in the Harvard International Law Journal, ''Constitutional history confirms time and again that in testing [the limits of presidential plenary powers], the courts have deferred to the President's foreign relations powers when the constitution fails to enumerate specific powers to Congress.''

In Harlow v. Fitzgerald, the Supreme Court observed that responsibility for the conduct of foreign affairs and for protecting the national security are '''central' Presidential domains.'' Similarly, in the Department of Navy v. Egan, the Supreme Court '''recognized the generally accepted view that foreign policy [is] the province and responsibility of the Executive.'''

The case most frequently cited as confirming that the President is the supreme authority in the Nation's conduct of foreign affairs is the Supreme Court's 1936 decision in the United States v. Curtiss-Wright Corp. In that case, the Court reversed the decision of the district court, and affirmed the constitutionality of President Franklin Roosevelt's declaration of an arms embargo against both sides in the conflict between Peru and Bolivia over the Chaco region. As stated in the opinion issued by Justice Sutherland, the power to conduct foreign affairs is ''the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations—a power which does not require for its exercise an act of Congress.''

Treaties represent a central tool for the successful conduct of foreign policy. Such international agreements typically reflect the circumstances of particular security or economic conditions which may, of course, change

over time. As such, in the course of protecting national security, recognizing foreign governments, or pursuing diplomatic objectives, a President may determine that it is necessary to terminate specific United States' treaty obligations.

That is precisely the subject we are facing with respect to the President's withdrawal from the 1972 ABM treaty.

As the D.C. Circuit stated in Goldwater v. Carter, ''The determination of the conduct of the United States in regard to treaties is an instance of what has broadly been called 'the foreign affairs power' of the President. . . . That status is not confined to the service of the President as a channel of communication . . . but embraces an active policy determination as to the conduct of the United States in regard to a treaty in response to numerous problems and circumstances as they arise.''

For these reasons, other unenumerated treaty powers have been understood to rest within the plenary presidential authority. For example, the President alone decides whether to negotiate an international agreement, and also controls the subject, course, and scope of negotiations. Additionally, the President has the sole discretion whether to sign a treaty and whether to submit a treaty to the Senate for advice and consent. The President may even choose not to ratify a treaty after the Senate has approved it. Vesting the power to terminate a treaty in the President is consistent with the accepted view that other such unenumerated powers are the responsibility of the President.

Furthermore, the executive branch has long maintained that it has the power to terminate treaties unilaterally. The Justice Department has argued that, ''Just as the Senate or Congress cannot bind the United States to a treaty without the President's active participation and approval, they cannot continue a treaty commitment that the President has determined is contrary to the security or diplomatic interests of the United States and is terminable under international law.'' The State Department, in a 1978 memorandum advising that the President had the authority under the Constitution to terminate the Mutual Defense Treaty without Congressional or Senate action, opined that, ''The President's constitutional power to give notice of termination provided for by the terms of a treaty derives from the President's authority and responsibility as chief executive to conduct the nation's foreign affairs and execute the laws.''

One of the most well-known instances of treaty termination in recent history is former President Carter's decision to withdraw the United States from the Mutual Defense Treaty of 1954 between the U.S. and Taiwan in order to normalize relations with the People's Republic of China. That decision resulted in an extensive debate in the Senate and among scholars as to the President's constitutional authority to withdraw the United States from a treaty without the approval of the Senate or Congress. Several members of Congress, including former Arizona Senator Barry Goldwater, filed suit against President Carter, and the full Senate addressed treaty termination in a series of legislation that was debated by a number of my distinguished colleagues who remain in this body today.

Senator KENNEDY wrote a persuasive article for Policy Review in 1979 strongly supporting the notion that treaty termination is an executive power not requiring legislative consent. In that article, he argued:

> Article 10 of the treaty in question [the Mutual Defense Treaty] provided for its termination. In giving notice of an intent to terminate the treaty pursuant to that provision, the President was not violating the treaty but acting according to its terms—terms that were approved by the Senate when it consented to the treaty.
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> As Charles C. Hyde, former Legal Advisor to the Department of State, put it in his leading treatise: ''The President is not believed . . . to lack authority to denounce, in pursuance of its terms, a treaty to which the United States is a party, without legislative approval. In taking such action, he is merely exercising in behalf of the nation a privilege already conferred upon it by the agreement'' . . .
>
> At the time that each treaty is made and submitted [for the advice and consent of the Senate, Senators] should seek to condition Senate approval upon acceptance of the Senate's participation in its termination. The Senate might have done so when it consented to the 1954 defense treaty with the Republic of China, but it did not. Any attempt, at this point, to invalidate the President's notice of intention to terminate that treaty is not only unwise . . . but also without legal foundation.

As with the 1954 treaty, the ABM Treaty contains a withdrawal clause—article XV(2)—for extraordinary events. That clause states:

> Each party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests. It shall give notice of its decision to the other Party six months prior to withdrawal from the Treaty.

That, of course, is precisely what President Bush did.

The President was fully justified in using that withdrawal clause unilaterally. Just as the Senate did not condition its approval of the Mutual Defense Treaty with Taiwan upon its participation in termination of that treaty, the Senate also did not place such a condition upon its approval of the ABM Treaty.

Senator Goldwater's suit over the President's termination of the Mutual Defense Treaty with Taiwan led to conflicting decisions by the trial and appellate courts and an eventual non-decision by the Supreme Court. The D.C. Circuit had reversed the trial court's decision, and upheld President Carter's authority to terminate the Mutual Defense Treaty, rejecting the arguments that (1) the advice and consent role of the Senate in making treaties implies a similar role in termination, and (2) that, because a treaty is part of the law of the land, a minimum of a statute is required to terminate it.

The Circuit Court pointed out that the President is responsible for determining whether a treaty has been breached by another party, whether a treaty is no longer viable because of changed circumstances, and even whether to ratify a treaty after the Senate has given its advice and consent. The court said that, ''In contrast to the lawmaking power, the constitutional initiative in the treaty-making field is in the President, not Congress.'' Moreover, the court stated that, to require Senate or Congressional consent to terminate a treaty would lock the United States into ''all of its international obligations, even if the President and two-thirds of the Senate minus one firmly believed that the proper course for the United States was to terminate a treaty.'' It would, therefore, deny the President the authority and flexibility ''necessary to conduct our foreign policy in a rational and effective manner.''

Finally, the court determined that ''of central significance'' was that the Mutual Defense Treaty—as my colleague Senator KENNEDY had also pointed out in his article—contains a termination clause that ''is without conditions,'' and spells out no role for either the Senate or Congress. As a consequence, the court concluded, the power to act under that clause ''devolves upon the President.'' The facts are the same with the 1972 ABM Treaty, and, therefore, the law must also be consistent.

I should note that President Carter did not stand alone in exercising his power to unilaterally terminate a treaty. According to David Gray Adler's The Constitution and the Termination of Treaties, unilateral executive termination has been practiced since the Lincoln Administration, and seems to be the most commonly used method of terminating treaties. And as the D.C. Circuit stated in Goldwater v. Carter,

> It is not without significance that out of all of the historical precedents brought to our attention, in no situation has a treaty been continued over the opposition of the President.

It is interesting to me members of the Senate have also raised the issue of the President's authority to withdraw from a particular treaty without legislative consent in the context of debating the resolution of ratification of a treaty. During the Senate's consideration of the Comprehensive Test Ban Treaty, CTBT, proponents of the CTBT argued that Safeguard F of that treaty meant that the President alone could exercise the right of withdrawal from the treaty. Safeguard F states:

> If the President of the United States is informed by the Secretary of Defense and the Secretary of Energy—advised by the Nuclear Weapons Council, the Directors of DOE's nuclear weapons laboratories and the Commander of the U.S. Strategic Command—

that a high level of confidence in the safety or reliability of a nuclear weapon type which the two Secretaries consider to be critical to our nuclear deterrent could no longer be certified, the President, in consultation with Congress, would be prepared to withdraw from the CTBT under the standard ''supreme national interests'' clause in order to conduct whatever testing might be required.

As Senator BIDEN stated on the Senate floor on October 12, 1999:

They have to assume, then, that the President, knowing that this stockpile is no longer reliable, would look at the U.S. Congress and say: I, President whomever, next President, certify that we can rely on our stockpile. They either have to assume that or they have to assume their concern about our stockpile is not a problem because the moment the President is told that, he has to call us and tell us and withdraw from the treaty . . .

Senator BOXER likewise argued that withdrawal from the treaty would be exclusively the responsibility of the President during her remarks on the Senate floor on October 13, 1999, stating,

If our stockpile is not safe and reliable, the President will withdraw from the treaty. There doesn't have to be a Senate vote. It's not going to get bogged down in the rules of the Senate. If there is a supreme national interest in withdrawing from the treaty, we will withdraw.

Indeed, even some Senators openly opposed to the President's decision to withdraw the United States from the ABM Treaty have recognized his constitutional authority to make the decision without the consent of the Senate or Congress. In December 2001, Inside Missile Defense quoted Senator DASCHLE on the subject:

It's my understanding that the President has the unilateral authority to make this decision. But we are researching just what specific legal options the Congress has, and we'll have to say more about that later . . . at this point, we're very limited in what options we have legislatively.

Similarly, according to a July 2001 article in the New York Times, Senator LEVIN stated,

The president alone has the right to withdraw from a treaty, but Congress has the heavy responsibility of determining whether or not to appropriate the funds for activities that conflict with a treaty.

My own view is that while it would be anomalous for Congress to withhold funding for a national missile defense system, Senator LEVIN is correct on both counts: withdrawal is the President's decision and any funding for anything must be through Congressional appropriation.

In conclusion, I believe history will judge President Bush's notice of withdrawal from the 1972 ABM Treaty as equal in importance to his historic decision to commit the United States to the war on terrorism. With the withdrawal decision, he has paved the way for the United States to work aggressively toward deployment of defenses to protect the American people against the growing threat of a ballistic missile attack.

In announcing his intent to withdraw the United States from the treaty, President Bush acted in accordance with changed international circumstances and our national interests—reestablishing the important doctrine of ''peace through strength'' as the basis for U.S. security policy. And he acted within the authority granted by the Constitution to the Chief Executive.

I commend the President for arriving at a very difficult decision. As we all know, the role of Congress has not ended with our withdrawal from the treaty—the annual budget process can be used to either undermine or support the President's decision, a matter I will address in a future presentation. But for now, an essential first step in moving forward to protect the United States against a serious threat has finally been taken, and the President should be commended for his action.

ENHANCED BORDER SECURITY AND VISA ENTRY REFORM

Mr. KYL. In the remaining time I have I would like to address a matter that will be before the Senate as the pending business as soon as we conclude morning business; that is, the Enhanced Border Security and Visa Entry Reform Act, H.R. 3525. The sponsors of this legislation all spoke to the reasons for this legislation on Friday when the matter was brought to the floor at 11:30 by unanimous consent request of the majority leader. I thank Majority Leader DASCHLE for bringing this matter to the Senate floor so we can dispose of it.

A little bit of history is in order. The sponsors of the legislation—Senators KENNEDY, BROWNBACK, FEINSTEIN, and myself—had worked hard to develop this legislation in the aftermath of September 11 because we held hearings in two different subcommittees of the Judiciary Committee that revealed loopholes in our immigration laws, loopholes through which some of the terrorists who came here and carried out their horrible attack on September 11 were able to gain entry into the United States. They came on legal visas, visas that in some cases should never have been granted. They were here under student visas, even though they no longer attended the classes they had signed up to attend. In the case of some of them, they were out of status by the time of September 11.

We set about to identify loopholes in our immigration and visa laws that we could close to make it much more difficult for terrorists to gain entry into the United States. That legislation was developed before the end of last year's congressional session and was actually adopted by the House of Representatives just before we adjourned for the year. We attempted to have it adopted by the Senate, but Senator BYRD objected on the grounds that it required Senate debate, and he didn't want to simply adopt it as a matter of unanimous consent.

At the beginning of this year, we sought to find ways to bring the bill to the Senate floor for that debate and amendment, if need be, and had not been successful until the end of last week when, as I said, the majority leader successfully propounded a unanimous consent request that the Senate take the bill up. There is no limitation on time nor on amendments, but there has been such a strong outpouring of support for the bill—indeed, I think there are some 61 cosponsors, and that probably reflects the fact we have not gotten around to all the Members of the Senate, that it is clear the bill can pass very quickly as soon as we are ready to call for the final vote. But out of deference to those who believed it did need debate, that opportunity has been made available.

The only people I am aware of who spoke on the legislation on Friday were the four cosponsors: Senators KENNEDY, BROWNBACK, FEINSTEIN, and myself. We all laid out the case, to one degree or another, for the legislation and urged our colleagues who may have something to say about it to come to the floor and express themselves. Indeed, if there were amendments, we would be happy to entertain those amendments.

We are obviously hopeful there will not be, so we can simply adopt the legislation approved by the House and we can send it to the President for his signature. Why is this our goal? Each week that goes by without this legislation being in place represents an opportunity for a terrorist to gain entry into the United States. We have to close the loopholes. Most of the actions the legislation calls for are going to take time to implement, so it is not as if we can slam the door shut the minute the President signs the bill. We have to put into place procedures, for example, whereby the FBI, CIA, international organizations, and others can all make available, to the people who grant visas, information that bears upon the qualifications of the people seeking entry to the United States, people who apply for the visas—information that might suggest, for example, that there is a connection with a terrorist group and therefore the visa ought to be denied.

That is going to take time to implement, as will other provisions of the legislation. So time is wasting. We know there is no—I was going to state it in the negative. I was going to say there is no evidence the terrorists have given up the ghost here. I think there is a lot of evidence that they will try to strike us when they believe they can, and when they see us as having a point of vulnerability. That is why we have to begin to close these windows of vulnerability as soon as possible.

The head of the INS has indicated he thinks some of the timeframes for achievement of results under this legislation may even be pretty difficult for INS to meet, which is to say it is all the more important to begin now to close these loopholes because it is going to take a while to get everything

in place, to effectuate all of the pieces of this legislation.

That goes back to my point that we have to get this signed as soon as possible. If there are amendments to the legislation here on the Senate floor, then it will have to go to a conference committee. That is all right, assuming we can get the conference to act quickly and bring the bill back to both the House and the Senate. But it is important we do that so the President can sign the legislation.

I appeal to my colleagues who have something to say about this, especially those who believed we should not consider it without debate on the floor, to come to the Chamber and explain their views on it, and to offer any amendments if they have amendments, so we can deal with those amendments and get on with our business.

I know the majority leader was reluctant to do this before without an agreement to have a specific time limit on debate because he wanted to complete work on the energy bill by the end of this week—as do, I think, almost all of us. I am sure all of us would like to be done with the energy bill. But we are not going to be able to finish that if we cannot quickly finish the Enhanced Border Security and Visa Entry Reform Act.

Again, I call upon my colleagues to come over. Let's finish the job and get this done.

I would like to say one other thing because there is a little element of confusion about something in section 245(i). Section 245(i) is a provision of the immigration law that allows for people who want to gain permanent status in the United States under two specific provisions to do so. Its provisions had terminated with respect to a large group of people, maybe 200,000 or 300,000 people, who wanted to gain permanent residence but whose legal status in the United States terminated and therefore they would have had to go back to their country of origin and apply for that status.

What some people wanted to do, including the administration, was to extend the period of time that they could make their application and complete that process so they could be allowed to stay in the United States permanently. Some of this involves reunification of families, for example.

In an effort to support the administration and to accommodate the interests of those who wanted to do that, there was an agreement between Senator KENNEDY and myself—and others—about exactly how that should be done. We both committed ourselves to trying to achieve the ratification of the temporary extension of section 245(i). The House of Representatives actually passed a second version of the Enhanced Border Security and Visa Entry Reform Act, a version which included section 245(i) with it. They did that earlier this year. That bill is pending at the desk.

It has not been called up for consideration, but I want my colleagues to know that is where this debate about section 245(i) comes into effect. There are some who believe section 245(i) represents a grant of amnesty to people. Perhaps one could argue that is, to a limited extent, true.

They are concerned that it represents the first step in a broader grant of amnesty. I hope that is not the case. But they have some concerns they have expressed about it. I hope we do not confuse the issue of 245(i) with H.R. 3525, the bill pending at the desk that we will be taking up again in just a few minutes—we can quickly pass H.R. 3525, get it to the President for signature, and then deal with section 245(i)—because I believe we need to deal with it, but I believe it will be easier to deal with outside the context of H.R. 3525.

Here is the reason I say that. I urge my colleagues who may be thinking about combining the two just to think about this for a moment. I believe we have an excellent chance of getting both of these things passed. But I think we may have an excellent chance of getting neither of them passed if they are combined. The reason is, I am concerned the Members of the House of Representatives may not be as inclined to vote for section 245(i) again as they were before. As a result, if we put this into conference and the question were put to the Members of the House, I am not certain they would vote for it. Nor am I sure that those who are opposed to section 245(i) in this body would permit it to come to a vote if it had to be brought back to this body as part of the Border Security and Visa Entry Reform Act.

So I urge my colleagues who support this to bear with us and understand we can have both of these things if we treat them separately. Those who oppose 245(i) will have a full opportunity to debate it and amend it if necessary, and to have a vote on it. But I hope that in an effort to kill section 245(i), they will not also be willing to kill H.R. 3525. I just tell my colleagues, if you try to combine 245(i) with H.R. 3525, you may be signing the death warrant for both, and I do not think that is the intent, of some people, anyway, who have talked about the possibility of filing an amendment relating to section 245(i) on H.R. 3525.

So I call on my colleagues to come to the floor and debate this legislation. If they have amendments, let's offer the amendments and try to dispose of them.

I see Senator KENNEDY is here, with whom I worked closely on this legislation. Frankly, we would not be where we are without all the work he has put into it. I am sure he will join me in asking those who have anything at all to say about it to come to the floor and say it so we can get on with it, take our vote, and then get back on the energy bill which obviously we want to conclude by the end of this week.

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

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

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 3525, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 3526) to enhance the border security of the United States, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. 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. Mr. President, 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, I spoke at some length on Friday, and I will only take a few moments now. If there are Members who desire to seek recognition to offer an amendment, I will yield the floor.

I just want to, as we come back to the discussion at the start of this week, once again underline the importance of the legislation; but, secondly, I want to mention the various groups that are in strong support of it.

Again, I am enormously grateful to my friend and colleague, Senator FEINSTEIN, who spends a great deal of time on immigration issues, as do Senators KYL and BROWNBACK. I commend all of them for their wonderful work in helping develop this legislation. They all have spoken very effectively on this legislation and have made a very strong case for it.

I will mention again the various groups that are in strong support of the legislation. It is always a fair indication of the breadth of support.

First of all, we have the principal student organizations that deal with international education. This is extraordinarily important because one of the most complicated and difficult issues is trying to know, when educational visas are given, whether the student comes to the United States; and when they come and gain entrance, whether they actually attend the college, whether they attend the classes,

whether they graduate. They can have those visas for a long period of time, and it is very easy to lose complete track of them.

We have worked out a very effective and detailed way of making sure the Immigration Service is going to know the whereabouts of those students.

The Alliance for International Education and Culture Exchange says:

> We have worked with your staffs as the legislation developed and had opportunities for input to help ensure the bill strikes the right balance between our strong national interests and increased security and continued openness and exchange of visitors, students and scholars from around the world. We believe this legislation accomplishes this goal.

The National Association for International Educators has a similar endorsement:

> We have worked closely with your offices. While at the same time maintaining openness to international students and scholars, we also understand the national security issues.

That is enormously important. We are grateful for their strong support. The Chamber of Commerce has indicated its strong support for the legislation. The important reliance on biometrics, we had good hearings on how we can benefit from the various breakthroughs taking place in that area of science and research. We have worked very closely with the biometric industry, and the International Biometric Industry Association is strongly in support of the legislation.

Another group of supporters includes the broad group of organizations that understand immigration law. The American Immigration Lawyers Association, an organization which spends a great deal of time on immigration and immigration law, has been a strong supporter, as well as the various church groups, church world services, and civil rights groups. Supporters include the Leadership Conference on Civil Rights, the Council of La Raza, and the National Immigration Forum. So the basic overall groups we rely on that work on the settlement of refugees, work with immigrants and this settlement, work with various families, all reviewed these various provisions. They understand what we are attempting to do, and that is to maintain our historic role in terms of the reunification of families.

We have important national security issues as well in trying to work out that balance. These groups have been very supportive of what we have done, which is, again, reassuring.

Finally, the most important compelling letter from the Families of September 11. We had wonderful testimony from MaryEllen Salamone, who is director of the Families of September 11, in support of this legislation, very moving testimony. I commend those who have lost loved ones who are channeling their grief into useful and productive and constructive action, in this case, to try to make our country more secure in terms of the dangers of terrorists. Her very strong testimony and the support of the Families of September 11th is enormously important.

I am sure there are ways that we could have done this more effectively. We have the National Border Patrol Council that is strongly supportive of the program as well.

We have tried to balance the various interests we have talked about: One, making sure we are going to collect and have the appropriate sharing of information about foreign terrorists—and we set up a very important and up-to-date technology to be able to get to do that—getting the intelligence about potential terrorists into the hands of the Nation's gatekeepers in real time; it creates the layers of security with multiple opportunities to stop someone intent on doing us harm; it eliminates opportunities for terrorists to hide behind fraudulent travel documents, which is so important; and it determines how our Government might best work with the Governments of Canada and Mexico to deter terrorists arriving in North America in the first place and to manage our land borders in ways that deter the dangerous passage of people and cargo while facilitating the lawful and orderly passage of commerce and people who benefit our country.

This is what we have attempted to do. As I say, we welcome the opportunity to consider the amendments or to go into greater discussion of the particular provisions as the afternoon goes on. We invite our colleagues who have amendments to offer them. We were ready on Friday last to consider them. We spent some time in the afternoon in the presentation. Those Members who had the opportunity to read through the record will understand both the substance of this legislation and the very broad and wide support. We are hopeful we can make progress through the course of the afternoon.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. Mr. President, I see the Senator from West Virginia in the Chamber. I know he would like to speak. Any time he stands up, I will end my remarks and allow the Chair to recognize him.

I did want to add to the comments Senator KENNEDY has made. I am very pleased that Senators KENNEDY, BROWNBACK, KYL, and I have joined in authorizing this legislation. I am very proud that more than 60 of our colleagues have joined in cosponsoring it. I had a chance on Friday, along with the other Senators, to describe the legislation. I would like to make a few comments now.

I sincerely believe, in the wake of September 11, this is the most important bill this Senate can pass in terms of being able to begin to fix what is a very broken system and also to begin to change our priorities.

Our immigration policies have been in the past largely driven by our humanitarian and economic interests. That has changed today because we now realize that security of our borders is extraordinarily important and that our visa system, as a product of many errors and many instances in which it doesn't produce the dividends that it was expected to produce for a lot of reasons, needs changing.

Before September 11, just over 300 U.S. Border Patrol agents were assigned to the job of detecting and intercepting illegal border crossers along our vast 4,000-mile United States-Canadian border. Nine hundred State Department consular officers were assigned to conduct background checks and issue visas to 6 million foreign nationals seeking to enter the United States in a whole host of capacities—as students, tourists, temporary workers, and as temporary visitors.

The State Department's policy was that consular officers did not have to perform extensive background checks for students coming from such terrorist-supporting states as Syria or Sudan. Only an intermediate background check was required for Iranian students. More extensive checks were required for students from Iraq and Libya.

Frontline agencies, such as the INS, were chronically understaffed, used obsolete data management systems, and had substantial management problems. We all knew that. Today, the INS does not have a reliable tracking system to determine how many of our visitors legitimately enter the United States and how many leave the country after their visas expire.

It almost seems effortless, the way the terrorists got into this country. They didn't have to slip into the country as stowaways on sea vessels or sneak through the borders evading Federal authorities. Most, if not all, appeared to have come in with temporary visas, which are routinely granted to tourists, students, and other short-term visitors to the United States.

Clearly, our guard was down. September 11 clearly pointed out other shortcomings of the immigration and visa system. Just the sheer volume of travelers to our country each year illustrates the need for an efficiently run and technologically advanced immigration system. Most people don't really realize how many people come into our country, how little we know about them, and whether they leave when they are required to leave.

Each year, we have over 300 million border crossings of individuals from other countries. For the most part, these individuals are legitimate visitors to our country. We currently have no way of tracking all of them. We had 30.4 million nonimmigrants entering

the United States during one year, 1999. That is the most recent year for which INS has statistics. Now, 23 million of them entered as tourists on the visa waiver program—23 million from 28 different countries. No visas, little scrutiny, no knowledge where they go in the United States or whether they leave once their visas expire.

Another startling fact is that the INS estimates that over 100,000 blank passports have been stolen from government offices in participating countries in the visa waiver program in recent years. Now, why is that significant? Right now, countries that participate are not required to report information on missing passports. That will change under this bill. The number of passports reported stolen or lost by visa waiver countries is not always entered into the lookout database or entered in a timely manner. That, too, will change when this legislation is enacted.

Abuse of the visa waiver program poses threats to U.S. security and increases illegal immigration. These visas are often sold on the black market for as much as $7,500 per visa. Passports from visa waiver countries are often the document of choice for terrorists.

Consider this: Ahmed Ressam, the Algerian convicted of plotting to blow up the Los Angeles International Airport in 1999, trafficked in a number of these false passports, at least one of which was linked to a theft from a townhall in Belgium, a visa waiver country. In addition, two members of an al-Qaida cell who assassinated the Northern Alliance leader Ahmed Shah Massoud just before September 11 traveled from Brussels to London to Karachi on stolen Belgian passports. Mr. Robert Reid—the shoe bomber—had a visa from the United Kingdom, another visa waiver country. These are some of the problems our bill seeks to stop in the visa waiver program.

Each year, more than a half million foreign nationals enter with student visas. Most recently, 660,000 foreign students entered in the fall of 2001. That is just last fall. Within the last 10 years, 16,000 have come from such terrorist-supporting States as Iran, Iraq, Sudan, Libya, and Syria.

The foreign student visa system is one of the most underregulated systems we have today. We have seen bribes, bureaucracy, and many problems with this system that leave it wide open to abuse by terrorists and other criminals. For example, in the early and mid 1990s, in my own State of California, in the San Diego area, 5 officials at 4 California colleges were convicted of taking bribes, providing counterfeit education documents, and fraudulently applying for more than 100 foreign student visas. These are university officials in that area who practiced fraud and said students were there when they were not, and they falsified grades. They were convicted for doing so.

However, it is unclear what steps the Immigration and Naturalization Service took to find and deport the foreign nationals involved in that scheme. It has been all too clear to those of us on the committee—Senators KENNEDY and BROWNBACK on Immigration, and Senator KYL and I on the Technology and Terrorist Subcommittee—that without an adequate tracking system, our country becomes a sieve, which is what it is today, creating ample opportunities for terrorists to enter and establish their operations without detection.

Consider these facts:

On May 28, 2001—last May—11 months ago, a criminal warrant was issued for Mohamed Atta's arrest in Broward County, FL, after he failed to appear in court for a traffic violation. On July 5, Atta was pulled over for speeding in Palm Beach, FL. At that time, the officer conducted a criminal search on Atta and found no outstanding warrants. After a trip to Spain, in which he allegedly met with coconspirators, Atta entered the United States for the final time—that was on July 19—despite past illegal incidents and the fact that his name was on a terrorist watch list. Instead, Atta was allowed into the United States as a nonimmigrant visitor after informing an INS officer that he had applied for a student visa.

One of the hijackers entered on a student visa and, though he never showed up for classes, was never reported because the INS stopped taking such reports in 1988. In other words, the INS doesn't even take reports if you don't show up for class when you come in on a foreign student visa.

In December 1999, Ahmed Ressam, otherwise known as the ''millennium bomber,'' crossed the northern border into the United States with the intent to bomb Los Angeles International Airport. He presented a legitimate Canadian passport under the name Benny Norris, and a computer check of Norris showed no reason to detain him.

However, had they checked the name Ahmed Ressam, they would have found that Ressam had been arrested four times in Canada, had a pending warrant for deportation, and was being investigated by the French and Canadian Governments for being a terrorist. It was only because a U.S. Customs agent in Port Angeles, WA, voiced suspicions about his demeanor, causing Ressam to flee on foot, that Ressam was then arrested.

This man had an extensive criminal record and terrorist ties. Yet there was no data system to supply the Border Patrol with such crucial information.

Clearly, existing technologies that employed biometric identifiers could have been used to uncover Ressam's criminal background even though he had used a false name. We do this in our bill.

We must make it more difficult for foreign visitors to enter our country using false identification and take sufficient steps to combat and prevent identification and visa fraud.

The world might well be in an electronic age, but agencies such as the INS are still struggling with the paper-bound, bureaucratic system. Even in instances where technological leaps have been made, like the issuance of more than 4.5 million smart border crossing cards with biometric data, the technology is still not being used. In other words, we appropriated the money, 4.5 million of these technologically superior cards were issued, but INS never put in the laser reading systems.

According to the Department of Justice inspector general, INS has approximately 100 different automated information systems for each function of the agency. Few of these systems talk to each other. This is a stark reminder of how much work needs to be done to fix our broken immigration system.

By now, we are all aware of the various proposals that have emerged to restructure or dismantle the INS. While restructuring the INS is certainly an idea worth examining, the most immediate need today is for Congress to enact this legislation because restructuring it is not going to cure any of the problems we address in this legislation. Restructuring it does not provide additional inspectors, does not provide additional border patrol, does not provide for an interoperable database system, does not provide for visa waiver reform, does not provide for student visa oversight monitoring and tracking.

Our bill would do just these things. It attempts to transform agencies, such as the INS, from a paper-driven bureaucracy to one that better manages its mission by upgraded information management and sharing systems. It would enable the INS and consular offices to access vital intelligence information in real time before they issue visas and permit entry to the United States.

The INS has often argued that it did not have sufficient intelligence to prevent the terrorists from entering the United States. However, this failure of intelligence information does not explain why the INS would admit at least three terrorists who clearly were inadmissible at the time they were permitted to enter the country.

Last year, in the subcommittee that I chair and on which Senator KYL is the ranking member, we heard the testimony of Assistant Secretary of State for Consular Affairs, Mary Ryan. She testified that the consular staff felt terrible because they had granted visas to some of the 19 terrorists. At least three of the hijackers, including Mohamed Atta, the alleged ringleader, had stayed in the United States longer than authorized on their previous visits, making their visas invalid. Because the consular officers had no information on these individuals, they had no reason at the time to deny the visas.

If the INS had a system in place to identify visa overstayers, this might have enabled both the State Department to further investigate the backgrounds of the terrorists and the INS

inspectors to enforce the law by stopping these terrorists before they entered the country.

The INS should have had the information at their disposal. They either did not collect the information or they did not have the means for the INS inspectors on the front lines to access it.

In the wake of September 11, we know the chances of another terrorist attack are great, and we know it is unconscionable for our systems to allow entry of another terrorist into the United States. Unless we move on this bill, we cannot possibly remedy the faults in our system.

The legislation would require the Attorney General and the Secretary of State to issue machine readable, tamper resistant visas that use standardized biometric identifiers. This in itself is a big improvement. I myself have visited streets where in a half hour, one can buy a green card that certainly no layperson can tell the difference between a forged green card produced on this street in Los Angeles and a real green card.

Our bill allows INS inspectors at ports of entry to determine whether a visa properly identifies a visa holder and, thus, combats identity fraud.

Second, it will make visas harder to counterfeit.

Third, in conjunction with the installation of scanners at all ports of entries to read the visas, the INS can track the arrival and departure of aliens and more reliably identify aliens who overstay their visas.

The bill also provides that aliens from countries that sponsor international terrorism cannot receive nonimmigrant visas unless the Attorney General and the Secretary of State determine that they do not pose a threat to the safety of Americans or the national security of our country.

American embassies and consulates abroad will be required to establish terrorist lookout committees that meet monthly to ensure that the names of known terrorists are routinely and consistently brought to the attention of consular officials, our Nation's first line of defense.

The bill contains a number of other related provisions as well, but the gist of the legislation is this: Where we can provide law enforcement, more information about potentially dangerous foreign nationals, we do so. Where we can reform our border crossing system to weed out or deter terrorists and others who would do us harm, we do so. And where we can update technology to meet the demands of the modern war against terror, we do that as well.

As we prepare to modify our immigration system, we must be sure to enact changes that are realistic and feasible. We must also provide the necessary tools to implement them.

The legislation Senators KENNEDY, BROWNBACK, KYL, and I have crafted is an important and strong first step, but this is only the beginning of a long, difficult process.

As the Senator from West Virginia has pointed out, this legislation is only as good as the appropriations that follow forthwith. The annual cost is about $1.1 billion. The 3-year cost is about $3.5 billion. This leaves for this year about $753 million that we will have to come up with to meet the cost of the first year. My understanding is that this money is available in unallocated dollars, but that, of course, has to be checked out, or we should take it from another source.

I guess the biggest assurance I can give, as a lowly appropriator, to the distinguished powerful chairman of the Appropriations Committee, is I will do my level best to lobby my colleagues to produce the money and, with whatever influence I probably do not have with the administration, try to influence the administration, as well, because I truly believe if we are to protect our people, this bill is a prerequisite. Unless we tighten up our loopholes and provide the funding for the technology we need, we are going to be nowhere. That is not to say that a terrorist still cannot come in, but it is to say we can make it very much more difficult for them.

So I conclude by saying that for some time many of us have been calling for reforms of our visa and border security system. We should have acted in 1993. We did not, and that left us vulnerable to the events of September 11. We are now in a position where we are reacting to this latest tragedy, and I think it is really important we act now to get this legislation on the books. Then it is up to each and every one of us to do everything we possibly can to see that it is funded promptly and, more importantly, for the Immigration Subcommittee to really exercise oversight over the INS and oversight over the Consular Affairs Division of the State Department to see that the necessary reforms do get put in place with respect to the visa system.

There is not much else I can say, but I ask unanimous consent to have printed in the RECORD, without going through it again because I went through it on Friday, a summary of the bill and also some critical statistics on the number of people coming into our country, and particularly the specific status under which they come and the loopholes that exist.

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

ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2001—FACTS AND STATISTICS

FOREIGN-BORN IN THE UNITED STATES

An estimated 30 million foreign-born residents lived in the U.S. in 2000.

Between 8 and 9 million are residents without legal status (i.e., either they entered illegally or overstayed a temporary visa)—40 percent of that total were visa overstays.

30.4 million nonimmigrants entered the U.S. during 1999 (the most recent year for which the INS has statistics)—23 million of them entered as tourists on the Visa Waiver Program (according to State Department statistics); 6 million of them were issued nonimmigrant visas as students, tourists, temporary workers and other temporary visitors (only 900 State Department consular officers, mostly junior staff, are assigned to issue these visas and conduct background checks); and 660,000 were foreign students who had entered in Fall 2001.

Foreign students

660,000 foreign nationals held student visas in Fall 2001—more than 10,000 enrolled in flight training, trade schools and other non-academic programs; and more than 16,000 came from terrorist supporting countries.

Some 74,000 U.S. schools are allowed to admit foreign students, but checks of the schools on the current INS list found that some had closed; others had never existed.

Exactly six months after the 9/11 attacks, Huffman Aviation in Venice, Fla. received student visa approval forms for Mohamed Atta and Marwan Al-Shehhi. The men were aboard separate hijacked planes that struck the World Trade Center towers, killing thousands.

VISA WAIVER PROGRAM

23 million foreign visitors enter the U.S. each year under the Visa Waiver Program.

There are now 28 countries that are included in the program.

Earlier this year, Argentina was dropped from the program because of the country's political and economic instability.

Current Inspections System

Because visitors traveling to the U.S. under the Visa Waiver Program do not need a visa to enter the U.S., INS inspectors at U.S. ports of entry are the principle means of preventing unlawful entry of individuals from one of the 28 countries.

The primary tool available to INS inspectors during the inspections process is the Interagency Border Inspection System, known as IBIS, which allows INS inspectors to search a variety of databases containing records and lookouts of individuals of particular concern to the U.S.

A 1999 Office of the Inspector General (OIG) report found, however, that INS inspectors at U.S. ports of entry were not consistently checking passport numbers in IBIS.

INS officers also failed to enter lost or stolen passports from visa waiver countries into IBIS in a timely, accurate or consistent manner.

One senior INS official from Miami International Airport told the OIG that he was not even aware of any INS policy that required the entry of stolen passport numbers.

Anti-fraud enforcement

In a report released in February 2002, the U.S. General Accounting Office said that anti-fraud efforts at the INS are ''fragmented and unfocused'' and that enforcement of immigration laws remains a low priority.

The report found that the agency had only 40 jobs for detecting fraud in 4 million applications for immigrant benefits in the year 2000.

NATIONAL SECURITY

In FY 1999, the Department of State identified 291 potential nonimmigrants as inadmissible for security or terrorist concerns.

Of that number, 101 aliens seeking nonimmigrant visas were specifically identified for terrorists activities, but 35 of them were able to overcome the ineligibility.

47 foreign-born individuals—including the 19 September 11th hijackers—have been charged, pled guilty or convicted of involvement in terrorism on U.S. soil in the last 10 years.

41 of the 47 had been approved for a visa by an American consulate overseas at some point. Thus, how we process visas is critically important.

Only 3 entered without inspection (illegally) into the United States and thereby avoided contact with an immigration inspector at a point of entry.

This means that 44 of the 47 had contact with an inspector at a point of entry.

Of the 47 terrorists, at least 13 had overstayed a temporary visa at some point prior to taking part in terrorist activity, including September 11th ring leader Mohamed. Therefore, tracking visa overstays is therefore a very important part of terrorism prevention.

The terrorists who entered on student visas took part in the first attack on the Trade Center in 1993, the bombing of U.S. embassy in Africa in 1998, and the attacks of September 11th. Therefore, how we process and track foreign students is clearly important.

Some reports indicate that Khalid Al Midhar, who probably flew American Airlines flight 77 into the Pentagon, was identified as a terrorist by the CIA in January 2001, but his name was not given to the watch list until August 2001.

Unfortunately, he had already reentered the United States in July 2001. (I should point out that there is some debate about exactly when the CIA identified him as a terrorist).

But, if it really did take the CIA several months to put his name on the list as PBS' Frontline has reported, then that is a serious problem because we might have stopped him from entering the country had they shared this information sooner. This speaks to the issue of sharing information between federal agencies.

Absconders/detainees

In December 2001, INS estimated that 314,000 foreigners who have been ordered deported are at large.

More recent estimates released in March 2002 suggest that there may be at least 425,000 such absconders.

At least 6,000 were identified as coming from countries considered Al Qaeda strongholds.

BORDER AGENCY STATISTICS

There are 1,800 inspectors at ports of entry along U.S. borders.

The Customers Service has 3,000 inspectors to check the 1.4 million people and 360,000 vehicles that cross the border daily.

The 2,000-mile long Mexican border has 33 ports of entry and 9,106 Border Patrol agents to guard them all.

In October 2001, there were 334 Border Patrol agents assigned to the nearly 4,000-mile long northern border between the U.S. and Canada. This number of agents cannot cover all shifts 24 hours a day, 7 days a week, leaving some sections of the border open without coverage: The Office of the Inspector General found that one northern border sector had identified 65 smuggling corridors along the 300 miles of border within its area of responsibility; and INS intelligence officers have admitted that criminals along the northern border monitor the Border Patrol's radio communications and observe their actions and this enables them to know the times when the fewest agents are on duty and plan illegal actions accordingly.

350 million foreign nationals enter the U.S. each year.

The INS estimates that approximately 40 to 50 percent of the illegal alien population entered the U.S. legally as temporary visitors but simply failed to depart when required.

An estimated 40 percent of nonimmigrants overstay their visas each year. 9 million illegal and 4 million visa overstayers.

THE ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT—SUMMARY

The legislation would:

Create interoperable data system.—The Administration would be required to develop and implement an interoperable law enforcement and intelligence data system by October 26, 2003 to provide the INS and State Department immediate access to relevant law enforcement and intelligence information.

The database would be accessible to foreign service officers issuing visas, federal agents determining the admissibility of aliens to the U.S. and law enforcement officers investigating and identifying aliens. The bill also prevents and protects against the misuse of such data.

Reform the visa waiver program.—The bill would require that each country participating in the visa waiver program issue tamper-resistant, machine-readable biometric passports to its nationals by 2003.

Require the reporting of lost or stolen passports.—The INS would be required to enter stolen or lost passport numbers into the interoperable data system within 72 hours of notification of loss or theft. And until that system is established, the INS must enter that information into an existing data system.

Require new requirements for passenger manifests.—All commercial flights and vessels coming to the U.S. from international ports must provide manifest information about each passenger, crew member, and other occupant prior to arrival. This section of the bill also eliminates the 45-minute deadline to clear arriving passengers.

Require new travel document measures.—Requires all visas, passports, and other travel documents to be fraud and tamper-resistant and contain biometric data by October 26, 2003.

Increase scrutiny of nonimmigrants from certain countries.—Prohibits the issuance of nonimmigrant visas to nationals from countries designated as state sponsors of international terrorism, unless the Secretary of State, after consulting with the Attorney General and the heads of other appropriate agencies, determines that the individuals pose no safety or security threat to the United States.

Institute student visa reforms.—Reforms the student visa process by:

Requiring the Attorney General to notify schools of the students entry and requiring the schools to notify the INS if a student has not reported to school within 30 days at the beginning of an academic term. The monitoring program does not, at present, collect such critical information as the student's date of entry, port of entry, date of school enrollment, date the student leaves school (e.g., graduates, quits), and the degree program or field of study. That and other significant information will not be collected.

Requiring the INS, in consultation with the State Department, to monitor the various steps involved in admitting foreign students and to notify the school of the student's entry. It also requires the school to notify INS if a student has not reported for school no more than 30 days after the deadline for registering for classes.

Requiring the INS to conduct a periodic review of educational institutions to monitor their compliance with record-keeping and reporting requirements. If an institution or programs fails to comply, their authorization to accept foreign students may be revoked.

While the INS is currently responsible for reviewing the compliance of educational institutions, such reviews have not been done consistently in recent years and some schools are not diligent in their record-keeping and reporting responsibilities.

Increase more border personnel. This section authorizes an increase of at least 1,000 INS inspectors, 1,000 INS investigative personnel, 1,000 Customs Service inspectors, and additional associated support staff in each of the fiscal years 2002 through 2006 to be employed at either the northern or southern border.

Increase INS pay and staffing. To help INS retain border patrol officers and inspectors, this section would raise their pay grade and permit the hiring of additional support staff.

Enhance Border patrol and customs training. To enhance our ability to identify and intercept would-be terrorists at the border, funds are provided for the regular training of border patrol, customs agents, and INS inspectors. In addition, funds are provided to agencies staffing U.S. ports of entry for continuing cross-training, to fully train inspectors in using lookout databases and monitoring passenger traffic patterns, and to expand the Carrier Consultant Program.

Improve State Department information and training. This section authorized funding to improve the security features of the Department of State's screening of visa applicants. Improved security features include: better coordination of international intelligence information; additional staff; and continuous training of consular officers.

WHY IS THIS IMMIGRATION REFORM NECESSARY?

Six months to the day after Mohamed Atta and Marwan Al-Shehhi flew planes into the World Trade Center, the Immigration and Naturalization Service notified a Venice, Florida, flight school that the two men had been approved for student visas.

One week later, the INS discovered that four Pakistani crewmen, four Pakistani nationals were reported missing after an INS inspector had inappropriately allowed them to take shore leave after a ship docked in the Norfork, Virginia harbor.

On November 30, Senators Feinstein, Kennedy, Browback and Kyl introduced this bill to make sure these missteps do not happen again. This bill would help prevent terrorists from entering the United States by exploiting the loopholes in our immigration system.

The House passed this bill by voice vote on December 19, 2001 and again on March 12, 2002. It is now time for the Senate to act.

Facts to consider

As many as 3.5 to 4 million tourists, students and others legally entered the U.S. with visas, but later became illegal immigrants by remaining in the country long after their visas expire. The INS has acknowledged that the agency has no idea where they are.

Each year, we have 350 million border crossings. For the most part, these individuals are legitimate visitors to our country. We currently have no way of tracking all of these visitors.

47 foreign-born individuals—including the 19 September 11th hijackers—have been charged, plead guilty or convicted of involvement in terrorism on U.S. soil in the last 10 years.

41 of the 47 had been approved for a visa by an American consulate overseas at some point. Thus, how we process visas is critically important.

Other serious problems that have come to light

Foreign Students

Each year, more than 500,000 foreign nationals enter the U.S. with foreign student visas.

Within the last ten years, 16,000 came from such terrorist supporting states as Iran, Iraq, Sudan, Libya and Syria.

The foreign student visa program is severely under-regulated. During the 2000–2001 academic year, 3,761 foreign nationals from terrorist supporting countries were admitted into the U.S. on student visas.

Before September 11th, the State Department did not perform extensive background

checks for students coming from Syria or Sudan. An intermediate background check is required for Iranian students and more extensive checks are required for students from Iraq and Libya.

Last year, the National Commission on Terrorism warned, ''Of the large number of foreign students who come to this country to study, there is a risk that a small minority may exploit their student status to support terrorist activity.''

The problem is that the INS has no idea whether the students are registered at the schools that sponsored them or how many are in the United States today with expired visas.

Nor can the INS provide information on the number or the type of institutions who are eligible to accept foreign students into their academic programs. This type of information is essential to INS and the Congress' ability to exercise effective oversight over the visa program.

Foreign Student Visa Fraud

In the early 1990s for example, five officials at four California colleges, were convicted of taking bribes, providing counterfeit education documents and fraudulently applying for more than 100 foreign student visas.

When asked what steps the INS took to ensure that the college would comply with the terms of the program in the future, INS staff said no steps were taken. When asked about the fate of the 100 foreign nationals who fraudulently obtained foreign student visas, the INS had no idea.

Visa Waiver

The Visa Waiver Program was designed to enable citizens from 29 participating countries to travel to the U.S. without having to first obtain visas for entry. Earlier this year, Argentina was dropped from the program, so now there are 28 participating countries.

An estimated 23 million visitors enter the U.S. under this program. This program has been subject to abuse and has, at times, facilitated illegal entry because it eliminates the need for visitors to obtain U.S. visas and allows them to avoid the pre-screening that consular officers normally perform on visa applicants.

As a result, checks by INS inspectors at U.S. ports of entry become the chief and sometimes only means of preventing illegal entry; INS inspectors have, on average, less than one minute to check and decide on each visitor.

The INS has also estimated that over 100,000 blank passports have been stolen from government offices in participating countries in recent years.

Abuse of the Visa Waiver program poses threats to U.S. national security and increases illegal immigration. For example, one of the co-conspirators in the World Trade Center bombing of 1993 deliberately chose to use a fraudulent Swedish passport to attempt entry into the U.S. because of Sweden's participation in the visa waiver program.

Information Sharing Among Federal Agencies

In a Judiciary Subcommittee hearing I held in September, Mary Ryan, the Assistant Secretary of State for Consular Affairs, said that the lack of information sharing is a ''colossal intelligence failure'' and that the State Department ''had no information on the terrorists from law enforcement.''

Right now, our government agencies use different systems, with different information and different formats, and they often refuse to share that information with other agencies within our government. This clearly, in view of September 11th, is no longer acceptable.

I am amazed that a person can apply for a visa and there is no mechanism by which the FBI or CIA can enter a code into the system to raise a red flag on individuals known to have links to terrorist groups and pose a national threat.

In the Wake of September 11th, it is hard for me to fathom how a terrorist might be permitted to enter the U.S. because our government agencies aren't sharing information.

I am also concerned about the current structure of information technology. An assessment made of the INS management and investment of information technology by the Department of Justice Inspector General revealed the INS cannot ensure that the money it spends each year on information technology will be able to support the service and enforcement functions of the agency.

Nor is the agency's information adequately protected from unauthorized access or service disruption. Moreover, the INS currently uses to many different data bases, many of which do not communicate with each other.

All these problems point to the dramatic need for change.

WHAT THE ''ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT'' DOES

This bill protects our nation's openness to newcomers while at the same time adds some prudent steps to our immigration policy to ensure that Americans are safe at home.

The bill's major provisions would:

Require the administration to create a computerized database system giving INS and the State Department, which issues visas, immediate access to law enforcement and intelligence service information. One of the 19 hijackers, Khalid Almidhar, may have appeared on a CIA watch list—well before he entered the country—that information was not shared with the INS.

Require U.S. universities and other educational institutions to notify the INS if a foreign student has not reported to school within 30 days of the start of the academic term. Two of the 19 highjackers came to the United States on student visas yet never showed up for class.

Tighten reporting requirements for the 500,000 people admitted annually on student visas.

Force airlines and shipping companies to provide passenger and crew manifests for every fight and ship originating at international ports before they arrive in the United States.

Require the 28 countries taking part in the Visa Waiver Program, which permits certain of their citizens to travel here for up to 90 days without first obtaining visas, to issue tamper-resistant biometric passports by 2003.

Prohibit the issuance of visas to nationals from countries designated as state sponsors of international terrorism unless they are carefully vetted and determined to pose no security threat to the United States. Such countries currently include Iraq, Iran, Syria. Libya, Cuba, North Korea and Sudan.

Even if we pass this legislation, it is still possible for a terrorist to sneak into this country and inflict serious harm. But, if we pass this important legislation, we can at least reduce substantially the probability that terrorists such as those who came here prior to September 11th will ever be able to launch that type of attack again.

Mr. BYRD. Will the Senator yield?

Mrs. FEINSTEIN. I certainly will yield to the Senator from West Virginia.

Mr. BYRD. That is an important question. It is one of the questions I wanted to raise. Where is the money? Is the President asking for the money in his budget? Did he ask for it in his supplemental request? Where is the money? Is his administration going to support the appropriations for this legislation?

This is one of the areas that I had difficulty with last December when I was importuned by the many Senators on both sides of the aisle to give unanimous consent that we take this bill up without any debate, without any amendments, and pass it.

One of the questions I wanted to ask was, What about the funding?

Mrs. FEINSTEIN. May I respond, as best I can?

Mr. BYRD. If the Senator would allow me to finish my question.

Mrs. FEINSTEIN. All right.

Mr. BYRD. I thank the Senator for yielding.

So it is one thing to advocate the passage of an authorization bill, and I very much want to support this legislation. I am not against this legislation, and I will vote for it, depending upon what it looks like when we get ready to pass it. But as an appropriator, as the chairman of the Appropriations Committee in the Senate, I think I need to ask about the funding. What assurances do we have that this money is going to be forthcoming? Is it budgeted? Is the administration supporting the bill? Is the administration going to support the monies for it? Are all the Senators who are advocating this legislation going to support the request for appropriations? Now if the Senator would answer.

Mrs. FEINSTEIN. I will take a crack at it, if I may.

Mr. BYRD. All right.

Mrs. FEINSTEIN. It is my understanding, certainly Senator KYL, Senator BROWNBACK, and I, along with the Republicans with whom the Senator was concerned at our subcommittee meeting, will support the appropriation. It is my understanding that roughly $743 million of this amount is covered in the administration's fiscal year 2003 budget request. Therefore, the amount not covered is $440 million.

It is also my understanding the administration has allocated all but $327 million of the $10 billion that was previously allocated for homeland security in last year's emergency supplemental. I, for one, would certainly support my chairman on the Appropriations Committee to take whatever is required from the unspecified $10 billion additional fund in the defense budget that was put in by the President. I think as part of defense, homeland defense is the most vital part of it, and this certainly provides for that.

So I hope that is at least a partial answer to the Senator's question.

Mr. BYRD. The distinguished Senator is certainly trying. She is making the effort, but there are many other Senators who have ideas with respect to that $10 billion. People on the Armed Services Committee certainly have ideas as to the $10 billion, and the appropriators, including Senator

INOUYE and Senator STEVENS, who are the chairman and ranking member of the Appropriations Subcommittee on Defense, have ideas. So there are all kinds of ideas around as to funding.

The Senator has mentioned some figures. I would like to be shown that the Senator is correct in her figures. I have some serious questions about funding of this bill, and they need to be answered. This is one reason I thought we ought to have a little debate about it.

I thank the Senator for yielding.

Mrs. FEINSTEIN. I thank the chairman of the Appropriations Committee, the distinguished Senator from West Virginia, for his inquiry.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, again I compliment the distinguished Senator from California. Her heart is in the right place. She is trying to do the right thing, and I admire her for all of those things. Money is a problem, even for the best of things.

Recognizing the need for improved border security, I included nearly $1.1 billion for border security in my $15 billion homeland defense amendment last November. Within that total, I included over $725 million that the President did not request for the Immigration and Naturalization Service. That amendment to the Defense bill was defeated in the Senate when we could not get the 60 votes required to meet a 60-vote point of order.

I tried again on the Defense supplemental appropriations bill that the Senate considered in December. I included $335 million above the President's request for the INS for improvements in border security, particularly along the northern border. Once again, the funding was rejected when a 60-vote point of order was raised and we could not get the 60 votes.

Finally, in the conference on the Defense supplemental appropriations bill, we provided $150 million more than the President's request.

Now, as the border security bill pending before us proves, there continues to be a need for significant infusion of resources to staff, to train and to equip the Immigration and Naturalization Service to do its job on our Nation's borders. Sadly, in the $28.6 billion supplemental that the President requested just a few days ago, on March 21, he includes only $35 million for the INS.

I ask the question—perhaps it is a rhetorical question—how much is required of the INS in this bill? How much money does the INS need to meet the requirements of this bill? The President requested a $28.6 billion supplemental just a few day ago, on March 21, and he included only $35 million for the INS. Where is the money coming from to meet the requirements that will be placed on the INS by this bill?

I am not being critical of the bill. I want to know the answer. I want the bill to work. That is why I said I wasn't going to agree to the unanimous consent request last December to take up the bill and pass it in the bat of an eye, without any debate, without any questions asked.

I am here today. I want to improve this bill. I want to vote for it, but what are the answers to these questions? How much money is being appropriated to the INS if it is to meet the requirements of the pending bill? How much is it going to cost the INS? The President requested, again, $28.6 billion in a supplemental, not yet a month ago, March 21; it will be 1 month ago this coming Sunday. He asked for $28.6 billion, but he included only $35 million for the INS.

The request is particularly weak for providing the resources to construct border facilities and to equip border personnel and to provide the technology and the computer system necessary for the INS to effectively work with other Federal agencies.

I ask that question. If one of the authors to the pending bill can answer that question, I would like to know.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from Massachusetts.

Mr. KENNEDY. Madam President, Senator BYRD asked an important question about the payment for these measures. As I understand, following what my friend and colleague from California, Senator FEINSTEIN, has made available, I am happy to reference to the chairman of the Appropriations Committee, but he obviously has this information. It has designated $5 billion; that is what the INS budget is, $5 billion. In that is the entry exit, which is basically what we are talking about, $380 million; computer infrastructure is the downpayment, $83 million; the land border inspectors, $34 million; air/sea inspectors, $51 million; border construction, $145 million; Retention, $743 million. This is not all of what we would like to have in this authorization. Quite frankly, I think this is a higher priority than other measures, both of which will be in our Defense authorization bill, as well as in the supplemental. We will have, hopefully, the opportunity to make that case. I will stand shoulder to shoulder with the Senator from California, Senator BROWNBACK, and Senator KYL to make that presentation to this body and to the appropriators in order to fund this measure.

I agree, we do not want to misrepresent to the American people that we are doing something on student visas, that we are doing something in terms of requiring our intelligence agencies to give information to the INS to try to stop terrorists, or that we have backup systems so we know whether the students are going to their colleges or staying in the colleges. All that is included in here.

I think we have a strong case. As in many different areas of public policy, we are not able to get all the things we would like, but this is a very compelling justification for all of the provisions we have included in this bill, why we have such a broad support from so many of the different groups and individuals who understand the importance and significance of this proposal.

It has been very worthwhile, as the Senator from West Virginia has pointed out, that with the authorization of this legislation it does not mean all resources are going to be there. Within the President's budget, there is a downpayment for the startup of these proposals and we will have the opportunity as these appropriations try to give this the high priority it deserves.

Quite frankly, I think if we are looking over what the nature of the threat is, we know it obviously is military, and that is costing more than $1.5 billion a month. More importantly, it has cost a number of American lives. We know that. We know it is intelligence. We know the very substantial amount runs into the billions and billions of dollars in terms of intelligence, particularly in human intelligence. We know we need additional resources to pursue and track down money laundering. That is costly. Perhaps we are not spending enough in that area.

The good Senator has raised the importance of making sure we will have adequate capability in areas of bioterrorism. I think that is as high a threat as any of the others. Still, as he has pointed out on other occasions, he brought the administration to a more robust investment in bioterrorism, which I still don't think is adequate to construct and begin the early detection and containment as well as the stockpiling of various medicines but we have made an important downpayment.

For me, and I think for others, this area in terms of doing something about the easy access into this country falls right into similar priorities. For this Nation, if we haven't got it today, we ought to have it tomorrow. The American people will certainly support, out of a $2 trillion budget, $1 billion additional for our national security. That is what we are committed to. Of course, we would obviously welcome the Senator from West Virginia, but I don't think the American people can understand with the case that has been made in a bipartisan way, a compelling way, in terms of where the threat is to our borders, this is a matter of key national security. It could be as important as shortening the length of time of an aircraft carrier battle division off the Indian Ocean for a couple of months.

This is national security and important. We ought to be able to make the case. I hope we will be able to fund it. We don't have all the answers or all the resources clearly today. We are strongly committed to making sure this is going to be funded and going to be put into effect. I believe we will be very careful in overseeing and making sure it is effective. But as the good Senator has pointed out, we haven't got the resources on this today. This is an authorization. We have remaining time before we get into the appropriation.

This has a high national priority in terms of our national security. As we move down the process, we welcome the chairman's help in making sure the protections that will be guaranteed by this legislation for our people will be achieved.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, there is no difference, when it comes to stating the compelling need for what the bill seeks to do—there is no difference between the Senator from Massachusetts and myself. We stood toe to toe last year. So did the distinguished Senator from California, who is now presiding, Mrs. FEINSTEIN. We stood toe to toe with each other. When I tried to add $15 billion—half was for New York—in the stimulus bill for homeland defense, we were together. I am with you today. We were together then. But a point of order was raised on the other side of the aisle against that money. It was the 60-vote point of order. We could not find the 60 votes.

Then, when the Defense appropriations bill was called up at the end of the year—again, there was $7.5 billion for homeland defense in that bill, $7.5 billion—a point of order again was raised on the other side of the aisle. It was a 60-vote point of order. We did not have the 60 votes on this side of the aisle.

So there is no question about the compelling need for these additional items to protect the borders of this country. But what I am saying today is the President of the United States—we saw it in the papers, I believe it was today or yesterday—threatened to veto any appropriations bill that went beyond what he was requesting. That may not be the exact phrasing, but we are already threatened with a veto.

So where is this money coming from? I am only saying we make a mistake when we pass legislation here that leaves the American people under the impression we have done something to surmount the problem, that we pass legislation to deal with border security that will adequately deal with the problem, will provide the technology, will provide the additional personnel, will provide the money so people can sleep on their pillows after this bill passes and it is signed into law, if it is signed into law, comfortable in the thought that the Congress has taken care of the matter quite adequately; we have passed legislation to do it.

But where is the money? It is one thing to talk about belling the cat, but who is going to bell the cat? That is an old fable.

Saying these things, I do not level criticism at the authors of this bill. As I said, I intend to vote for it, depending on what it looks like when it comes up for passage. But I raise these legitimate questions. I do not believe anybody in this Chamber can answer them. How much is this bill going to cost? How much is it going to cost? How much more is going to be put on the shoulders of the INS?

We make a serious mistake, when we pass legislation to deal with an obvious and compelling problem, when we pass legislation that purports to deal with that problem but does not deal with it or is not enforceable. I question whether or not some of the deadlines in this bill can be met.

Let me read for the Senate what Alexander Hamilton says in the Federalist No. 25, just a single paragraph. Here is what Hamilton says in the Federalist No. 25, and I think we should keep this in mind every day when we pass legislation. I think it is very apropos to the legislation we are going to pass here. We are going to pass it, I have no doubt about that. Here is what Hamilton said:

> Wise politicians will be cautious about fettering the government with restrictions that cannot be observed, because they know—

They know—

> that every breach of the fundamental laws, though dictated by necessity, impairs that sacred reverence which ought to be maintained in the breasts of rulers towards the constitution of a country, and forms a precedent for other breaches where the same plea of necessity does not exist at all, or is less urgent and palpable.

That is Alexander Hamilton. That is not ROBERT BYRD. Let me read it again:

> Wise politicians will be cautious about fettering the government with restrictions that cannot be observed, because they know—

In other words, the wise politicians know—

> because they know that every breach of the fundamental laws, though dictated by necessity, impairs that sacred reverence which ought to be maintained in the breasts of rulers towards the constitution of a country, and forms a precedent for other breaches where the same plea of necessity does not exist at all, or is less urgent and palpable.

So Hamilton is saying that wise politicians ought to be very cautious about fettering the Government with restrictions that cannot be observed. And that is why I am saying about this bill: Can these deadlines be met? Is the technology available now in order to meet them? Is the technology available so that those deadlines can be met? Is the money going to be there? Is the money going to be there for the personnel, for the technology, to meet those deadlines?

Hamilton says that if we pass these requirements and they are not met, then this is a breach of the law, although it may be dictated by necessity—as we readily admit that the necessity is there, to do what this bill does. He speaks to that sacred reverence which ought to be maintained in the breasts of rulers towards the constitution of a country. And he says one breach will lead to other breaches. One breach will be a precedent for other breaches, where the same plea, of necessity, may not even exist.

So I consider it to be a pretty serious matter that when we pass a bill of this kind, we are going to pass a law that can be observed and will be observed, the requirements will be met, the equipment is there, the technology is there, the money is there, and so we can rest assured that whatever the bill purports to require will be done. That is the basis of my concern.

The President's supplemental request for the INS is related to hiring more agents for airports and seaports. Senator HOLLINGS believes we gave them enough money in December for this because they cannot hire people fast enough with the money they have. As I understand it, Senator HOLLINGS believes that where we are short is in INS construction of building facilities to house the staff they are hiring. Therefore, we are seeking more INS construction in the supplemental.

I will be glad to have anyone answer the questions I have asked, if they wish to do so. In the meantime, I will proceed with my statement.

Over the last ten years, a vigorous campaign has been waged in behalf of immigration. The economic benefits of immigration have been touted by businesses, the news media, and politicians. Those who have questioned the benefits of immigration were immediately labeled as being ''uninformed'' or ''outside of the mainstream.'' The Congress quietly passed legislation, without adequate debate or amendments, to roll back deadlines and weaken mandates for our border defense agencies. As a result, immigrants—illegal and legal—have flowed into this country at a rate of over 1 million immigrants per year.

The attacks that occurred on September 11 brought that campaign to a screeching halt as the American people were made acutely aware of just how porous our border defenses had become. Each of the 19 hijackers was granted visas by a U.S. consulate abroad. Three of the September 11 hijackers had overstayed their visas and were living in the U.S. illegally at the time of the attacks. Seven of the 19 hijackers obtained fraudulent ID cards with the help of illegal aliens.

The American people must have wondered how the terrorists that perpetrated the September 11 attacks could so easily have slipped across our borders and seamlessly blended into society. With all the governmental requirements placed on law-abiding families simply to own a dog or to build a tool shed in the backyard, it seems outrageous that foreign terrorists could be leasing apartments, opening bank accounts, attending school, and invisibly maneuvering through the system while plotting their dastardly schemes.

The American people are clear in what they now ask from the Congress and the Administration—tougher border security and immigration laws, more resources dedicated to our border defenses, and a more vigilant Immigration and Naturalization Service. What they have received so far is enough to make anyone wonder if Washington ever hears the concerns of the people back home.

I devoted a large amount of my time last fall to providing additional border

security funds. As some have already indicated, I crafted a $15 billion homeland defense package as part of the economic stimulus bill the Senate considered last November. That homeland defense package provided $1.1 billion for border security initiatives.

Under a presidential veto threat, those funds were removed from the economic stimulus package by a partisan vote on a budgetary point of order. Many of the Senators who will support this authorization bill voted against those actual additional border security funds last fall.

After the $15 billion homeland defense package was removed from the stimulus bill, I offered a $7.5 billion homeland defense package. Of that amount, $591 million was devoted to border security initiatives.

Once again, under the threat of a presidential veto, those funds were removed, this time from the Fiscal Year 2002 Defense Appropriations bill, by a partisan vote on a budgetary point of order requiring 60 votes to overcome. And once again, many of the Senators who will support this authorization bill voted against border security funds last fall.

Had those funds been approved, that money would be in the pipeline right now for hiring and training hundred of additional Border Patrol agents. The Administration, instead, chose to wait, and then asked the Congress for those same border security funds that it threatened to veto just two months earlier. As a result, even if, by the October 1 deadline, those funds are appropriated by the Congress, those funds will not be released until early next year—at the earliest. The Administration effectively delayed hundreds of millions of dollars in border security funds for at least one full year.

As for a more vigilant Immigration and Naturalization Service, the American people must have been shocked—I know that the President said he was shocked—to learn that, six months to the day after the September 11 attacks, the INS was still processing paperwork for two of the terrorists who piloted the planes into the World Trade Center towers.

They were dead, and internationally recognized as the September 11 terrorists. Yet, the INS was still processing the paperwork for them to attend a flight school in Florida.

In March, the American people learned that the INS mistakenly granted special waivers to four Pakistani sailors who were aboard a Russian ship in Norfolk, VA. When the ship sailed for Savannah, GA, 2 days later, the four Pakistani crewmen were missing. An INS inspector entered an improper birth date for one of the four missing Pakistanis. If the birth date had been entered correctly, INS would have found that the man had committed an immigration violation in Chicago several years ago, and, therefore, was not eligible for a visa.

To make matters worse, in the midst of a debate on border security, there are efforts underway to add to this legislation, at the request of the President, an amnesty provision for hundreds of thousands of illegal aliens, including many who have not undergone any background or security check.

The American people have good reason to raise an eyebrow when they hear the Congress and the administration tell them that they are working to tighten our border security.

If we are to restore the trust of the American people in our efforts to secure our nation's borders, we need to have a serious debate about our border defenses and what we can actually do to repair them.

That is part of the reason I objected to passing this bill by unanimous consent without any debate or amendments. I understand there are some amendments that have been agreed upon already which will be in the managers' amendment at the end of the debate when we vote on the bill. There are some amendments that have already been agreed upon apparently by the managers. So the American people, by virtue of at least some debate, can have at least some idea of what is in the bill and whether or not it would be successful in tightening our borders.

We do not know how much money this is going to cost. We do not know how the money will be made available. In a supplemental? By virtue of Presidential request in a budget? The President did not request anything in his supplemental request.

We have tight restrictions on moneys that are appropriated here. They have to come within 302(a) allocations. They have to come within 302(b) allocations. Anything over and above has to be labeled an emergency, and the President has threatened to veto appropriations that are labeled as emergencies unless he or his administration requests that that be done.

So we are in a straitjacket when it comes to appropriations. I know there are Senators who are going to be looking at me, wanting moneys to be appropriated for this bill.

So really proponents of this measure have no way of judging whether they will have the necessary support for the appropriations that will be needed later this year to implement many of the provisions of the bill. How can taxpayers, who ultimately will be responsible for footing the cost of the bill, be expected to support the long-term financial commitment this bill requires if we do not know now, when we are debating the bill, where the money is coming from?

I do not know how enthusiastic or whether the administration will be enthusiastic at all about this bill. I do not know how enthusiastic they will be, if at all. And yet the administration tells us we need to have an amnesty provision. Not in this bill. Fortunately, the distinguished Senator from Massachusetts, Mr. KENNEDY, and others, are not advocating that in this bill.

But that 245(i) amnesty bill, that is something that is clearly opposed, I believe, by a majority of the American people. Yet the administration says, on the one hand, how careful we have to be, how cautious we must be, how much on our guard we must be. The administration has issued how many alerts? Four already? Three or four already. He says, on the one hand, be alert. On the other hand, he says, let's let the illegals in. Let's let them stay. Those who have violated U.S. law, let them stay. What about those people who have stood in line, who have followed the procedures by which they can be entitled, eventually, to become residents and citizens? How do they feel when as to a group of thousands or hundreds of thousands of others who violate the laws, who make the shortcuts, they see the administration advocating that those who made the shortcuts, those who violated the laws, be given amnesty? Why abide by the laws if you can violate them and achieve your goal even much quicker by violating them? What is the inducement for following the laws?

Now let's take the visa waiver program, for instance. Under this program, roughly 23 million foreign nationals from 28 countries enter the United States as temporary visitors without obtaining a visa from a U.S. consulate abroad. By eliminating the visa requirement, aliens are permitted to bypass the State Department background check—the first step by which foreign visitors are screened for admissibility when seeking to enter the United States.

Proponents of the program are quick to point out that only low-risk countries, mostly Western European, may participate in this program. The Immigration and Naturalization Service has reported that hundreds of thousands of passports from these countries have been stolen—stolen—in recent years. So when you couple these thefts with the fact that, according to the Justice Department's Inspector General, the Immigration and Naturalization Service has roughly a minute to complete an inspection, it is likely that a terrorist with a fraudulent passport will try to slip into the country. That is exactly what happened in 1992, when one of the conspirators in the 1993 World Trade Center bombing tried to get into the country through the visa waiver program with a fake Swedish passport. He was caught, and a search of his luggage revealed bomb-making instructions.

The pending bill addresses this problem, in part, by requiring stolen passport numbers to be entered into a new interoperable database system. But, as I understand it, such a system is years away from being completed. In the meantime, the State Department and the INS are not able to share information on foreign nationals who enter the country under this program. Well, if it is important enough for the INS and the State Department to share information on visa waiver participants, I

suggest the visa waiver program will remain a serious hole in our border defenses until that interoperable database system is fully implemented.

And that is just one problem that Senators will find if they take the time to read through this bill, as I have.

Consider section 402, which deals with passenger manifests.

Section 402 of this bill requires commercial air and sea vessels arriving and departing from the United States to provide an appropriate immigration officer with a manifest of who the passengers are who are on board. In subsection (g), Senators will note that the penalty for not providing these manifests is a $300 fine—I suppose some people carry that much money around as lunch money—a $300 fine for each person not mentioned, or incorrectly identified, in the manifest.

This penalty, I suggest, is wholly inadequate. What is more, there is nothing in this bill to prevent a passenger from providing false information to the air or sea carriers. This provision, therefore, just eats around the edges of a significant shortfall in our border defenses. A $300 fine is not much when compared with the safety and security of the Nation. But, of much greater concern is the question of the ability of anyone who must take information from passengers and fill out the manifest to determine the reliability of the information they have been given by the passenger. It is a joke to assume that someone with bad intentions would give accurate information to an employee of the airlines, for example. That is not a criticism of airline or sea carrier employees.

It is, however, a fine example of how many provisions in the bill which on paper sound good but in reality provide only a false sense of increased security.

The same can be said about the October 26, 2003, deadline. That deadline appears five times in different locations throughout the bill. For example, section 303: Not later than October 26, 2003, the Attorney General shall install at all ports of entry in the United States equipment and software to allow biometric comparison of all U.S. visa and travel documents. That sounds wonderful. I don't know why they picked October 26—why it shouldn't have been October 1 or November 1. Why October 26? Five times that date is used: October 26, 2003.

I don't think that is a realistic deadline. Perhaps someone can convince me otherwise. Let me say it again. Not later than October 26, 2003, the Attorney General shall—not may, shall—install at all—not just a few, not just certain ones, all—ports of entry in the United States equipment and software to allow biometric comparison of all U.S. visa and travel documents.

I wonder if that deadline, October 26, 2003, is realistic. We have 62 ports of entry which are closed 8 hours a day with only an orange cone in front. We are years away from being able to provide the sophisticated equipment for checking biometric identifiers at all ports of entry.

Under the regular appropriations process, Congress cannot even get that funding out to the agencies before October 1, 2002, at best. Assuming all 13 bills are completed on time by the end of the fiscal year, it could still take months before funds are released to the agencies for this purpose. I think it is unwise to set deadlines such as that one—so strict—when it is highly questionable as to whether or not those deadlines can be met.

As far as I can tell, that deadline is based solely on the fact that the USA PATRIOT Act was signed into law on that same day, October 26, in 2001. If that is the case, that is certainly no reason to use a deadline. Senators should be aware that these deadlines appear wholly unrealistic, especially the one I have just mentioned.

I appreciate the notion that without deadlines, it is difficult to press the agencies to act expeditiously. But when such deadlines come and go and the promised action has not been taken by the Federal Government, then Hamilton's admonition is called into focus: The public becomes rightfully disillusioned with the ability of the Government to do what it promises to do. We should put greater stock in the trust and confidence of the American people. Without their continued support of this measure, we lose the political will to act in the Congress, and we will lose consensus elsewhere throughout the Government; that consensus rapidly dissipates.

The same could be said about the penalties included in this bill for the more than 15,000 universities, colleges, and vocational schools across the country that accept foreign students. There are more than 500,000 foreign students in the United States who are benefiting from the goodwill of this country and from our investment in education. Many of these are nuclear engineering scholars. Many of them are biochemistry students. Many of them are pilot trainees who have access to dangerous technology, training, and information.

This bill takes some good steps toward setting up a national monitoring system to verify the enrollment status of these students. However, universities are going to have to play a role in helping the Government to verify that these foreign nationals are actually showing up for class. It has been noted that one of the September 11 hijackers entered the United States on a student visa, dropped out of classes, and remained here illegally thereafter. But unless this Congress places some tough penalties on universities to comply with the tougher reporting requirements contained in this bill, these universities are unlikely to take seriously the necessity to comply with these new responsibilities.

The legislation gives the INS and the Secretary of State too much discretion in determining whether or not these educational institutions should be penalized.

Let me read from the bill:

EFFECT OF FAILURE TO COMPLY.—Failure of an institution or other entity to comply with the recordkeeping and reporting requirements to receive non-immigrant students or exchange visitor program participants under section 101(a)(15) (F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F), (M), or (J)), or section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), may, at the election of the Commissioner of Immigration and Naturalization or the Secretary of State, result in the termination, suspension, or limitation of the institution's approval to receive such students or the termination of the other entity's designation to sponsor exchange visitor program participants, as the case may be.

Now, why do we say ''may''? We are talking about the failure of an institution or other entity to comply with the recordkeeping and reporting requirements to receive nonimmigrant students or exchange visitor program participants—that failure, as a result of that failure. So if there is a failure to comply with the recordkeeping and reporting requirements, it may—''may'' it says—at the election of the Commissioner of Immigration and Naturalization or the Secretary of State, may result in the termination, suspension, or limitation of the institution's approval to receive such students.

Why shouldn't we say ''shall'' if an institution is going to be that lax and fail to report? We are talking about people's lives here. It should be ''shall'' the election of the Commissioner of Immigration and Naturalization, or the Secretary of State ''shall'' result in the termination—that is the end, cut it off—suspension, or limitation of the institution's approval to receive such students or the termination of the other entity's designation to sponsor exchange visitor program participants, as the case may be.

Senators should understand and should insist that tougher penalties are necessary to ensure that this student monitoring system will work; and it won't work if we leave it full of holes like that.

Similarly, this Congress is quick to pass legislation that will place new requirements and deadlines on the INS without giving adequate consideration to whether that agency is equipped to meet those mandates—that agency of all agencies, sad to say.

The inevitable result is that the Congress will later have to weaken the mandate or roll back the deadline when the Immigration and Naturalization Service fails to comply with the law.

Considering the INS's most recent debacles and its apparent inability to handle its current workload, I suggest that before we task that agency with additional responsibilities and meeting additional deadlines, we should first try to reach some sort of a consensus about its organizational structure.

So far, the administration has proposed two seemingly contradictory INS restructuring plans. The first plan

would split the INS into an enforcement agency and a separate service agency, and the second would consolidate the INS and the Customs Service within the Justice Department.

The House Judiciary Committee marked up an INS restructuring plan about a week ago. As I understand it, Chairman KENNEDY and Senator BROWNBACK are crafting an INS restructuring plan as well. That is to say nothing of the fact that at least two bills have been introduced in the Congress that consolidate the Border Patrol functions of the INS within the Homeland Defense Department or Agency.

With all of these organizational plans circulating through the Halls of Congress, it makes little sense that we are considering a border security bill that places new mandates on the INS without addressing how that agency should be structured.

The organizational structure of our border defenses should be part of any border security debate. The single most important priority that should be driving these policies is the safety of the American people and the safety of the American institutions within their own borders.

Senators may argue that this issue of coordinating our border defenses was addressed when, in the aftermath of the September 11 attacks, the President created the Office of Homeland Security and appointed Governor Tom Ridge as its Director. The Federal Government needs a focal point to coordinate its homeland security efforts.

Yet the Office of Homeland Security and its Director, in lacking any statutory authority, will find it difficult, I am sure, to fulfill this mandate. Governor Ridge can request, but he cannot order, the agencies charged with protecting our homeland to implement his recommendations. He has to rely on the President to resolve agency disputes, which include opposition to the Director's initiatives.

We have already seen the warning signs of the potential troubles that lie ahead. In early February, Governor Ridge said that our borders remain ''disturbingly vulnerable.'' He cited as a reason that there is no ''direct line of accountability.''

Last year, he proposed that the various border security agencies be consolidated under a single Federal entity, but the agencies charged with border security have resisted this consolidation. While the White House announced that this week the President would endorse such a consolidation, that effort has been delayed for months because of bureaucratic resistance. The authority of the Office of Homeland Security is only as strong as the President's involvement in that office.

Furthermore, under Executive Order 13228, which established the Office of Homeland Security, the President can unilaterally change the mandate of the OHS and, in large or small part, channel discretionary funds to the OHS through the White House office budget. Well, the Nation's Homeland Security Director has declined to testify before the Congress to justify the Office of Homeland Security's expenditures or to justify his actions in safeguarding the Nation against terrorism. Not only does this make it difficult for the Congress to conduct oversight of appropriated funds and the oversight of our homeland and border security effort, but it limits the Congress from helping the Office of Homeland Security to fulfill its mandate.

Fixing the holes in our border defenses will require more than an interoperable database system and biometric identifiers. While they may prove worthwhile, these border security initiatives are no panacea for border defense.

We need to adopt a different mindset when it comes to the security of our borders. We need to consider the organizational structure of our border defenses. We need to acknowledge that we will have to be committing resources for a long time if we are to close the holes that were exposed by the September 11 attacks.

I thank Senators KENNEDY, BROWNBACK, FEINSTEIN, and KYL for authoring this legislation. But I am sure the bill's proponents understand that the legislation is not the final answer to what ails our border defenses. Meeting the deadlines and requirements set out in this bill will require their continued support for large amounts of funding. I don't know how we can assure that this funding is going to be there under the requirements and restraints under which the Appropriations Committee acts. Without those funds and without their continued support, the bill is just an empty promise.

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

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

Mr. BROWNBACK. I thank the Chair.

Mr. President, I rise to speak on the border security bill that is before us, and to also note, at the outset, the thousands of people who are gathering just outside the Capitol in a statement of support for Israel.

It is an important gathering, particularly because of where this Nation is at this point in time and the importance of where Israel is right now: The difficulties and confrontations they have had with suicide bombers, which we witnessed on our soil and which we have dealt with in our own land as well.

September 11 brings back very clear memories—vivid, difficult memories for many of us—when suicide bombers took planes in the United States and attacked two buildings in New York, the Twin Towers, the Pentagon, and a fourth plane that was perhaps headed even for this building that went down in a field in Pennsylvania, thanks to the heroic efforts of people onboard.

Israel is trying to defend her land from suicide bombers and has been aggressively doing so. I know some people have questions about the tactics involved but not dealing with the issue.

I certainly would like to state my strong support for Israel, a strong ally of the United States and has been and continues to be a strong ally of the United States, a democracy in a different and difficult region of the world, one that has worked and stood side by side with the United States in our times of need, and we should stand with Israel as well.

I urge Israel to allow humanitarian groups in to make certain that people are cared for as much as possible; that civilian damage is limited as much as possible.

In their dealing with terrorists, I think they should deal and they have dealt clearly aggressively with terrorism. Terrorism must be renounced. Chairman Arafat must renounce terrorism on behalf of the Palestinian people and say: No more terrorism. That should be a minimum statement.

I hope Chairman Arafat will lead his people toward peace, but I have real doubt whether or not he wants to lead the Palestinian people toward peace. There was an incredible offer on the table from Prime Minister Barak—it was less than 2 years ago—and he walked away from that. I question whether or not he is willing to work toward peace. We need somebody within the Palestinian leadership who wants peace.

I want to address some of the comments being put forward on the border security bill by our distinguished colleague from West Virginia, Senator BYRD, who is an outstanding Member of the body. I want to address the specific concerns he brought forward on this legislation.

I believe we will pass the Enhanced Border Security and Visa Entry Reform Act of 2001. The House passed it last year. The President wants the bill. It is up to this body to act. I believe we will act, and I believe we will have a large vote.

I am hopeful we can do this within a minimum time period because there is so much other important pending business in front of this body. This is important legislation, but so is the energy bill that has been before the Senate; so is a bill I have to prevent human cloning, to stop human cloning. We need to get a budget through. We need to start through the appropriations process.

It is not as if there are not a lot of issues stacked up. This is one of the major issues. I think it is time for us to pass this bill. There was actually very little opposition to it in the House. I think most people are very

comfortable with the main provisions of this bill, and I am hopeful we can work through other provisions without much difficulty.

I will note some of the major provisions of this bill for my colleagues who are following this debate: Restrictions on nonimmigration visas for aliens coming from countries that sponsor terrorism; reform of the visa waiver program; requirement of passenger manifest information for commercial flights and vessels; repeal of the 45-minute time limit on INS inspections of arriving passengers.

That may cause inconvenience for some people. I want to note that, too, for my colleagues who are watching. The lines could be a bit longer, but we are talking about security in the United States, and it may be necessary for the time to be slightly longer to ensure people coming into our country mean us no harm.

In this bill, there is the enhanced foreign student monitoring program. Several of the people who terrorized us, bombed us on September 11 were students. We need to get that procedure under control and know where these students are and if they are going to reputable schools in the United States.

The magnitude of the problem we are dealing with is enormous. Immigration, the travel of people, non-U.S. citizens, in the United States is a key issue for our economy, it is a key issue for our culture, and it is a key issue for our society in the future. We are a land of immigrants. Outside of Native Americans, we all came here from somewhere else. This is a key part of who we are and who we will be in the future.

To give some scale of magnitude of the issue with which we are dealing, 2 years ago, there were nearly 330 million—330 million—legal crossings over our borders by non-U.S. citizens. That has nothing to do with illegal crossings. There were 330 million legal crossings by non-U.S. citizens over our borders. This is a huge bit of commerce. There is a great deal of interaction that takes place and is very important.

Out of that 330 million crossings universe, we are looking for a very small portion of those who want to do us harm. I talked on Friday about this being the equivalent of looking for a needle in a hay field—not a haystack, a hay field. We have to be intelligent about this and use the means at our disposal to find the people who are here trying to do us harm.

One of the key elements is to make sure we have information sharing between various agencies—between INS, the Department of State, CIA, DIA, FBI, and I would like to think, as well, foreign information from foreign intelligence agencies that can point out: These are the people we are watching.

If we are looking at 330 million people in a universe and are trying to hone this down to several hundred, we need a lot of information.

Currently, all this information is in stovepipes, it is stacked up, and there is not the cross-communication we need to have. That is one of the things that is required in this bill. It takes time to get computers talking to one another. It is sometimes difficult getting people to talk to one another. Computers have to be wired.

We can do that, and we need to do that. That is a key provision of a portion of this bill. We are trying to extend the perimeter of the United States to include both Canada and Mexico.

I was at the El Paso INS detention facility about a year ago, and in that detention facility were people from 59 different countries who had come in through Central America, South America, had taken land transportation up and through Mexico, and then crossed over into our borders. We need to have that perimeter extended.

Within this bill is a push to get that perimeter extended to include Canada and Mexico so we get more cooperation and help from them in dealing with our perimeter. That is important for us to be able to do.

Now there were some questions raised about how will these be paid for? Those are certainly legitimate questions. This is an authorization bill. Some of these are authorizing features, not appropriations features, but much of this is going to require resources. It is put forward by the Department of Justice that the first-year implementation of this bill would cost about $1.186 billion. Of that, $743 million is in the current Bush budget. That is already put forward in the budget. So we are quite a ways along the way already with what is built into the current Bush budget.

Plus, as I understand it, there are still some resources left from the $40 billion supplemental that was put forward last year to deal with the crisis and the current situation. I am supportive and will be supportive of additional resources to make sure we do fully fund this at the $1.186 billion level for this first year. Total implementation costs we have at $3.13 billion over the full lifetime of the program. That is the universe of the numbers we are talking about. We are well on the way to funding this.

There has been concern raised about why was this not funded last year? There were people who put forward bills. The chairman of the Appropriations Committee put forward an additional $15 billion supplemental saying, let us fund it now. The President at that time said: No, I want to try to digest the $40 billion that has already been allocated and authorized before we step into another tranche of funds.

I thought that was a wise and prudent course. That is why I did not at that time support the additional $15 billion; whereas now we have had some months to be able to think this through, to see where the gaps and the holes are. The President has built a portion of it into his budget, and we have about another $600 million that we are looking at to fully fund this program. That is what we are talking about. I think that is a prudent and wise approach for us. I thought it was at that time. We need time to be able to digest these sorts of changes and resources, and I think this is the right way for us to go.

We are not getting the cart ahead of the horse. We are doing the authorization, which we are to do before we do the appropriation. So we authorize for what we in the Congress think we should do, and then we appropriate to follow on with that. I am committed to seeking those resources to get this fully appropriated. I think it is important we do that. Frankly, I like that we are doing this one right because typically or frequently we will do it backwards and not get that done. I do believe that with the nature of this priority, the nature of border security, the importance of that for our future and the security of our people, this will be able to secure the adequate resources it needs throughout the competition within the appropriations process. We should be able to put these forward and meet the higher priorities for the security needs of the country. The lead requirement for us is to provide for the common defense and, to me, in this day and age, it is to provide protection against terrorists.

We are prosecuting our war overseas now. We are prosecuting it in Afghanistan. We have troops in Georgia. We are helping train troops in the former Soviet Union country of Georgia. We have troops in the Philippines as trainers to deal with terrorist groups. There may be troops in some other countries as we go to where the terrorists are to dig them out before they come this way, and then we enhance our border security so we can deal with the terrorists who try to get on our soil.

I think the prosecution of the war is going well at this point in time. It would be my hope, as one of the cosponsors of this legislation, that we could move this through. If people have amendments, we ask for them to bring the amendments forward so we can see if we can get them handled appropriately. I would hope we could do this without too many amendments so we could get this to the House and get it passed. The House has passed this bill twice. We need to get it passed.

I hope if people do have amendments that they want to bring they would bring them up now so we can deal with the legislation, deal with the amendments, and get the legislation passed and implemented into law because it has broad support throughout this body.

I may make comments at a later time on this legislation, but at this time I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 3128

Mr. BYRD. Mr. President, I have an amendment which I will shortly send

to the desk, but let me say a few things in regard thereto first.

There is an urgent and pressing need for the United States to improve the enforcement of our laws that prohibit the importation of goods that are made using forced labor. Countries throughout the world are using forced, prison, or indentured labor to cut costs to the bone, increase the export of cheap goods, and drive American manufacturers under. We have to take stronger action to see that U.S. laws that prohibit this repugnant practice are enforced.

Since 1930, the United States has had a law on our books that prohibits the entry of prison-made goods and requires the U.S. Customs Service to seize goods destined for our markets that are made utilizing forced labor. There are common sense reasons for the Tariff Act of 1930. The importation of prison-made goods is not consistent with either the principles of free trade or human rights. American consumers should not unwittingly be supporting repression in other countries simply by shopping at the local mall.

Admittedly it is difficult to enforce laws prohibiting goods made using forced labor. Overall, U.S. Customs officials inspect less than 3 percent of all imports, and often those inspections are superficial. There are the problems of sheer volume of imports, the commercial requirements of rapid movement of goods, and other realities of today's commerce but we must endeavor to do a better job. With respect to forced labor-made goods, there are issues of fraudulent mis-labeling, lack of cooperation of foreign governments, and the existence of a sophisticated network of middlemen engaged in transshipment of goods destined for America. For instance, goods made in the vast forced labor manufacturing network in China may arrive in the U.S. from Nigeria. Such is the nature of global commerce today.

A number of countries make common use of forced labor—China is but one of them. One estimate places the number of forced labor facilities in China at an astounding 1,114, employing as many as 1.7 million people. Mr. President, that bears repeating. China, a country that exports nearly $100 billion in merchandise to the United States, has up to 1.7 million forced laborers in 1,114 facilities. Some of these people were sentenced to prison time at hard labor for crimes that they actually committed.

Others are forced into prison labor camps without so much as a trial, because of political or religious beliefs, and are subject to torture and beatings. In China, if one visits a non-state-sanctioned church, for instance, such an ''offender'' could end up making lawn tractors, cordless drills, or soccer balls for U.S. markets.

The forced labor facility network is an integral part of the Chinese economy. But, there are no firm numbers on the quantity of forced labor-made goods that eventually find their way from China's extensive forced labor network to our shores, shipped here directly or transshipped through other countries. It is anyone's guess as to how much of the $100 billion in Chinese goods sold in the U.S. each year are made, wholly or in part, by forced labor. But there can be no doubt that with a forced labor population of at least 1.7 million, China is selling a considerable amount of prison-made goods to the United States which is the main purchaser of China's exports.

China is not the only country that produces and exports forced labor-made goods. The 2001 State Department Country Report on Human Rights Practices names Burma, Brazil, and Russia as having serious problems in this area even though it is clearly against our laws for such goods to cross our borders.

To tackle this problem, my amendment takes three actions. First, it requires all importers of goods into the U.S. to certify and the U.S. Customs Service to ensure, based upon verification of these certificates, that the goods being brought into our country have not been made with forced labor. Second, the amendment requires renegotiation of two of our agreements with China that deal with the inspection of forced labor facilities in China. Third, the amendment reauthorizes $2 million for the Customs Service to provide additional personnel to monitor imports and enforce our anti-forced labor import laws.

Regarding the first section of my amendment, the requirement for certification of all goods coming into the U.S. to be ''forced labor-free'' is consistent with the practice and intent of other certifications that are required of importers. When agricultural goods are brought into the United States, importers must present certifications that the products have been appropriately inspected and have established origins and producers. The World Trade Organization has its own certification requirements for ''green'' products, to insure that imported items are made in an environmentally friendly manner. In fact, the WTO recognizes that certification requirements are a legitimate tool in combating deceptive trade practices, such as those engaged in by countries that try to pass off forced labor-made goods to unsuspecting consumers in other countries, by transshipment, mislabeling, or other methods.

As to the second section of my amendment, there is a need to strengthen our existing agreements with China to improve the ability of our Customs investigators to visit suspected forced labor facilities. Right now the site inspection and investigation process is beset by problems of interpretation differences and plain old stonewalling. For example, in one instance it took three and one half years for a U.S. requested inspection of a heavy duty machine factory to be carried out.

There are two agreements with China going back to 1992 and 1994 which govern our U.S. Customs agents' access to suspected forced labor sites. Those agreements are not working. The United States needs to conduct these necessary inspections and investigations in a timely manner. To effectively do so, we need to close the loopholes in the present inspection agreements.

Finally, the third section of my amendment authorizes $2 million for Customs Service personnel to enforce our forced labor import laws. Customs already has 1,100 staff positions that are funded through the payment of fees. By authorizing an additional $2 million for the enforcement of these laws, the Customs service will be able to hire and dedicate more personnel for the specific purpose of discouraging forced labor goods from penetrating U.S. markets.

The American consumer deserves to know what is on the shelves when they go shopping. Nobody can tell just by looking at clothes on a rack which ones were made by legitimate tradesmen and which ones might have been made in some foreign ramshackle prison. But it is clear that some countries utilize prison labor to gain a leg up in global markets. It is a sick and reprehensible practice. It hurts American business and fair-trading foreign businesses. It is an insult to our values. And it is against our law!

I urge my colleagues to vote to help put some teeth in U.S. laws that ban goods made with prison labor.

I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3128.

Mr. KENNEDY. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require that certification of compliance with section 307 of the Tariff Act of 1930 be provided with respect to all goods imported into the United States)

At the appropriate place, insert the following:

SEC. ___. CERTIFICATION REGARDING FORCED LABOR.

(a) SHORT TITLE.—This section may be cited as the ''Labor Certification Act of 2002''.

(b) CERTIFICATION REQUIRED.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Treasury shall require that any person importing goods into the United States provide a certificate to the United States Customs Service that the goods being imported comply with the provisions of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) and that no part of the goods were made with prison, forced, or indentured labor, or with labor performed in any type of involuntary situation.

(2) DEFINITIONS.—In this section:

(A) GOODS.—For purposes of this section, the term ''goods'' includes goods, wares, articles, and merchandise mined, produced, or

manufactured wholly or in part in any foreign country.

(B) INVOLUNTARY SITUATION.—The term ''involuntary situation'' includes any situation where work is performed on an involuntary basis, whether or not it is performed in a penal institution, a re-education through labor program, a pre-trial detention facility, or any similar situation.

(C) PRISON, FORCED, OR INDENTURED LABOR.—The term ''prison, forced, or indentured labor'' includes any labor performed for which the worker does not offer himself voluntarily.

(c) INSPECTION OF CERTAIN FACILITIES.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the President shall renegotiate and enter into a new agreement with the People's Republic of China, concerning inspection of facilities in the People's Republic of China suspected of using forced labor to make goods destined for export to the United States. The agreement shall supercede the 1992 Memorandum of Understanding and 1994 Statement of Cooperation, and shall provide that within 30 days of making a request to the Government of the People's Republic of China, United States officials be allowed to inspect all types of detention facilities in the People's Republic of China that are suspected of using forced labor to mine, produce, or manufacture goods destined for export to the United States, including prisons, correctional facilities, re-education facilities, and work camps. The agreement shall also provide for concurrent investigations and inspections if more than 1 facility or situation is involved.

(2) FORCED LABOR.—For purposes of this subsection, the term ''forced labor'' means convict or prison labor, forced labor, indentured labor, or labor performed in any type of involuntary situation.

(d) AUTHORIZATION OF CUSTOMS PERSONNEL.—Section 3701 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 is amended by striking ''for fiscal year 1999'' and inserting ''for each of fiscal years 2002 and 2003''.

Mr. KENNEDY. Mr. President, it is now 4:25 on Monday. We were just handed this amendment that is 3½ pages long dealing with the certification regarding forced labor, directed, as I understand, primarily, purposely, towards China and the prison force indentured labor.

No one knows better than the Senator from West Virginia the vast opportunities for amending pieces of legislation. We try to respond to our colleagues by indicating what is currently being considered on the floor so they can make some judgment and informed decision on these amendments. We are not in the position of being able to do so since we were not afforded an opportunity to see the amendment until just a couple of minutes ago.

Mr. BYRD. Will the distinguished Senator yield?

Mr. KENNEDY. I am happy to yield.

Mr. BYRD. I apologize for the amendment not having been shown to the Senator. I was under the impression my staff had discussed this amendment with the Senator. I will be happy to either withdraw the amendment for the time being or ask that it be set aside so the Senator and his staff and others may have an opportunity to look at the amendment.

Mr. KENNEDY. I appreciate that.

Mr. BYRD. This was inadvertent on my part.

Mr. KENNEDY. I have had an opportunity to talk to two of my colleagues. I conferred with them a moment or two ago. They were not familiar with this amendment, either.

AMENDMENT NO. 3128 WITHDRAWN

Mr. BYRD. Mr. President, I will withdraw the amendment now. I again apologize to the Senator. This was an inadvertant oversight on my part. I certainly do not seek to take any unfair advantage of any Senator. I never have. I will withdraw the amendment now and will offer it later after it has been discussed with the distinguished Senator.

The PRESIDING OFFICER. Will the Senator from Massachusetts yield for that purpose?

Mr. KENNEDY. I yield for that purpose.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BYRD. I thank the Senator.

Mr. REID. Mr. President, if I could ask a question of the Senator from Massachusetts, I am wondering if the Senator from Massachusetts will allow me, through the Chair, to ask the distinguished Senator, the President pro tempore of the Senate, does the Senator from West Virginia at this stage know how many more amendments he may offer?

The reason I am making inquiry is we would like to know this evening if we are going to have more amendments offered so we know what is going to take place tonight. We would like to finish the bill in a reasonable period of time because energy is waiting whenever we finish. Does the Senator from West Virginia have an idea how many more amendments he might wish to offer? From the Republican side, we don't have any of which I am aware.

Mr. BYRD. I cannot state the number of amendments I have. They are not a great number, I can say that. I am mainly interested in having a little debate on this bill, and mainly interested in getting some answers from the proponents as to the costs that are involved. I may support this bill. I have no reason to think I won't support it, if we can arrive at some conclusion as to how much the restrictions and requirements are going to cost.

We may pass a bill here that is, on the surface at least, a good bill. Certainly, there is a compelling need to do the things that this bill seeks to do. But as an appropriator, as the chairman of the Appropriations Committee—and not only that, I should think that all Senators would be interested in knowing how much this is going to cost and what assurances we have that we will have the money with which to pay it.

Also, I want to know whether the deadlines—and there are several deadlines in the bill—can be met. If we pass legislation that cannot be enforced because it has deadlines that are not enforceable, then the American people are going to be disappointed—if we pass legislation raising their expectations and then those expectations are not met.

I do not say this with criticism of any particular Senator, but as one who appropriates money here, and as one who sought to get appropriations last December for these very purposes, and as one who saw that those two amendments that I offered—one on one bill and the second one on the final appropriations bill—saw those amendments knocked out by virtue of 60-vote points of order. Certainly the Senator from Massachusetts supported me in those.

I wonder, now, from where the money is going to come? I want to feel that the President is going to support this, support the requests for it, support the moneys for it, and that Senators who voted against my amendments last fall—that were for border security, that were for homeland security, that were to provide defenses against biological, chemical, and radiological weapons—are going to support it this time. I want to know from where the money is going to come, how much it is going to cost. That is all. I am ready to pass it tonight if somebody can show me those things. I do have two or three amendments that deal with the deadlines. I may have a somewhat more major amendment. I may not have.

Mr. REID. I say to the Senator from West Virginia, I have conferred with the manager of the bill, Senator KENNEDY. As I indicated, we have no amendments on the Republican side and none over here. The reason we are focusing on the Senator from West Virginia is we want to be able to get to energy as soon as possible. So I hope, either through a quorum call—maybe with time for Senator KENNEDY to explain to the Senator—I know I listened to Senator KENNEDY and Senator FEINSTEIN speak at some length on this legislation.

If there are other questions to be answered, certainly the Senator from West Virginia is entitled to have answers to those questions before we vote on this important bill. Whatever the two very experienced and distinguished Senators need to do to make sure the Senator from West Virginia has the information he needs, we should do that as quickly as possible.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just to review very quickly, since we have been asked about this once again, for the costs. That $1.2 billion 1-year, $3.2 billion total cost of the implementation—the $743 million is included in the President's 2003 budget. This includes $380 million for entry-exit data systems; $83 million for computer infrastructure; $34 million for land inspectors; $51 million for air and sea port inspectors; $145 million for border construction; $50 million for detention construction. There is $444 million additional appropriations needed but the legislation raises the additional fees.

The bill raises machine-readable fees to $65, generating approximately $100 million in additional income.

We believe we can examine the fiscal year 2003 budget, which is, for INS, $6 billion—$6 billion: $2 billion in terms of the fees and $4 billion in terms of appropriations. That is the best we can do.

But I think we have a pretty good downpayment on what we would do. We are prepared, as my colleagues have all said, to make that commitment, to try to ensure, in the remaining debate, that we would be able to get the resources.

On the question of the border security amendments, we welcome the chance to talk with the Senator—or with any other Senator—and review the deadlines and the other damage provisions in the bill to tighten up the restrictions. They include the changes in the passenger manifest provision and student monitoring provisions. I think we ought to be able to reach the agreements.

But we have set some times and some dates. We are talking about, for example, in the biometric implementation, trying to make passports and other documents so they are not subject to fraud. We now have the biometric information, but decisions have to be made as to which one offers the best possibility. We have the technology, then, to develop the machines to put them at the border. That takes some time. If we are talking about a year from this October—if is not the right time, the correct time, we want it to be done as quick as possible.

But what we have included in here represents, at least the best judgment of the Homeland Security Office; the Biometric Institute; and the NIST, the National Institute of Standards and Trade, which is the technology arm of the Commerce Department that makes the judgments, for example, in the small business innovative research, about all the new kinds of technologies. If there is other information that would support a different timeframe, we are prepared to do this, but I think we have reached that date for the reasons I have explained.

I will mention, on the question of the students, how we monitor the students when they come in here, because I think it is very important to understand exactly what we are doing on this. First of all, when the students come in, the State Department receives the first electronic evidence of acceptance from an approved U.S. institution, prior to issuing a student visa. The State Department then must inform the INS that the visa has been approved. The INS must inform the approved institution that the student has been admitted into the country. Then the approved institution notifies the INS when the student has registered and enrolled; and if the student doesn't report for classes, the school must notify the INS not later than 30 days after the deadline for the registration for classes.

You can say that is complicated and difficult. It is. Unless you go to the new technology, it is impossible. But we have been assured, with the new technology, that kind of process is possible.

We have been informed by the universities that they believe it is workable. Maybe there is a different way of doing this. There are different timeframes for notification. But those are the ones we have worked out with the various groups and institutions that are most involved in this.

As I say, we are glad to go down the list of the timeframes. I know my colleagues and I are glad to go down the list to at least give the justification. We have not arrived at these particular dates in a uniform way. There was some difference in terms of the time—whether it can be done in 180 days, or whether it can be done in a shorter period of time. There was some difference on that. I think there was no difference on the desire for all of us to get it done in the quickest possible time and to do it in the quickest possible responsible time. That is uniform. If there can be a change or an alteration in the establishment of the number of days, we are glad to talk about it. There is no magic on the times we set, although they do represent the agreement with our colleagues, and also with the administration I believe that had some difference as well. Those are just some of the responses.

If I could have the attention of my colleague from West Virginia, if we could know what the other amendments are as we are coming into the evening on Monday, we would be able to sort of have a chance to fully evaluate them in order to be able to accept the ones that work consistent with our legislation; we could try to work those out. Then we would be glad to have a good discussion and debate on the floor. But, as the Senator indicated to us, he has several other amendments. He just withdrew one, which we didn't have. We have no idea what the other ones are, either. We are doing the best we can. We were here on Friday afternoon. We had a good hearing on Friday morning with the Senator.

But we are here and we are prepared to try to deal with those. We will have a chance to examine this one on forced labor in China, which we did not know was going to be an amendment. If the Senator has others that he is willing to share with us, perhaps we can move this process along to try to accommodate our other colleagues.

I was here over the weekend. I plan to be here. I know my colleagues were as well. We are just trying to indicate to our colleagues what our situation is.

I yield the floor.

Mr. BYRD. Mr. President, in response to the distinguished Senator, this Senator is willing to share any of these amendments with the Senator. I have already shared with the Senator the amendment which I asked to withdraw. I was under the mistaken impression that my staff had discussed this with his staff. I am not seeking to pull any tricks here. As was said in Julius Caesar, there are no tricks in pure and simple faith. I don't have any tricks. I am not seeking to pull any fast ones on the Senator. I would be glad to show any of my amendments to him. I have but a few amendments. It was an honest mistake, and I was quick to apologize for it when he mentioned it. I hope that settles that. There are no more like that. I would be happy to discuss with the Senator the amendments that I have. That pretty much settles it. I can't say that we can do these tonight. I don't think they can be done tonight.

Mr. KENNEDY. That is fine. We had the chance to look over this first one. If we could have the other ones, if the Senator wants to share those, we would welcome the opportunity to see them. But we have not received any others from the Senator.

Mr. BYRD. Mr. President, I spoke in my speech about the problems that I have. The amendments I have deal with those deadlines. There was one other amendment that I am not sure I am going to offer, but I do need to discuss it with him. It has to do with the Office of Homeland Security. But I am not sure I will offer it on this bill. I may offer it on an appropriations bill, or I may not offer it at all, depending on how the leader feels about it and how Senator LIEBERMAN feels about it. But it can be determined overnight as to whether or not I intend to offer that. The other amendments deal, as I recall, with visa waiver deadlines, student penalties, and so on. I discussed the amendment in my statement earlier. I would be happy to discuss these with the Senator, or through my staff. On tomorrow, we can probably deal with them, if we can't deal with them tonight.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, if it would be helpful to the Senator from West Virginia, I would be happy to address the deadline issue that he discussed. The Senator from West Virginia raises a good question with respect to those deadlines. Frankly, on two of the three, there is no good answer. The Senator is absolutely correct about that.

Mr. BYRD. I didn't understand the Senator.

Mr. KYL. I am sorry. It was my understanding that the Senator from West Virginia raised a question about three of the deadlines in the bill, and on two of the three there is no good answer. I will give the best answer I can.

On the first one, I think there is a good answer. That has to do with the so-called standards for biometrics. On that, there seems to be a pretty good consensus. That can be developed within the year timeframe that we have in the bill. The Biometric Foundation has provided that information to us.

But the Senator is absolutely correct about the readers—the machines—that

will have to read the passports or other documents that have this data embedded in them.

As to precisely how long it will take to get those online, there is not a good specific answer, nor is there an answer as to when we can have the interoperable system developed, which is one of the central features of the bill. That is the system that takes data from the FBI, the CIA, and others and makes it available to the consular offices that have to issue the visas.

In fact, I was just speaking with the FBI Director this afternoon about what we can do to make this happen as quickly as possible. As Senator KENNEDY said, everybody wants to make it happen as soon as possible. The question is how to do that. I will share with the Senator from West Virginia some of thinking that went into our putting in those dates. If the Senator has other ideas, we can certainly discuss them. I regret to say that there has been an attitude among some people at the INS that perhaps it has not been—to use the military phrase—as forward leading as some of us would like to see in terms of their willingness to tackle some of these problems. I am trying to say it nicely. There are a lot of people who work at INS who really work hard, and they are trying to do things on time. But I must say that there hasn't necessarily been the so-called can-do attitude that some of us would like to see. When we asked them can you do this, or could you do that, what you get back in response is that may take a long time. That is going to be really hard.

Naturally, we would like to see them take the bull by the horns and say, We will do our best to get that done as quickly as we can. That is the answer we are looking for. We don't necessarily get that.

Frankly, what went into some of our thinking in putting some of these deadlines in—they may be pretty tough deadlines to meet—was let us get those deadlines in there so the people at INS are going to have to work hard to try to meet the deadlines. They know that we mean business and we are trying to get this done as soon as we can. They may not be able to meet the interoperable system deadline or the readers deadline, both of which are October 26, 2003.

Mr. BYRD. Will the Senator yield?

Mr. KYL. Our thinking in putting those deadlines in was to try to give them something to shoot for so we could at least get them going to try to get it done as soon as possible.

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

Mr. KYL. Yes.

Mr. BYRD. Mr. President, what suggestion does the distinguished Senator have as to how we might deal with this problem that I referenced?

Mr. KYL. Mr. President, the Senator partially answered that question in previous comments he made. The first is to put a deadline in there that they have to shoot for rather than just, in effect, saying, ''well, whenever you can,'' because that will probably result in delay. Second, we have to fund the programs adequately. The Senator from West Virginia made the point at a hearing we had the other day—he made the point earlier, and he made the point again today, and the Senator from West Virginia is absolutely correct—that we have an obligation, as the Senate then, to fund this to the extent that will be necessary.

We think we have the elements of that built in here, but that will be the other half of what has to be done.

Mr. BYRD. Mr. President, if the Senator will yield further?

Mr. KYL. I certainly will continue to yield.

Mr. BYRD. Well, it has been said on the floor, more than once today, that the anticipated cost of the bill, as I understand it, would be about $1.1 billion the first year and $3——

Mr. KYL. About $3.2 billion.

Mr. BYRD. That is $3.2 billion for 3 years.

Mr. KYL. If I could, Mr. President, specifically, $3.132 billion. But almost $3.2 billion, yes.

Mr. BYRD. And it has also been said that the President asked for $743 million, is that it? Is that the figure?

Mr. KYL. Yes, Mr. President, the Senator is exactly correct.

Mr. BYRD. Well, my problem is, if you multiply the $743 million by 3, that is going to be roughly $2.1 billion. And yet the figure that has been used on this floor for the third year is $3.1 billion. So right there we are $1 billion short.

So my question is, How do we bridge these gaps? How do we assure the Senate today that we will be able to appropriate that kind of money? And if we do not appropriate that money, these deadlines are not going to be met, I don't believe.

Mr. KYL. Mr. President, I am happy to yield to the Senator from Kansas.

Mr. BROWNBACK. If I could respond briefly on this, Senator KENNEDY and I have the subcommittee with the primary jurisdiction on this. As to the figures being put forward, one is the first-year cost and the other is the total cost of implementation. Much of the cost involved here is for equipment because we are getting the biometric equipment up. We are getting it in position, in place, and that is why there is the difference in the figure. It is not an even figure over each of the 3 years. That is what is involved in that question that you raise.

If I could also respond on the deadline dates because I think the Senator from West Virginia has put his finger on a very important topic. This was a matter of extensive negotiation between the various people involved because these are very aggressive dates. A number of people in the administration raised the concern saying: This is too aggressive. We don't think we can meet this. Other people within the administration were saying: It may be too aggressive, but we need to meet it, and we are going to push to meet it. There were differences of opinion on that.

We, as the Members who were negotiating and trying to work this out, decided to go with the earlier date because of the importance of the issue. It is just critical we get this interoperable equipment in place, and that we get it done as quickly as possible, and not be left in a calendar position further down the road than it needs to be or just open-ended, saying, ''just do it as soon as you can.'' A number of the Members did not feel comfortable with that ''do it as soon as you can'' possibility, even though we thought there was a pretty strong commitment from the administration to do it just that way, to do it as soon as you can.

But a lot of our colleagues said: No. We want a hard date, an aggressive date. If we have to come back and work with it again, we will, but we want this thing done; and we want it done now.

That is why the aggressive dates, and that is also why the budgetary figures are different for year 1 than being equal throughout the 3 years.

I yield the floor to my colleague from Arizona.

Mr. KYL. Mr. President, the main point is, on the question of the deadlines, the Senator from West Virginia raises an absolutely valid point. The question is, What should we do with regard to two of the dates? I think we can pretty clearly meet the first one. And we have a choice of setting a later date and, therefore, maybe not spurring them to action within a timeframe that really we need to, or setting a more aggressive date which, of course, we can always extend if we are not able to meet it.

But there is one other point; that is, the Senator is also correct, we are going to have to get another request from the administration in the final year in the administration's budget to adequately support this. Having the earlier date focuses, then, on getting that money in their budget, so the chairman of the Appropriations Committee has the ability to then plan and incorporate that into the overall budget.

So that is part of the rationale. It is nothing more magic than that.

If the Senator agrees with us—and I think he does—that it is important for us to get going as soon as possible, then perhaps he can accept that rationale, at least for this first year, and then we can, of course, see what happens after that.

Mr. BYRD. I certainly can understand what the distinguished Senator is saying and the reasoning behind the decisions that were made. I am only saying, as I said at the very beginning, if we pass legislation that creates unreasonable expectations on the part of the American people, we lose credibility, our Government loses credibility, and the people lose faith in their

Government. That is what Hamilton was worrying about in the Federalist Paper No. 25, which I read earlier this afternoon.

But now about this money that I talked about, it has been said here there is $743 million in the President's request. But we are talking about 3 years—3 years; that if it were $743 million a year, that would be something like $2.1 or some such billion. Yet the estimated cost for the third year here, as I am told, as I am hearing here, is $3.1 or $3.2 billion. So it seems to me that is $1 billion short there.

Mr. KYL. If I could respond to the Senator, the $3.2 billion is the estimated total cost over the 3-year period of time. And as Senator BROWNBACK said, the request would not come in three equal tranches. So you would not multiply $743 million times 3. The administration would have to include in its next budget an amount of money to make up the difference.

Now, there is, we are informed, $327 million not yet expended from the $40 billion supplemental, some or all of which might be made available in the first year, which comes close to meeting the $1 billion amount. But the Senator from West Virginia is correct, there will have to be an amount included in the budget in the subsequent year to reach the $3.2 billion. That is correct.

Mr. BYRD. I do not have any assurance that money is going to be included. We do not have any assurance it will be. The President only requested $37 million, I believe it was, in his supplemental, out of $27 billion; $35 million for border security—I mean, for the INS. So there we are.

Mr. KYL. If I could respond to that, to some extent, it is a chicken-and-egg proposition. You have to have an authorization before you can have an appropriation. And the administration merely has the benefit of both. It can put something in the budget which then encourages us to do an authorization or it can respond to an authorization which the Congress passes.

The intent here, since we have been working with the administration, is for the Congress to authorize a program which the administration then is supposed to carry out, and that would include an inclusion in the next budget of an amount of money sufficient to fund the authorization that we provide.

Then the chairman of the Appropriations Committee would have the jurisdiction to determine how much of that to fund in the appropriations request.

But the idea here is to authorize the program, which gives direction to the administration as to what we want it to do. Hopefully, that direction would be then to include that money in the budget. I certainly would be encouraging them to do that.

Mr. BYRD. I am sure the Senator would.

If I may, Mr. President, just take a further minute.

For fiscal year 2003, the President has proposed increasing nondefense programs by only 1 percent. He has threatened to veto appropriations bills that have ''excessive spending.'' For the INS, he has proposed an increase of only $150 million or about a 2-percent increase.

That is not even enough to cover inflation. So if we must do more for the INS, what are we supposed to cut? What are we going to cut if we do more than that for the INS? Veterans programs? Are we going to cut veterans programs? Are we going to cut education programs, highways, programs to promote our energy independence, programs dealing with the environment? What do we cut? If we don't do that, we run afoul of the President's threat to veto appropriations bills.

I thank all Senators for listening. I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Arizona.

Mr. KYL. Mr. President, I inquire of the Senator from West Virginia, is it correct that it was not only defense but homeland security that is above and beyond the 1 percent; and if that is the case, then could not this money be included within the homeland security part of the budget?

I am not certain, but I believe the 1 percent does not include the homeland security requirements.

Mr. BYRD. The Senator is correct, but if we do more for homeland defense, then we are restricted by the President's figures, what he has asked. Then we have to take the money out of something else. So what does it come out of? Veterans programs, education, the environment, energy? That is our dilemma. I thank the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that at 5:30 today, the Senate proceed to executive session to consider Executive Calendar No. 579, Terrence L. O'Brien to be a United States Circuit Judge; that the Senate immediately vote to confirm the nomination; that upon confirmation the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action; that the Senate return to legislative session, with the above occurring without intervening action or debate.

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

Mr. REID. Mr. President, I ask that it be in order to request the yeas and nays on this nomination.

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

Mr. REID. I do request the yeas and nays on the confirmation of Terrence L. O'Brien.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PRO-ISRAEL RALLY

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly about a rally which was held this afternoon on the west side of the Capitol, a pro-Israel rally. Some estimated the gathering at 100,000. I believe the group was substantially larger than 100,000. There were many people of all denominations represented—all colors, creeds, and racial diversity.

The purpose of the rally was to support Israel's right of self-defense. The gathering was attended by many luminaries. I had not seen so many people wait so long to speak so briefly at any time that I could recall.

I stood, as a matter of fact, with Governor Pataki. We waited an hour and a half in the blistering sun to make our presentations.

The spirit of the gathering was very emotional, very strong. The essential issue at hand was Israel's right of self-defense.

In the brief remarks that I made, I emphasized the basic point that the suicide bombers who are plaguing Israel today are identical with the suicide bombers who attacked the United States on September 11. The only difference was that the suicide bombers who attacked the United States were more sophisticated. They hijacked planes and they crashed them into the World Trade Center towers. One of the planes was, I think, headed for this very building, the Capitol, which went down in Somerset County, PA, my home State. It was speculative, to some extent, as to where it was headed, but many indicators say it was headed for the Capitol. The plane which struck the Pentagon, by many indicators, was headed for the White House.

The people of the United States were outraged by that terrorist attack, just as the people of Israel are outraged by the suicide bombers that have attacked civilian populations. The United States responded, as is well-known, by mounting a powerful military offense, which went to Afghanistan and crushed the Taliban and al-Qaida in a matter of a few weeks—an undertaking that the Soviets could not accomplish in 10 years and the Brits could not accomplish many years before. Just as we

would not expect anybody to question our right to go after the al-Qaida terrorists who killed thousands of innocent American civilians, that was the theme today in raising Israel's right of self-defense.

President Bush has said that there will not be any daylight between the United States and Israel and he has been a strong supporter of Israel. I applaud his decision to send Secretary of State Colin Powell to the Mideast. It is a very difficult assignment that the Secretary of State now has. It is my hope there may be some moderate Arab leaders who will come forward to be able to have meaningful negotiations. President Mubarak of Egypt has, for over the past two decades, been a tower of strength. Of course, he has been the recipient of approximately $2 billion a year for more than the past two decades, totaling close to $50 billion at this point.

On a recent trip I made to the Mideast, I had the opportunity to visit with King Abdullah of Jordan, a vibrant young man in his late thirties, who is taking over the mantle of his father, King Hussein, and is ready, willing, and able to be a voice of reason in the Mideast. I also met with the King of Morocco, who is also in his late thirties. He also has promise. So there is a new generation of leadership in the Mideast.

When I was in the Mideast on Tuesday, March 26, I had an opportunity to be briefed by General Anthony Zinni, our chief negotiator there, and then had an opportunity to meet with Israel's Prime Minister Ariel Sharon. Late that evening, I traveled to Ramallah to meet with Yasser Arafat. I carried forward the administration's message, and that is for Arafat to make a clear, unequivocal statement in Arabic to stop the suicide bombers. As usual, Chairman Arafat said he would. Of course, again, as usual, nothing has ever been done by him.

Then the next day, Wednesday, March 27, there was the suicide bombing at the Passover seder in Netanya. Hundreds were wounded and 27 people were killed. It had been my hope that the Saudi peace plan would come to some fruition if the Saudis would stand up. I was really chagrined to see Saudi Arabia have a telethon for Palestinians and gather some $92 million. The thought on my mind was: When was Saudi Arabia going to have a telethon to raise money for the families of the thousands of victims who perished on September 11 in a terrorist attack, with 19 terrorists, 15 of whom came from Saudi Arabia?

So in the midst of these very difficult times, this was a large gathering assembled at the west end of the Capitol—a larger group than customarily meets for the inauguration of the American President. Here, the crowd went beyond the statue on horseback. The crowd was on all sides. It was very emotional, and a very enthusiastic showing of support for Israel.

I thought it might be useful, in the absence of any other Senator, to make this brief report for those who may not have captured it on C–SPAN earlier, to get some of the flavor of the passion, emotion, and determination of this cavalry of more than 100,0000 people.

I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Alaska is recognized.

THE STEEL INDUSTRY

Mr. STEVENS. Mr. President, apparently, there are people who believe that we are cynical in raising the question of the rights of the steelworkers and coal workers to their medical costs, and some attempt to find a cash stream that will help in making the transition for the steel industry as it is consolidated.

I want the Senate to know that the motivation for thinking about steel and the steelworkers came from the provisions in the House bill H.R. 4, that contains ANWR, that allocated a portion of the bid moneys from the opening of ANWR to some conservation objectives. We looked at this problem and decided there were some moneys that could be used and what should be used as far as stimulating the future of our own State.

The Alaska gas pipeline is the real focal point of our future development. ANWR is an addition—that is, the drilling in the 1002 area on the Arctic coast, that million and a half acres there—and is the immediate objective. But the long-term objective is to find a way to transport the natural gas that has been reinjected into the ground since 1968.

As oil was produced in the Arctic, the natural gas was separated and it was reinjected into the ground. We know there is in excess of 50 trillion cubic feet of gas there—maybe 75 trillion cubic feet of gas. But the point is, as one who is interested in national security, I believe there are three major industries in this country of great concern to us in time of national problems of a military nature or security nature. One is agriculture; the second is oil; and then there is steel. When we look at the steel industry, it is the real backbone of our manufacturing infrastructure. But it has huge challenges right now, including dumping from overseas producers, and high internal costs have caused bankruptcies. Over 30 steel companies in this country have entered bankruptcy since the year 2000. That has impacted 60,000 workers. These 30-plus companies represent more than 21 percent of the domestic steel-producing industry.

In 1980, there were more than 500,000 U.S. steelworkers. By 2000, the number of steelworkers fell to 224,000. The Bureau of Labor Statistics estimates that this number will fall to 176,000 by the end of this decade. That would be a 22-percent reduction in steel-related jobs. Domestic steel shipments were down 14 percent in the first quarter of 2001. In the last 3 years alone, 23,000 steel jobs have been lost. Those who remain employed in the industry help pay for a portion of the 6,000 retirees and their benefits. Those benefits represent a promise that was made to previous workers for their contribution to building America's military-civilian infrastructure.

Our steel industry must undergo consolidation now, but it can only take place if the existing cost structures are addressed. That primarily means taking care of the health care costs for retirees. Failure to address that issue will not only impact retirees, it threatens current workers who are faced with the prospect of more mill closings and more lost jobs.

Forty-seven percent of the steelworkers are unemployed in Pennsylvania, Ohio, and Indiana. Forty-five percent of the steel jobs relate directly to production. Consolidation is an absolute must if we are to protect those jobs and failure to address this issue impacts steel States.

Why should I be interested in steel? One is defense, as I said. Steel is required to build tanks, fighters, transport planes, helicopters, ships, missiles, and other military items.

During hearings in the House and Senate last month, Robert Miller, chairman and CEO of Bethlehem Steel, testified on the problems of the steel industry. He told Senators integrated producers provide the highest quality steel for steel applications.

Bethlehem Steel is the only domestic company with the capacity to provide the special steel plate that was required to repair the U.S.S. *Cole*. Unfortunately, Bethlehem Steel is currently in chapter 11, about ready to go into chapter 7 bankruptcy. What are we going to do for sales for our military ships if we lose our own domestic steel production?

Our interest is in the gas pipeline. Alaska's natural gas pipeline will be over 3,000 miles long, almost as long as the Great Wall of China. It will be the most expensive project financed by private capital in the history of man. It will be totally privately financed.

The gas pipeline requires over 3,000 miles of 52-inch pipe that cannot be made in the United States at the present time. It requires an additional 2,000 miles of gathering pipelines and production facilities. It will take 5.2 million tons of steel. It will take $3 billion to $5 billion in steel orders. That cannot be done by the United States steel industry today. They cannot even hope to participate in the building of that pipeline. They will not participate unless the issue of the health care costs for retired employees is settled.

Just this morning I had a notice from a friend of mine who told me this:

Presently, there are only two steel mills in the world that are capable of delivering the pipe needed for our pipeline as it is presently designed. The design will require one-half of the world's capability to produce pipe during the period of its construction. If the producers start work on the project this year, it would take until 2010 or 2011 for gas to actually reach the U.S. market. There are over 18 months of work required to complete enough of the design and permitting prior to ordering the pipe. For orders placed in 2003, the pipe materials would be delivered in the year 2007.

The PRESIDING OFFICER. The Senator from North Carolina.

VISIT BY THE PRESIDENT OF THE REPUBLIC OF FINLAND, TARJA HALONEN

Mr. HELMS. Mr. President, I have the honor of presenting to the Senate the distinguished President of the Republic of Finland, President Tarja Halonen.

Mr. President, for the time between when Senator STEVENS relinquishes the floor and the time the vote starts, I ask unanimous consent that our guests be granted the privilege of the floor during the vote so they can meet Senators.

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

Mr. ENZI. Mr. President, I ask that the unanimous consent request be amended so that I might make a statement on the nominee who will be voted on at 5:30 p.m.

Mr. HELMS. Absolutely.

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

Mr. STEVENS. I ask unanimous consent I regain the floor after the vote.

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

The Senator from Wyoming.

NOMINATION OF TERRENCE L. O'BRIEN

Mr. ENZI. Mr. President, I thank the Senator from North Carolina and the Senator from Alaska for their courtesies. I appreciate this opportunity to speak on behalf of the circuit court judge who we will be voting on at 5:30 p.m.

I am so pleased we are having this vote. I have known Terry O'Brien both personally and professionally for over 22 years. I am proud of my association and friendship with him. It is not often that we get to vote on a close friend in this body.

In a few minutes, I and my colleagues will have the opportunity to vote to confirm Terry O'Brien to serve on the Tenth Circuit. The Senate Judiciary Committee recognized that Terry is highly qualified to serve in this position when it unanimously voted him out of committee. While the committee members had an opportunity to review Terry's accomplishments and get to know him during his hearing, I would like to share some information about Terry with the rest of my colleagues.

After Terry served as a captain in the U.S. Army and worked as an attorney at the Division of Land and Natural Resource in the Department of Justice, he came back to Wyoming to practice law in Buffalo at the law firm of Omohundro & O'Brien. Then in 1980, he was appointed to be a district judge for the Sixth Judicial District in Wyoming located in Gillette, WY. As a result, he moved to Gillette where he remained for 22 years.

Terry continued to be our judge until he retired from that position 2 years ago. As mayor of Gillette, I had an opportunity to observe what the local district judge just down the street from my business was doing in the community. Believe me, those who came before him let me know what they thought, too. What I saw and people observed is that Terry had a no-nonsense, fair approach to the law and to the parties involved. He made his decisions based squarely on the law, the facts, and careful consideration, and he explained his reasons for what he was doing. Even if you were the party or the attorney who lost, you always knew where he stood because he took the time to be certain to explain his reasoning and rationale to you.

My other observation is that Terry ran his court effectively, professionally, and efficiently. He never wasted anyone else's time nor let any of the parties or their attorneys waste each other's time, either.

As to his decisions, they are not full of legal jargon or unnecessary words. Instead, he explains the law so everyone can understand it. To me, this makes him a very good judge and an exceptional writer.

On a personal level, we have known each other over 22 years. We were in the same community for that time and watched each other's children grow up. Terry always cared about our community and made many contributions to it. One notable contribution is the 13 years he served as the president and a member of the board of directors of the Campbell County Health Care Foundation.

But the most important thing I want to stress is the fact that I have gotten to know Terry both professionally and personally. I can give my personal assurance that our country will benefit from his many talents. I am confident he will be a stellar judge for the Tenth Circuit Court, and I am proud to make this recommendation to my colleagues in the Senate.

He began his service to our country as a captain in the U.S. Army, and I hope you will help him to continue his service as a U.S. Tenth Circuit Court judge.

I thank the Chair for this opportunity to talk about my friend, Terry O'Brien.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I know we are close to the voting time. I recommend to all of my friends in the Senate that we approve Judge O'Brien. Certainly, no one has been as qualified, as my colleague pointed out.

In the appointment process, we had a committee sort through the judge prospects in our State, and they came up with Judge O'Brien as the judge they thought would be best qualified. I thank the committee for moving this matter along.

He is one of the few circuit judges who has been approved, and we certainly look forward to his approval by the full Senate.

Again, I recommend him without any question to be a circuit court judge in the Tenth Circuit.

I yield the floor.

Mr. HELMS. Mr. President, I repeat for emphasis that we have the President of Finland in our midst today. She will be here to meet the Senators as they come in to vote.

The PRESIDING OFFICER. The Chair welcomes our guests.

EXECUTIVE SESSION

NOMINATION OF TERRENCE L. O'BRIEN, OF WYOMING, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT

The PRESIDING OFFICER. The Senate will go into Executive session and proceed to the consideration of the nomination of Terrence L. O'Brien, which the clerk will report.

The legislative clerk read the nomination of Terrence L. O'Brien, of Wyoming, to be United States Circuit Judge for the Tenth Circuit.

Mr. LEAHY. Mr. President, today, the Senate is voting on the 43rd judicial nominee to be confirmed since last July when the Senate Judiciary Committee reorganized after the Senate majority changed. With today's vote on Judge Terrence O'Brien to the United States Court of Appeals for the Tenth Circuit, the Senate will confirm its eighth circuit court judge in little more than 9 months, since I became chairman this past summer.

The Senate is making progress on judicial confirmations. Under Democratic leadership, the Senate has confirmed more judges in the last 9 months than were confirmed in 4 out of 6 full years under Republican leadership. The number of judicial confirmations over these past 9 months—43 exceeds the number confirmed during all 12 months of 2000, 1999, 1997 and 1996.

During the preceding 6½ years in which a Republican majority most recently controlled the pace of judicial confirmations in the Senate, 248 judges were confirmed.

Some like to talk about the 377 judges confirmed during the Clinton administration, but forget to mention that more than one-third were confirmed during the first 2 years of the

Clinton administration while the Senate majority was Democratic and Senator BIDEN chaired the Judiciary Committee. The pace of confirmations under a Republican majority was markedly slower, especially in 1996, 1997, 1999, and 2000.

Thus, during the 6½ years of Republican control of the Senate, judicial confirmations averaged 38 per year—a pace of consideration and confirmation that we have already exceeded under Democratic leadership over these past 9 months, in spite of all of the challenges facing Congress and the Nation during this period, and all of the obstacles Republicans have placed in our path.

I ask myself how Republicans can justify seeking to hold the Democratic majority in the Senate to a different standard than the one they met themselves during the last 6½ years. There simply is no answer other than partisanship. This double standard is most apparent when Republicans refuse to compare fairly the progress we are making with the period in which they were in the Senate majority with a President of the other party.

They do not want to talk about that because we have exceeded, in just 9 months, the average number of judges they confirmed per year.

They would rather unfairly compare the work of the Senate on confirmations in the past 9 months to 2 years of work of previous Senates and Presidents. They say it is unfair that the Democratic-led Senate has not yet confirmed as many judges in 9 months as were confirmed in 24-month-periods at other times. I would say it is quite unfair to complain that we have not done 24 months of work on judicial vacancies in the 9 months we have had since the Senate reorganized.

These double standards and different standards are just plain wrong and unfair, but that does not seem to matter to Republican's intent on criticizing and belittling every achievement of the Senate under a Democratic majority.

Republicans have been imposing a double standard on circuit court vacancies as well. The Republican attack is based on the unfounded notion that the Senate has not kept up with attrition on the Courts of Appeals. Well, the Democratic majority in the Senate has more than kept up with attrition and we are seeking to close the vacancies gap on the Courts of Appeals that more than doubled under the Republican majority.

The Republican majority assumed control of judicial confirmation in January 1995 and did not allow the Judiciary Committee to be reorganized after the shift in majority last summer until July 10, 2001. During that period from 1995 through July 2001, vacancies on the Courts of Appeals increased from 16 to 33, more than doubling.

When I became chairman of a committee to which Members were finally assigned on July 10, we began with 33 Court of Appeals vacancies. That is what I inherited. Since the shift in majority last summer, five additional vacancies have arisen on the Courts of Appeals around the country. Prior to today's vote on Judge O'Brien, the 7 circuit judges confirmed had reduced the number of circuit vacancies to 31. With today's confirmation, there will be 30 vacancies.

Rather than the 38 vacancies that would exist if we were making no progress, as some have asserted, there are now 30 vacancies, that is more than keeping up with the attrition on the circuit courts. Since our Republican critics are so fond of using percentages, I will say that we will have now reduced the vacancies on the Courts of Appeals by almost 10 percent in the last 9 months.

While the Republicans' Senate majority increased vacancies on the Courts of Appeals by over 100 percent, it has taken the Democratic majority 9 months to reverse that trend, keep up with extraordinary turnover and, in addition, reduce circuit court vacancies by almost 10 percent.

Alternatively, Republicans should note that since the shift in majority away from them, the Senate has filled more than 20 percent of the vacancies on the Courts of Appeals in a little over 9 months. This is progress.

Rather than having the circuit court vacancy numbers skyrocketing, as they did overall during the prior 6½ years more than doubling from 16 to 33—the Democratic-led Senate has reversed that trend and the vacancy rate is moving in the right direction, down.

It is not possible to repair the damage caused by longstanding vacancies in several circuits overnight, but we are improving the conditions in the 5th, 10th and 8th Circuit, in particular. Judge O'Brien will be the second judge confirmed to the 10th Circuit in the last 4 months.

With today's vote on Judge O'Brien, in a little more than 9 months since the change in majority, the Senate has confirmed eight judges to the Courts of Appeals and held hearings on three others. In contrast, the Republican-controlled majority averaged only seven confirmations to the Courts of Appeal per year. Seven.

In the last 9 months, the Senate has now confirmed as many Court of Appeals judges as were confirmed in all of 2000 and more than were confirmed in all of 1997 or 1999. It is eight more than the zero confirmed in all of 1996.

We have confirmed eight circuit court judges and there are almost 3 months left until the 1-year anniversary of the reorganization of the Senate and the Judiciary Committee and we have already exceeded the annual number of Court of Appeals judges confirmed by our predecessors.

Overall, in little more than 9 months, the Senate Judiciary Committee has held 16 hearings involving 55 judicial nominations. That is more hearings on judges than the Republican majority held in any year of its control of the Senate. In contrast, one-sixth of President Clinton's judicial nominees—more than 50—never got a committee hearing and committee vote from the Republican majority, which perpetuated longstanding vacancies into this year.

Vacancies continue to exist on the Courts of Appeals in part because a Republican majority was not willing to hold hearings or vote on more than half—56 percent—of President Clinton's Court of Appeals nominees in 1999 and 2000 and was not willing to confirm a single judge to the Courts of Appeals during the entire 1996 session.

Despite the newfound concern from across the aisle about the number of vacancies on the circuit courts, no nominations hearings were held while the Republicans controlled the Senate in the 107th Congress last year. No judges were confirmed during that time from among the many qualified circuit court nominees received by the Senate on January 3, 2001, or from among the nominations received by the Senate on May 9, 2001.

The Democratic leadership acted promptly to address the number of circuit and district vacancies that had been allowed to grow when the Senate was in Republican control. The Judiciary Committee noticed the first hearing on judicial nominations within 10 minutes of the reorganization of the Senate and held that hearing on the day after the committee was assigned new members.

That initial hearing included a Court of Appeals nominee on whom the Republican majority had refused to hold a hearing the year before. We held unprecedented hearings for judicial nominees during the August recess. Those hearings included a Court of Appeals nominee who had been a Republican staff member of the Senate. We proceeded with a hearing the day after the first anthrax letter arrived at the Senate. That hearing included a Court of Appeals nominee.

In a little more than 9 tumultuous months, the Senate Judiciary Committee has held 16 hearings involving 55 judicial nominations including 11 circuit court nominees and we are hoping to hold another hearing soon for half a dozen more nominees, including another Court of Appeals nominee. That is more hearings on judges than the Republican majority held in any year of its control of the Senate. The Republican majority never held 16 judicial confirmation hearings in 12 months.

The Senate Judiciary Committee is holding regular hearings on judicial nominees and giving nominees a vote in committee, in contrast to the practice of anonymous holds and other obstructionist tactics employed by some during the period of Republican control. The Democratic majority has reformed the process and practices used in the past to deny committee consideration of judicial nominees.

We have moved away from the anonymous holds that so dominated the

process from 1996 through 2000. We have made home state Senators' blue slips public for the first time.

I do not mean by my comments to appear critical of Senator HATCH. Many times during the 6½ years he chaired the Judiciary Committee, I observed that, were the matter left up to us, we would have made more progress on more judicial nominees.

I thanked him during those years for his efforts. I know that he would have liked to have been able to do more and not have to leave so many vacancies and so many nominees without action.

I hope and intend to continue to hold hearings and make progress on judicial nominees in order to further the administration of justice. In our efforts to address the number of vacancies on the circuit and district courts we inherited from the Republicans, the committee has focused on consensus nominees for all Senators. In order to respond to what Vice President CHENEY and Senator HATCH now call a vacancy crisis, the committee has focused on consensus nominees.

This will help end the crisis caused by Republican delay and obstruction by confirming as many of the President's judicial nominees as quickly as possible.

Most Senators understand that the more controversial nominees require greater review. This process of careful review is part of our democratic process.

It is a critical part of the checks and balances of our system of government that does not give the power to make lifetime appointments to one person alone to remake the courts along narrow ideological lines, to pack the courts with judges whose views are outside of the mainstream of legal thought, whose decisions would further divide our Nation.

The committee continues to try to accommodate Senators from both sides of the aisle. The Court of Appeals nominees included at hearings so far this year have been at the request of Senators GRASSLEY, LOTT, SPECTER, ENZI and SMITH of New Hampshire five Republican Senators who each sought a prompt hearing on a Court of Appeals nominee who was not among those initially sent to the Senate in May, 2001.

In contrast to past practices, we are moving expeditiously to consider and confirm Judge O'Brien, who was nominated in September, 2001. The committee did not receive his ABA peer review until the end of October. He participated in a hearing in March, was reported by the committee on April 11th and is today being confirmed.

Judge O'Brien comes to the Senate highly recommended by friends and colleagues. I was pleased to have him participate in a confirmation hearing at the request of Senator ENZI. Judge O'Brien has more than 20 years of experience as a State court judge, has served on his home state's judicial ethics commission, and has a record of community service with organizations such as the United Way and the Rotary Club. I congratulate his family on his confirmation to the Circuit Court.

I am extremely proud of the work this committee has done since the change in the majority. I am proud of the way we have considered nominees fairly and expeditiously and the way we have been able to report to the Senate so many qualified, non-ideological, consensus nominees to the Senate.

Mr. HATCH. Mr. President, I rise today to speak in favor of the Senate's confirmation of Terrence O'Brien to serve on the United States Court of Appeals for the Tenth Circuit.

I am glad that today we have voted on Terrence O'Brien to serve the people of the West in the United States Court of Appeals for the Tenth Circuit. I am proud to say that Judge O'Brien began his career of public service in the United States Army, rising to the rank of Captain.

I might also point out that Judge O'Brien was first appointed to the Wyoming State bench by a Democrat Governor, once again showing that, despite what Senator Democrats and their special interest groups would have the American people think, President Bush is nominating diverse and non-partisan men and women who reflect all the American people, not just some.

I am proud of this nomination. The President has done right by the states that make up the Tenth Circuit, including my state of Utah.

Terrence O'Brien comes to this nomination after a distinguished 20 years of public service as a State district judge in Wyoming. In that capacity, he has heard approximately 13,000 cases and has also managed to find time to serve on task forces and commissions to help develop the practices and laws of Wyoming in areas which are of great interest to me, including the use of drug courts, child support, judicial ethics, and split sentencing.

A majority of the American Bar Association's Standing Committee has rated Judge O'Brien ''well qualified.'' He is a distinguished former State court judge with decades of legal experience. He sat for 20 years on the District Court for the Sixth Judicial District in Campbell County, WY, and on occasion by designation to the Wyoming Supreme Court.

First appointed by merit selection to the State bench in 1980 by Democrat Governor Edward Herschler (D), he was retained by the voters in 1982 and every 6 years thereafter until his retirement in 2000. Judge O'Brien is not just a distinguished jurist. He is the kind of civic leader we like in my part of the country. He has been an active in local civic and philanthropic affairs, having served on the Wyoming Community College Commission, the Campbell County Corrections Board, the Board of Directors of the United Way of Campbell County, and the Board of Directors of the Campbell County Health Care Foundation.

This nominee is just one of the several excellent jurists nominated by President Bush, and I am pleased that we have confirmed him today.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Terrence L. O'Brien, to be United States Circuit Judge for the Tenth Circuit? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. TORRICELLI) is necessarily absent.

Mr. NICKLES. I announce that the Senator from Alabama (Mr. SESSIONS) is necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 68 Ex.]

YEAS—98

Akaka	Dorgan	Lott
Allard	Durbin	Lugar
Allen	Edwards	McCain
Baucus	Ensign	McConnell
Bayh	Enzi	Mikulski
Bennett	Feingold	Miller
Biden	Feinstein	Murkowski
Bingaman	Fitzgerald	Murray
Bond	Frist	Nelson (FL)
Boxer	Graham	Nelson (NE)
Breaux	Gramm	Nickles
Brownback	Grassley	Reed
Bunning	Gregg	Reid
Burns	Hagel	Roberts
Byrd	Harkin	Rockefeller
Campbell	Hatch	Santorum
Cantwell	Helms	Sarbanes
Carnahan	Hollings	Schumer
Carper	Hutchinson	Shelby
Chafee	Hutchison	Smith (NH)
Cleland	Inhofe	Smith (OR)
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Collins	Johnson	Stabenow
Conrad	Kennedy	Stevens
Corzine	Kerry	Thomas
Craig	Kohl	Thompson
Crapo	Kyl	Thurmond
Daschle	Landrieu	Voinovich
Dayton	Leahy	Warner
DeWine	Levin	Wellstone
Dodd	Lieberman	Wyden
Domenici	Lincoln	

NOT VOTING—2

Sessions	Torricelli

The nomination was confirmed.

Mr. THOMAS. Mr. President, today is a very proud day for the State of Wyoming and Terrence L. O'Brien. Just a moment ago, the full Senate confirmed Mr. O'Brien for Wyoming's vacant seat on the U.S. Court of Appeals for the Tenth Circuit by a vote of 98–0.

As Wyoming's senior Senator, the responsibility of forwarding judicial nominees to the President is a job that I take very seriously. I am honored to have had the opportunity to assist in the filling of Wyoming's seat on the court. In May of 2001, Wyoming's previous judge on the Tenth Circuit, Wade Brorby, announced his move to senior status.

Following that announcement, I quickly formed a selection committee in my home State to review qualified candidates. After an extensive process, the selection committee presented me with three candidates all with exceptional backgrounds to serve on the Tenth Circuit. Terrence O'Brien was

one of the three candidates I forwarded to President Bush.

On August 3, 2001, President Bush formally nominated Terrence O'Brien to the Tenth Circuit and the President's decision reaffirmed what I believed all along—that Judge O'Brien is an outstanding selection to fill Wyoming's seat on the court.

For 20 years, 1980–2000, Mr. O'Brien served with distinction as a State district court judge in Wyoming. During his tenure he earned tremendous respect from those who argued cases before him. I cannot imagine a finer individual who will join other notable Wyoming jurists on the U.S. Court of Appeals for the Tenth Circuit, including; Wade Brorby, James E. Barrett, John Jay Hickey, and John C. Pickett, who by the way, was Wyoming's first judge to sit on the Court.

I also want to thank Senate Judiciary Committee Chairman LEAHY and fellow ranking Republican Senator HATCH for their work in reporting Mr. O'Brien's nomination. While our Federal judiciary current has 95 vacancies, today's confirmation of Terrence O'Brien is a step in the right direction. I look forward to the Senate's consideration of other article III U.S. Circuit and U.S. District Court judges.

If the mark that Terrence O'Brien left in Wyoming as a district court judge is any indication of his resolve and sharp judgment—our Nation can expect great things from a man who's appreciation and respect for the rule of law are without question. Without reservation, I know that Mr. O'Brien will serve with honor and distinction on the Court of Appeals for the Tenth Circuit.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table, and the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate shall return to legislative session.

(Ms. STABENOW assumed the chair.)

Under the previous order, the Senator from Alaska is recognized.

THE ALASKA NATURAL GAS PIPELINE

Mr. STEVENS. Madam President, before the distinguished visitor entered the Chamber, and before the vote and the statements were made by the Senators from Wyoming concerning their nominee, I was discussing problems in relation to the Alaska natural gas pipeline.

I think it is something on which the Senate ought to concentrate because we are clearly going to have to have a gas pipeline to bring to market the gas which was reinjected into the ground as Prudhoe Bay oil was produced. To bring that to market—50 to 70 trillion cubic feet of gas—we need a pipeline 3,000 miles long, gathering pipelines up to 1,500 miles long.

We are now in the position where there are only two steel mills in the world that are capable of delivering this steel pipe as it is designed.

Before the vote, I outlined the number of jobs that we have lost in the steel industry and the situation with the American steel industry. For this gas pipeline, we need 5.2 million tons of steel. We need $3 to $5 billion in steel orders. We cannot get that steel unless the U.S. steel industry gets back on its feet.

So for that reason, I started to think about how we could use some of the cashflow from the development of ANWR to start the process of the gas pipeline. As we examined that, we found the problem was not the steel industry as much as it was the rights of those who have been employed by the steel industry to have their medical care maintained. And that promise was a benefit that was agreed to many years ago for the contribution these workers had made to the military and civilian infrastructure of the country. It is, as I understand it, a potential lien against the steel industry as a whole.

We need to find some way to prevent these retirees from losing their health care coverage so that it will not be a lien against the assets of the steel industry as it tries to undergo consolidation now. The consolidation must be done if we are going to have the steel necessary to build the Alaska pipeline to bring our gas down to somewhere in the Midwest.

I was commencing to tell the Senate about two messages that I received today from a great friend whom I think is one of the most capable engineers in the oil and gas industry, particularly with regard to the pipelines and their design.

As I said, he told me there are only two steel mills in the world that are currently capable of delivering this pipe. He further told me that the pipe will require one-half of the world's capability to produce the pipe during the period of this order.

If the producers restart their work on this project this year, it would take until 2010 or 2011 for the gas to actually be delivered to our Midwest—9 years from now.

There is over 18 months of work required to complete the design so that it would be possible to order the pipe. For orders placed in 2003, the last pipe materials would be delivered to the field in 2007. That would enable the gas, if everything else goes well, to start being delivered in 2010, as I said.

Now, we have linked these issues together because of both the funding standpoint and the impact on national security and because of our absolute need for steel to build our gas pipeline.

Opening up the North Slope of Alaska to the drilling in what we call the 1002 area will bring a cash bid in 2003 and 2005. We propose to make some of that money available to initiate the process of rebuilding the industry and taking the first steps to assure that the legacy fund of the steelworkers and the coal workers would be made whole.

Madam President, many people have argued with me about this. The House bill put money into the conservation account. An interesting thing about it is, if the amendment we have is defeated, the oil industry will not proceed, the steel industry will not proceed, the natural gas pipeline will not proceed, but not one of these radical environmentalists will lose their health care coverage. The American steel retirees are going to be the ones who pay the price in the long run.

I received a second message from my friend just before I came back to the Chamber, and that is that 30 percent of the pipeline materials will need to be delivered to the site by 2005, with the remainder to be delivered in 2007, as I said. I did not realize the steel chemistry for pipelines of this size has never been used. It will be what we call an X80-plus steel pipeline.

If the project proceeds in the first year, some of the pipe material needed to be manufactured will need to be tested for weldability and for fracture and burst analysis to assure the material chemistry in the pipe is correct. The timing and cost of all of this is critical to the pipeline project.

In addition to the pipeline pipe, there is a huge amount of normal steel materials required for compressor stations and the largest processing plant ever to be built.

The Alaska natural gas pipeline should be called the ''Full Employment Project for 10 Years,'' maybe 15 years. It will require every person who is capable of working on such an endeavor in the United States and Canada for a period of over 8 years. It will not be built unless we realize the preliminaries must be completed before this pipeline can be built. It will bring down to what we call the South 48 the equivalent of a million barrels of oil a day, but it will be natural gas—high pressure gas pipeline, 52 inches in diameter, 1-inch thick.

I find it very interesting that as I talk about this subject, the commentators in the newspapers and whatnot say this is just a lot of baloney. These people are trying to link two subjects together. These are two subjects that have no individual answer. At the present time, we don't have 60 votes on the amendment to allow the drilling to commence in the 1002 area. We know that.

But the steelworkers and coal miners have no other cashflow either. They can't look for another source of money to meet their needs for at least 30 years. There are over 600,000 of them, and our proposal would start a cashflow from this new oil brought into our market. And it is money that is payable for the bidding process and from royalties on this oil that would help the steelworkers, the coal workers, and the industry to reconstruct itself.

We have been criticized about this all too often. I see my good friend standing here in the Chamber who might take umbrage at this. But during the time I was chairman of the Appropriations Committee, we provided $17 billion for American farmers for emergency purposes because of failures in various parts of the agricultural industry. That was in addition to hundreds of billions of dollars that were spent by the Department of Agriculture in the same period. What do you think that money was used for? It was used to pay for the bills on the John Deere tractors. It was used to pay for the farmers' health insurance. It was used to pay for the cost of the agricultural community to survive during bad times.

These are bad times for the steel industry. There is not one bit of steel in my State. We have half the coal of the United States, but we do not have any steel. We have raised a question of trying to find an answer to the steel problem because of our own interest in the steel industry in the future. If there is no steel industry in the United States, we will not have an Alaska natural gas pipeline for years and years.

I see no reason why we should be afraid to marry two subjects that, if the supporters of each would get together, we would succeed. The radical environmentalists of this country have overwhelmed the Congress.

In 1980, my State faced the problem of a proposal to withdraw 104 million acres of Alaska for Alaska national interest lands. That is what the name of the act was, the Alaska National Interest Lands Conservation Act. In 1978, my former colleague, Senator Gravel, had blocked that bill in the final minutes of that session, that Congress that ended in 1978.

By the end of 1980, we were at the place where there was a bill, but we said we would not support it, could not support it, unless we had the right to explore in the 1002 area, which is known to contain the largest reservoir in the North American Continent. And in a compromise entered into in good faith between those of us who represented Alaska and Senators Jackson and Tsongas, we got a bill passed which authorized the future drilling in this area and provided an environmental impact statement that showed there would be no adverse impact on the area.

Twice the Congress has passed such an amendment and twice President Clinton vetoed it. Now President Bush, knowing the international situation as it is, has said he wants this area opened to oil and gas exploration. We are trying to carry that load of getting the approval requested by the President of the United States. It is in the House bill, but it is not in this bill.

I find it very hard to represent a State such as mine, a new State. I have been in the Senate for all but 9 years that Alaska has been a member of the Union. The one absolute agreement, absolute agreement that we worked on for 7 years was the agreement to assure that this area would be explored for its oil and gas potential.

When I was in the Department of the Interior during the Eisenhower administration, I helped prepare the order to create the Arctic National Wildlife Range. At that time there was no question that range was created, and it was specifically stated that oil and gas exploration could continue in that area, subject to stipulations to protect the fish and wildlife.

When we got to this bill, the so-called ANILCA bill, the Alaska Natural Interest Lands Conservation Act, we had the proposal to withdraw all of this land, and the House of Representatives, in its bill, closed this area to oil and gas exploration. The only basic change that we made in that bill, as it came out of the Senate, the only basic change that was absolutely demanded by the State of Alaska and all of us who were elected to represent the State of Alaska—both the State legislature, the Governor, and the three of us in the congressional delegation—was that area had to be available for exploration.

Senator Jackson, chairman of the committee; Senator Tsongas, author of the substitute; agreed to amend that bill to allow for the exploration and development of the oil and gas potential, and those in the Chamber now who challenge that are leading the fight to break a commitment that was made to a sovereign State. It was made to us as a State that the area would be available for exploration if we did not oppose any further the proposal to withdraw 104 million acres of land for national purposes in our State.

People say, why are you exercised about that? Our whole rights as a State were put aside until that issue was settled. The Alaskan people were entitled to select lands for the public land as part of our statehood act; the Native people were entitled to select lands in settlement of their claims. Over 150 million acres of Alaska to be selected to benefit Alaskans in the future, it all was put aside until those 104 million acres were set aside. The only thing we asked out of the 104 million acres was the right to explore this area, 1.5 million acres on the Arctic coast. That agreement was made.

There are people here in the Senate who voted for it who now tell us they are not going to vote to allow that exploration to take place. It is enough to strain anybody's conscience, and my conscience is strained because of the fact that I agreed to that proposition. I agreed to it. I believed in the system. I believed that once Congress made a commitment in law, signed by the President of the United States, it would be binding even on future Senators. Apparently, it is not.

I warn all Senators, don't trust the Senate. Don't trust a commitment that is made by your colleagues. Don't trust an agreement that you make with the Federal Government. Unless we can get this area opened, there is no way I will trust a future agreement that is made here in the Senate Chamber with regard to future activity. I will insist that anything that benefits my State must be done now, not dependent on future Congresses in order to carry it out.

This is an unfortunate situation as far as I am concerned. I have not said the last.

Let me put this back up so people will see it again.

Madam President, this is the introduction to section 1002, the Jackson-Tsongas amendment, December 2, 1980. It specifically set forth the agreement we had made:

> The purpose of this section is to provide for a comprehensive and continuing inventory and assessment of the fish and wildlife resources of the coastal plain of the Arctic National Wildlife Refuge; an analysis of the impacts of oil and gas exploration, development, and production, and to authorize exploratory activity within the coastal plain in a manner that avoids significant adverse effects on the fish and wildlife and other resources.

That is the situation. That is the Coastal Plain, 1.5 million acres, part of the original Arctic Wildlife Range. That has never been wilderness. The balance of the wildlife range is wilderness, but the additions of the wildlife range are not wilderness. This is a concept—I really don't know how to deal with it other than to say this was a basic negotiated compromise between the State of Alaska and the people of the United States. We were assured that the area would be open.

Now, that little red dot there on the chart represents the amount of land we have agreed we would be limited to as we go into production—2,000 acres of a million and a half acres is what we are asking to be able to explore. We know where to drill now. The seismic work was authorized by the 1980 act and has been done. We are ready to drill now.

There is oil production right outside of that ANWR area. This is the Prudhoe Bay area here and this is Kuparuk Field. This is essential to our national security. At the time of the Persian Gulf war, that Trans-Alaska pipeline, going from Prudhoe Bay to Valdez, carried 2.1 billion barrels of oil a day. Now it carries 950,000 a day. We make up the difference by importing the oil from Iraq. As we buy the oil from Iraq, Saddam Hussein sends $25,000 to the families of every one of the suicide bombers. We are paying for the terrorism that comes from Iraq because we continue to import oil that we could produce ourselves. We know there is oil there. The problem is, not only do we know there is oil there, but also in this big field up here, as we produce the oil, there is associated gas.

There is 50 trillion to 70 trillion cubic feet of gas there that we want to bring down to the 48 contiguous States. This chart will show where it will go. There are two routes proposed. This green line is the route. It is traversing a corridor that will come down the Alaska

Highway and across into Canada and then to the Chicago area. That is 3,000 miles, and 1,500 miles of gathering pipelines in the area.

There is no question that this gas is absolutely needed for our future. What is the key to that future? I am back where I started. The key is steel. If we don't have steel, we cannot build a pipeline. If the steelworkers don't get that legacy fund fixed, there will not be a consolidation of steel that will make a difference for us. We need the steel industry to come back into its own and for them to be able to deliver their portion of this steel. It will take half of the world's production for a period of 7 to 10 years to build that gas pipeline. That is why we are suggesting that we marry up the needs of the steel industry and our needs, as the State that wants to pursue development of that oil in the 1002 area, the million and a half acres.

I think we should do things in the national interest. I am sad to say that it increasingly looks as if it is not going to happen. We are still going to persevere and try to continue to convince people what would be the right and just thing to do here. But, above all, I hope every Senator will examine their conscience and answer the question of whether or not, if a commitment was made to them concerning their State by the United States in a law enacted by the Congress, suggested by two colleagues in the Senate, what would their attitude be if when the time came to validate that agreement, the Senate refused to do so?

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

TRADE PROMOTION AUTHORITY

Mr. GRASSLEY. Madam President, one of the pieces of legislation I thought would be on the floor of the Senate by this time is trade promotion authority. I know our majority leader has a lot of problems and issues with which he has to deal. I think he has intentions of bringing the bill up sometime, but I am trying to encourage the Senate majority leader to bring it up soon because we have so many issues before us. I want to speak about one of those issues in regard to trade and agriculture.

Trade promotion authority is so important for us to get down trade barriers that stand in the way of the successful and fair trade of our agricultural products with other countries. Without trade, there is not going to be any profitability in farming. The fact is, we produce 40 percent more on our farms than is consumed domestically. So a good trade policy is what is necessary if we are going to have full production and if we are going to have profitability in farming.

We had the pleasure of bringing up a bill that had the support by a vote of 18 to 3 of the Senate Finance Committee. That was about 4 months ago and we still don't have any commitment from the leadership to bring this critical, bipartisan trade legislation to the floor by a date certain, so we can plan on that date and be ready for one of the most important issues to come before Congress this year and eventually vote on it.

We have had several offers: that this bill would come up sometime this spring; one time it was in March; another time, it was soon after the Easter recess; now it is maybe sometime before Memorial Day. There is a great deal of uncertainty. During this period of uncertainty, we lose opportunities for the United States to be a leader in global trade negotiation.

Remember, this is not something new for the United States. This is something that the United States has been doing since 1947 when the General Agreement on Tariffs and Trade was first started. Whatever success we have had until 1994, when the President's authority ran out, has been accomplished under U.S. leadership. We ought to be proud of our leadership and we ought to be looking forward to reestablishing that leadership once again after a period of about 8 years during which the President hasn't had the authority. Then we can continue the good things that happen when trade barriers are reduced.

The good things that happen are the creation of jobs. I don't want people to take my word for that. I want to repeat one of the things President Clinton has constantly said, which I agree with, and that is during his tenure as President, with a rapidly expanding economy—I think in the neighborhood of about 20 million new jobs were created during that term of office—President Clinton would say that one-third of those jobs were created because of trade.

I am not talking about trade as some abstract political theory or economic theory. I am talking about the good that comes from trade—the good of creating jobs in America, the good that it does for our consumers because of the opportunities to get the best buy for consumer goods.

President Clinton's bragging about one-third of the jobs coming from international trade was a direct result of 50 years of America's leadership in the reduction of trade barriers. Two of those major agreements were completed in the first year of President Clinton's Presidency—the North American Free Trade Agreement, as well as the Uruguay Round of the General Agreement on Tariffs and Trade, which established the World Trade Organization as a more permanent forum for the establishment of trade agreements in the future and settlement of trade disputes.

I am talking about having a better opportunity for America's economy, for creation of jobs. Again, this is not something from which just America benefits. We can look at the economies of Korea, Taiwan, and Japan. As we know, after World War II, they were in a terrible state of affairs. They were Third World economies. Look at what those economies have done in the last 50 years through the principle of trading and through the regime that was established under the General Agreement on Tariffs and Trade. They were able to expand their economies to the advanced economies they have today.

By having trade in the 77 countries in the world that are the most poor—Africa and other countries as well—we can help them expand their economies or, as President Kennedy said in his Presidency, trade not aid, meaning that trade was a better way of helping the developing nations to become strong economies rather than the United States just giving something that was not an encouragement for them to advance.

When I talk about trade promotion authority, I am not talking about some abstract delegation of authority to the President of the United States to negotiate certain agreements that Congress is going to control in the final analysis as we have to vote on that product that comes out of those agreements. We are talking about helping countries all over the world because we have an expanding world population, and we have to have an expanding world economic pie. If we do not, we are going to have less for more people. But with an expanding world economic pie, for sure, with an expanding world population, we are going to have more for more people, and we are not only going to be talking about a better life for those people, but we are going to talk about more social stability, more political stability and more peace around the world.

This is a very important issue that we ought to be dealing with in the Senate. Every day we delay in approving bipartisan trade promotion authority for the President is another day that the United States cannot advance the interest of our workers or, in the case of my remarks today, the interests of America's farmers, ranchers, and agricultural producers at the negotiating table as effectively as they should, as effectively as we did in the Uruguay Round starting in 1986 and ending in 1993, which resulted in a very favorable agreement or any time since 1947. It is a reality, not some theoretical point.

While month after month there has been a delay in this issue coming up, our agricultural negotiators are at the table right now in Geneva. They are fighting for better market access for our farmers, but without trade promotion authority, our agricultural negotiators have one hand tied behind their backs. There are timetables, there are goals, and there are deadlines in Geneva that have to be met if these negotiators are going to accomplish what we want them to accomplish for the good of American agriculture.

Without trade promotion authority, it will not be the United States that will shape the negotiating agenda of

these talks. It will be the countries that want to shield their markets from competition that will shape the agenda and the timing of these negotiations.

This would be a devastating situation for America's export-dependent farm economy, and it will cost virtually every farming family in America. Without greater access to world markets, America's family farmers and ranchers will pay more in the form of higher tariffs or taxes than will our competitors. As a result, our farmers will have lower prices, lower income, and lost opportunity.

I thought I would bring to the attention of the Senate a letter that is shown on this chart in its entirety. I am not going to read the letter in its entirety. It is from a constituent of mine. He also happens to be a person I know well, not because I socialize with this person, but because he is an outstanding agricultural leader in my State and, in that capacity, I get to know some of these people who are outstanding farmers, outstanding civic leaders.

I received this letter from Glen Keppy and brought it with me so my colleagues can see how a third generation pork producer from Davenport, IA, looks at the issue of trade and the relationship between trade and the profitability in farming and, more importantly, the strength of the institution that we refer to as the family farmer.

If I can explain what I mean by a family farmer because some think that might be 80 acres or 500 acres. I am not talking about the size of the farm. I am talking about an institution where the family controls the capital, they make all the management decisions, and they provide most or all of the labor. That is a family farm. That can be a 30-acre New Jersey truck garden; that can be an apple ranch in the Presiding Officer's State of Michigan; that can be a ranch, with cattle on thousands of acres, in Wyoming where it takes 25 acres of grass to feed one cow and calf unit.

Mr. Keppy wrote to me about the huge foreign tariffs that are on pork, averaging in some instances close to 100 percent. He also wrote about other foreign trade barriers that hamper his and other farmers' ability to export overseas.

According to Glenn, and I am going to read the first sentence that is highlighted:

> The only way our family operation will survive over the long term is if we can convince other nations to lower or remove their barriers to our pork exports.

That comes from some experience. We have learned from some reductions of tariffs going into Mexico since the North American Free Trade Agreement. We are sending more pork into Mexico. As a result of agreements with Japan, more beef is going into Japan. A lot of agreements that were made in the Uruguay Round of the General Agreement on Tariffs and Trade proved that as well.

Mr. Keppy knows that where barriers have gone down, it has created opportunities for the American farmer. What he is talking about is that we need to continue opening markets, and trade promotion authority is the tool that we give to the President to negotiate. We give to the President our constitutional power under certain short periods of time with restrictions so the President can sit down at the table and negotiate because, quite frankly, it is not possible for 535 Members of Congress to negotiate with the 142 different countries that are members of the World Trade Organization.

So we give the President this authority. We have done it in the past. It has been very successful. We control the end products because if we do not like it, we do not vote for it, it does not pass, it does not become law.

We also control the process through consultation that we require of the President of the United States. We limit some areas where he might be able to negotiate or not negotiate. We instruct the President to emphasize some things over other things. So we are not giving away any constitutional power. We are asking the President, as a matter of convenience, to negotiate for Congress in the exercise of our constitutional control over interstate and foreign commerce.

I remember in the Senate at the beginning of this debate on trade promotion authority there were some who said it really was not necessary to pass trade promotion authority right away. These critics were wrong then. They are wrong now.

To show how one of my constituents feels about this, this is what this family farmer who emphasizes and specializes in pork production, Mr. Keppy, says, and I would read another sentence:

> To the American farmer, despite the pressing need to improve export prospects and consequently, the bottom line for American farmers, no timetable for considering TPA legislation on the floor of the Senate has been set.

That is his way of saying that is not a very good environment for agriculture at the negotiating table as we are right now in Geneva.

He also says in another place in these letters:

> To farmers like my two sons and myself, trade is not a luxury. It is a vital ingredient to our success.

''It is the key,'' Mr. Keppy says, ''to our survival.''

There are a lot of Glen Keppys whose survival as family farmers depends on trade. So it matters a lot to Mr. Keppy and to all the farmers in America like him when the Senate leadership delays month after month in bringing legislation that is vital to the survival of family farmers to the Senate.

Saying one is for the family farmer and then ignoring or delaying legislation that is vital to the farmers' survival is beyond most farmers' ability to understand. Glen Keppy, his two sons who work with him, and all the family farmers like them whose survival depends on trade hope the Senate Democratic leadership is listening and will schedule this bill for debate. More importantly, the family farmers of America hope we act on this bill.

Again, I know this has been on Senator DASCHLE's list of important things to get done. I know he knows the importance of it because he is one of the 18 who voted to bring this out of our Senate Finance Committee, but it is something we have to get done, even if it takes working extra hours, as we are not tonight. I am not complaining about not working nights because none of us want to work at night, but sometimes we might have to do it to get the job done.

I welcome that opportunity and I thank Senator DASCHLE for his consideration of my request.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

AMENDMENT SUBMITTAL

Mr. MURKOWSKI. Madam President, in deference to the majority, it will be my intent to send an amendment to the desk. I ask that the amendment be laid over until the appropriate time. This is an amendment that involves sanctions on Iraq.

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

Mr. MURKOWSKI. I do not want to preclude it, but I am not sure as to whether or not it would be necessary to set aside the existing amendment, which is the Iraqi oil import ban. I filed this some time ago.

The PRESIDING OFFICER. On what measure is the Senator proposing to add the amendment?

Mr. MURKOWSKI. It is a specific ban on imports from Iraq.

The PRESIDING OFFICER. To which bill is the Senator proposing to add the amendment?

Mr. MURKOWSKI. It would be an amendment to S. 517.

The PRESIDING OFFICER. That measure is not pending at this time.

Mr. MURKOWSKI. I ask unanimous consent to submit this amendment as if it was in order as a pending amendment.

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

Mr. MURKOWSKI. My understanding is tomorrow morning is somewhat open because the majority had indicated they were not going to be taking up the boundary issue, and there was some question of taking something else up. So I simply offer this amendment. Obviously, it is going to be up to the leaders if they want to take it, but it would

be my intention to submit it. So my staff has the amendment coming shortly. It has already been filed with the clerk. So let me go into the specifics.

This amendment would basically end our imports of oil from Iraq until certain conditions were met. First would be that the U.N. certifies that Iraq has complied with Security Council Resolution 687 and has dismantled their program to develop and construct weapons of mass destruction. Further, it would end our imports of oil from Iraq until Iraq ceases to smuggle oil in contravention of Security Council Resolution 986; further, that Iraq no longer pays bounties to the families of suicide bombers wreaking havoc in Israel.

Now, I recognize Iraq's oil export program is intended to be used for the benefit of Iraq's suffering people, but my amendment also seeks to ensure the President uses every means available to support the humanitarian needs of the Iraqi people notwithstanding our ban on oil imports.

I consider myself somewhat of an internationalist, and I believe firmly in the importance of engagement with other countries, particularly economic engagement. But I am a strong believer, as well, in free trade and in the work that many of my colleagues have done to reform the economic sanctions policy. However, I draw the line on economic engagement when national security is compromised.

I said it before, and I will say it again, our increasing dependency on unstable overseas sources of oil is compromising our national security. In the last week, this Nation has lost 30 percent of our available imports from both Iraq and Venezuela. Last week, Saddam Hussein urged fellow Arab OPEC members to use oil as a weapon—I repeat that: Oil as a weapon. We saw what happened when aircraft were used as weapons in the World Trade Center disaster.

Saddam Hussein did that by imposing a 30-day embargo to halt oil exports to the United States until the United States forced Israel to cave into the demands of the Palestinian extremists.

In 1973, the Arab League used oil as a weapon during a time of similar crisis in the Mideast. Some may remember that. We had gas lines around the block. People were blaming government. That was during the Yom Kippur War.

At that time, we were 37 percent dependent on imported oil. Still, the Arab oil embargo demonstrated how powerful a weapon oil could be, and the United States was brought to its knees at that time in 1973.

Today, we are 58 percent dependent on imported oil. Clearly, the vulnerability is evident. At that time, the national security implications of energy dependence was obvious to everybody. At that time, there was a decision made to build a TransAlaskan pipeline. It was taken precisely because of our national security implications of overdependency on Middle East sources. That was then and this is now.

I have charts that show the contribution of Prudhoe Bay to decreasing our imports when Prudhoe Bay came online. It was a dramatic reduction in imports. Prudhoe Bay has contributed about 25 percent of the total crude oil produced in this country. Prospects for ANWR are even greater. I suggest there is more oil in ANWR than in the entire State of Texas.

As we look at the changing times, we have to recognize certain things stay the same. Nearly 30 years after the Arab oil embargo, we are faced with the same threat we faced in 1973. The difference is that now we are nearly 58 percent dependent on imported oil. The stakes are higher. The national security implications are more evident. I wonder what we have learned. The day before Saddam Hussein called on his Arab neighbors to use oil as a weapon and begin the 30-day moratorium on exports, the United States was importing over a million barrels a day from Iraq. If you filled up your tank on that day, chances are at least a half gallon of your tank came from Iraq. That is dollars to Saddam Hussein. Think about it. This is the same individual who pays bounties to suicide bombers. It was $10,000; now it is $25,000. He shoots at our sons and daughters who fly missions in the no-fly zone in Iraq; he has used chemical weapons on his own people and has boasted that he has the weapons to scorch half of Israel.

When we innocently fill up a gas tank, we have paid Saddam Hussein nearly a nickel of every dollar spent at the pump that day—paid, in effect, for the suicide bombers; bought the shells targeted at American forces; paid for the chemical and biological weapons being developed in Iraq which are targeted at Israel.

Have we learned our lesson? I ran across an old Life magazine from March 1991. In a profile of the gulf war, they wrote of Saddam Hussein:

> When he finally fought his way to power in 1979, after an apprenticeship of a few years as a torturer, his first order was the execution of some 20 of the highest-ranking government officials, including one of his best friends. He likes to say ''he who is closest to me is furthest from when he does wrong.'' He grew up in dirt to live in splendor. He is cheerless. And he currently possesses Kuwait.

This article should be used as a reminder of the costly mistakes for not dealing with him completely. It is almost a play-by-play review of the gulf war, but new names and a new era from 2002 could just as easily be inserted in that article. These lessons must not be lost. He is our enemy. The world must isolate him, cut him off and coax his regime to an early demise.

We have not learned our lesson, have we? He is still there because we are still buying his oil. Sure, it is masked in an oil-for-food program, but is it really working? He is still there. I know oil for food isn't supposed to work that way. Saddam Hussein is supposed to use the money for oil, for food to feed the Iraqi people, to buy medicine, but he cheats on the program, buying all kinds of dual-use and questionable material and smuggles billions of dollars of oil out of Iraq, which directly funds his armies, his weapons, his programs, and his palaces.

We have had lost lives. A few months ago we had two of our Navy men drown boarding one of his illegal tankers that was going out of Iraq. During the inspection, the ship simply sank.

No matter how you look at it, our purchase of Iraqi oil is absolutely contrary to the national interests of our country. It is indefensible. It must end.

My amendment does just that. It would end the new imports of Iraqi oil until Iraq is proven a responsible member of the international community and complies with the relevant Security Council resolutions.

I begin this statement by affirming my support for economic engagement. I believe deeply in the principles of free trade. I do not believe, however, in economic disarmament. When, as in the case of oil, a commodity is not only important to our economy's health, but it is also important to our military's ability to defend this Nation, self-sufficiency is a critical matter. No country or group of countries should have the ability to ground our aircraft, shut down our tanks, or keep our ships from leaving port. Yet allowing ourselves to become dependent on imports threatens to do just that.

In the case of Saddam Hussein, we are dependent, as I indicated, as a consequence of what has happened with the curtailment of imports and the strikes in Venezuela. Thirty percent of our normal imports have been interrupted, a portion of that by a sworn and defined enemy, Saddam Hussein.

I will show a chart I referred to earlier because I think it addresses and thwarts some of the negative impressions as to how significant any development in ANWR might be.

Looking at history, this particular chart shows, on the blue line, production in Alaska. In 1976 and 1977 it went up dramatically. The red line shows why. We began to build the TransAlaskan pipeline, the TAPPS pipeline, and we see in 1977 at that time imports peaked, and then they dropped dramatically. They dropped in 1980, 1981, 1982, 1983, 1984, 1985, and 1986 because we opened Prudhoe Bay. When critics say opening up ANWR will not make any difference, history proves them wrong. This is the actual reality of what happened to our imports when we opened Prudhoe Bay. The imports dropped in 1980, 1981, 1982, 1983, 1984, 1985, and 1986. Why did they start going up? Obviously, the demand in the United States increased. They kept increasing. If you look at the blue line, Alaska's production begins to decline. It will decline until we face reality and wake up to the fact that we have the capability to develop ANWR just as we did Prudhoe Bay. But there is the reality that the contribution of opening up a field of the magnitude of ANWR

will certainly be comparable to that of Prudhoe Bay. I think that comparison is evident in the range estimated for the reserves of ANWR—somewhere between 5.6 billion and 16 billion barrels.

The actual production of Prudhoe Bay has been a little over 10 billion barrels. So if you apply roughly the same scenario, you are going to see a significant drop in imports from overseas as we increase production in Alaska. I think that chart really needs to be understood.

I wish to conclude by a reference to relying on foreign sources of oil. I think we all agree history shows us it is not risk free. We saw what happened in 1973 during the Arab oil embargo. I think it is fair to say we have a bit of an uneasy relationship with our friends in the gulf, and September 11 clearly demonstrated that our enemies—in staunch allies like Saudi Arabia—may outnumber our friends.

Isn't it interesting the Saudis have indicated they are going to make up the supply that was terminated by Saddam Hussein indicating he is going to cease production for 30 days? I wonder at what price. We already have some form of economic sanction on every single member of OPEC.

Think about that. Here we are, relying on a cartel which is illegal in this country to provide us with our oil. Then we have some form of economic sanction on every single member of OPEC, a reflection on the uneasy relationship we have with those countries.

That is risky, relying on countries such as these to provide for our national security. We have long recognized the folly of importing oil from our enemies. There is lots of oil in Iran and Libya, but we have not imported so much as a drop of oil from those countries in 20 years. Does relying on Iraq make more sense than relying on Iran or Libya? I notice many colleagues advocate production in less risky parts of the globe, including in the United States. The trouble is, you have to drill for oil and you have to go where the oil is. The fact is, the ground under which most of the oil is buried is controlled by unstable, unfriendly, or at-risk governments.

Let me turn for a moment to some of the other areas of the world on which we depend. Take Colombia, for example, the oilfields being developed in this pristine rainforest down there. We get more than 350,000 barrels of oil from Colombia. The 480-mile-long Cano Limo pipeline is at the heart of the Colombian oilfields and the trade. It is very frequently attacked by the FARC rebels. They are anti-capitalist, anti-U.S., anti-Colombian Government rebels. The trouble is, half the country these rebels control has the Cano Limo pipeline running through it, a convenient target to cripple the economy, get America's attention, and rally the troops to their cause.

The countless attacks have cost some 24 million barrels in lost crude production last year and untold environmental damage to the rainforest ecosystem.

Last year alone, the rebels bombed the Cano Limo pipeline 170 times, putting it out of commission for 266 days and costing the Colombian Government and the citizens of that country about $500 million in lost revenues.

The Bush administration wants to spend $98 million to train a brigade of 2,000 Colombian soldiers to protect the pipeline and now another rebel faction called the American companies running the pipeline ''military targets.''

I ask you, is Colombia a stable supply, a stable source of supply?

How about Venezuela? Workers are on strike there. The Government is in turmoil. Production is suspended. Yesterday, labor leaders and Government officials were set to return to the bargaining table. That has broken down today. Instead we have seen riots, 12 to 20 people are dead. Hundreds are injured. We have seen President Chavez resign and then we have seen him come back.

One has to question the absence of Chavez and what does it mean to stability? Does it leave a vacuum? Does it leave more uncertainty?

Between a Venezuelan labor crisis, Colombia's civil war, Iraq's embargo, 30 percent of our oil supply is threatened. What are we doing about it? We are talking about CAFE standards. My colleagues suggest to you if we would only adopt CAFE standards, we would be able to take care of, and relieve our dependence on, imports.

There are two things about CAFE standards. One is the recognition that we can save on oil. But the world moves on oil. The United States moves on oil. Unfortunately, other alternative sources of energy do not move America. They don't move our trains or our boats, our automobiles or trucks. We wish, perhaps, we had another alternative, but we do not. The harsh reality is we are going to be depending on oil and oil imports. The question is, Is it in the national interest of this country to reduce that dependence? The answer is clearly yes.

Are my colleagues truly unfazed about the close connection between oil money and national security? Are we willing to turn our heads while the money we spend at the pump fuels the Mideast crisis? Are we willing to finance the schemes of Saddam Hussein? Are we willing to allow our policy choices in Israel to be dictated by our thirst for imported oil? Are we willing to let oil be used as a weapon against us?

Whatever the outcome of the ANWR debate which we are going to start tomorrow, we should stop relying on Saddam Hussein. It is simply a matter of principle. The United States is a principled nation. We should not allow our national security to be compromised. I have heard time and time again, on the other side, my friends dismissing ANWR as a solution to the national security dilemma of overdependence on foreign oil. But I have not heard of a good, sound alternative solution.

Our military cannot conduct a campaign of conservation. Our aircraft do not fly on biomass. Our tanks do not run on solar. Wind power has not been used by the Navy in 150 years.

I sympathize with the desires to eliminate the use of fossil fuels. I believe we will get there through continued research in new technologies. But, in the meantime, the United States and the world moves on oil. As the developing nations develop their economies, they are going to require more oil. I certainly understand the urge to deny the importance of oil in the national security equation, but all my colleagues, I think it is fair to say, will eventually have to look themselves in the mirror after this debate and ask whether we have sacrificed our national security in order to appeal to the fantasies of extreme but well-funded environmentalists.

Whether or not we do the right thing for this country and open up ANWR to safe, effective exploration, we should not compromise our national security by continuing to rely on our enemies. That is just what we are, evidently, doing at this time.

Finally, let me again point out something that we have been having a hard time communicating; that is, the reality associated with the ANWR issue. The fact is, this is a significant size—roughly 19 million acres, the size of South Carolina. We have already made specific land designations. Congress made these. We have roughly 9 million acres in a refuge, 8.5 million acres in wilderness, and this is the Coastal Plain, 1.5 million acres in green that potentially is at risk. But the House bill only authorized 2,000 acres, that little red spot there. So that is the footprint that would be authorized in the Senate bill.

We have the infrastructure in. We have an 800-mile pipeline that was built in the early 1970s from Prudhoe Bay to Valdez.

Having participated in that discussion, it is rather interesting to reflect that 27 or 28 years later we are still arguing the same environmental premise on whether or not this can be done safely. The argument then was that we were going to build a fence across 800 miles of Alaska; that we were going to separate two parts of the State by building a fence; and the animals were not going to cross it—the polar bears were not going to cross it, and the moose were not going to cross it. That proved to be a fallacious argument.

The other argument was you were going to put a hot pipeline in permafrost which would melt the permafrost, and the pipeline was going to break. All of those naysayer scenarios were false.

The same argument is being made today—that somehow we can't open this area safely.

I will show you a couple of pictures of some of the animal activity up

there. I think it warrants consideration. We have already seen the growth in the caribou herd relative to Prudhoe Bay. There were 3,000 to 4,000 animals in 1974–1975. There are about 26,000 today.

The Porcupine herd traverses Canada. There is a large number taken for subsistence in that particular area. It is a different herd. But we are not going to develop this area in the summertime. The development will be in the winter.

Here is a little idea of the caribou. These are not stuffed. These are real. These are caribou traversing the Arctic oilfield of Prudhoe Bay. They are not shot at; they are not run down. You can't take a gun in there. You can't hunt. They are very docile unless they are threatened.

Here is a picture of what happens when the bears want to go for a walk. They walk on the pipeline because it is a lot easier than walking on the snow. I think many of my colleagues would recognize that these are bears which are smarter than the average bear. Let us just leave it at that.

As we get into this debate tomorrow, I hope my colleagues will recognize again the magnitude of this area, the very small footprint, and recognize that this area is known to contain more oil than all of Texas. There is absolutely no question about that. The question is, What are the extremes? Again, it is as big as Prudhoe Bay. It will supply this Nation 25 percent more of its total crude oil consumption, and the infrastructure is already built.

Let me conclude with one other point. As the occupant of the chair is well aware, all of the oil from Alaska is consumed on the west coast of the United States. There hasn't been a drop of oil exported outside of Alaska since June 2 years ago. That was a little which was in excess for the west coast. This oil moves in U.S. tankers down the west coast. A significant portion goes into Puget Sound in the State of Washington where it is refined. Oregon does not have any refineries. A portion of the Washington-refined oil goes into the State of Oregon. The rest of it goes down to San Francisco Bay or Los Angeles where the balance is refined. A small portion goes to the refineries in Hawaii.

That is where Alaskan oil goes. When Alaskan oil begins to decline as a consequence of the decline of the Prudhoe Bay field, where is the West going to get its oil? Is it going to get it from Colombia or it is going to get it from Saudi Arabia or Iran or Iraq or wherever. It is going to come in in foreign ships because the Jones Act requires that the carriage of goods between two American ports be in U.S.-flagged vessels.

We are looking at jobs here. We are looking at jobs in the Pacific Northwest, in California. The significance of maintaining those jobs is very real to the American merchant marine.

Primarily, 80 percent of the tonnage in the American merchant marine today is under the American flag—U.S. tankers. They are in need of replacement. It is estimated that if we open up ANWR, there will be 19 new tankers built in U.S. shipyards employing U.S. crews. If it isn't, you are going to see the oil come into the west coast ports in foreign vessels from foreign ports. Obviously, that will affect our balance of payments and result in sending dollars overseas.

As we begin the debate, I hope my colleagues will recognize that America's environmental community has been pushing very hard on this issue because it has been an issue that has allowed them to raise dollars and generate membership. And they really milk it for all its worth.

I hope Members will reflect on the debate itself, the merits of the debate, and not be prepositioned by having given certain commitments to one group or another.

This is a big jobs issue. About 250,000 U.S. jobs are associated with opening up the ANWR field, the tankers, and the operation. When we get into the debate, hopefully we will have an opportunity to respond to those who have expressed concerns about safety, those who have expressed concerns about the adequacy of the reserves, and those who have expressed concern over how long it would take to get on line.

With this pipeline here, and the proximity, it is estimated that we could expedite the permits and have oil flowing within 3 years. Those are basically the facts from one who has spent virtually his entire life in the State of Alaska.

I can assure you that the Native people of Kaktovik—300 residents—support the issue. As a matter of fact, they are in Washington right now making calls on various Members.

I hope we will do what is right for America in the coming debate; that is, authorize the opening of ANWR.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to a period of morning business with Senators permitted to speak for not to exceed 5 minutes each.

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

AWARDING OF SOLDIERS MEDAL TO DONALD S. ''STEVE'' WORKMAN

Mr. HELMS. Madam President, on April 26, U.S. Army Sergeant First Class Donald S. ''Steve'' Workman will be awarded the Soldiers Medal for his courageous actions at the Pentagon on September 11, 2001. The Soldiers Medal is awarded to members of the U.S. Army who distinguish themselves by heroic acts that do not directly involve actual conflict with the enemy.

When you hear Steve's story, I am confident that you will agree that his selfless actions indeed merit this award.

As all of us vividly remember, a hijacked plane crashed into the Pentagon on the morning of September 11, 2001. Instead of leaving the Pentagon, Steve risked his life by reentering the building to help other survivors. He struggled through intense fires, sparking electrical wires, and pools of jet fuel and eventually came upon Navy Lieutenant Kevin Shaeffer, who had been blown to the floor—by a gigantic fireball—from his desk in the Navy Command Center.

After finding Kevin, Steve guided him through flames and dense smoke to one of the infirmaries inside the Pentagon. When they reached the infirmary, Steve realized Kevin was going into shock so he immediately elevated Kevin's legs using a trash can, loosened his belt, and gave him small drops of water. After helping a nurse administer an IV and painkiller, Steve grabbed a small tank of oxygen and led Kevin outside to wait for an ambulance.

Once ambulances began arriving, Steve helped place Kevin in one of them and they rode together to Walter Reed Army Medical Center. En route, the ambulance's oxygen tank ran empty so the small oxygen tank Steve took from the Pentagon infirmary was a godsend. Kevin recalls that the two men talked during the trip and he remembers giving Steve his wife's name, Bianca—also a Navy Lieutenant—and phone number.

When the ambulance arrived at Walter Reed, Steve turned Kevin over to the medical personnel and helped the hospital staff contact Bianca. He then returned to the Pentagon to help anyone else needing it.

Kevin later learned that he had suffered second and third-degree burns over 41 percent of his body. During his three month stay at Walter Reed, Kevin and Steve, and their families, stayed in close contact with each other and have developed a strong relationship. Kevin and Bianca have stated that they consider Steve to be a member of their family.

SFC Steve Workman is a brave, courageous soldier whose actions helped save the life of a fellow servicemen. He is a true hero.

TAX DAY 2002—PROGRESS AND UNFINISHED BUSINESS

Mr. CRAIG. Madam President, on this April 15, Congress and the President have solid achievements to be proud of. But there is also much work that remains to be done on a tax code that is still too burdensome and complex.

First the good news.

We continue to see the many benefits of the Economic Growth and Tax Relief Reconciliation Act of 2001. This year, hardworking Americans and their families have a little more freedom, and the Federal Government has a little less control over their lives.

Most taxpayers saw the immediate results of this tax relief last summer, when rebate checks arrived in mailboxes across the country. These checks were the first installment in replacing the old 15-percent tax rate bracket with a new 10-percent bracket. Low-and-modest income families were given the highest priority, both in timing and in relation to their income tax burden.

But help for families didn't stop there. The 2001 law has increased and expanded the child tax credit, increased the adoption tax credit to $10,000 per child, and provided relief from the marriage penalty, including the expansion and simplification of the earned income credit for working, low-income couples.

Education benefits for families include deductions for college expenses, improvements to education savings accounts, student loan interest deductions, and the continued allowance of employer-provided educational assistance. There are also tax benefits for governmental bonds for public school construction.

The phase-out of the death tax by 2010 is a major achievement in fairness for family-owned farms and small businesses.

Individuals and families will be able to prepare for a more secure future because of increases to contribution limits on pensions and individual retirement accounts, fairer retirement provisions for women, and overall reductions in individual tax rates.

The first major tax relief legislation in over twenty years has helped lighten the burden on taxpayers this year. President Bush and Congress came together last year for the good of the American taxpayer, in a bipartisan compromise that was only a good start.

There is much more we can and need to accomplish.

First, we need to make permanent the tax relief in last year's law. The House is poised to pass a bill to do just that. I call upon my Senate colleagues to follow suit. Because of the technicalities of budget law, last year's tax relief sunsets after 2010. That kind of sunset doesn't make sense for families, farms, and small businesses that need certainty and consistency for long-term planning.

Second, Americans deserve more relief. Even after last year's tax relief bill, this still remains the most heavily taxed generation in American history.

A typical family pays well over a third of its income in taxes at all levels. That is more than they spend on food, clothing, and housing combined.

Every year, the Tax Foundation computes Tax Freedom Day, the day on which American stop working to pay taxes to government at all levels and start keeping what they earn. This year, Tax Freedom Day comes on April 27, 2 days earlier than 2001 and 4 days earlier than 2000.

This is progress, but it still means Americans work 117 days a year for the government, instead of for their families and their futures. Looked at another way, out of each 8-hour workday, Americans work more than two and one-half hours for the tax man.

Third, Americans need and deserve a fairer, flatter, simpler Tax Code.

In 2002, Americans will spend an estimated 5.8 billion hours and $194 billion to comply with the Internal Revenue Code, or about $700 for each man, woman, and child in America. More than half of taxpayers go to paid tax preparers, many out of the sheer fear of an intimidating Tax Code, because millions of those taxpayers file only the simplest forms. Combined, the Federal Tax Code and its regulations number 7 million words in more than 700 separate sections.

This April 15, Americans are better off than last April 15, because they are keeping more of their own, hard-earned income. But we can and must do better.

When Americans are not strapped down by excessive taxes and red tape, they work, save, spend, and invest according to their needs, and their dreams. This means more secure jobs, better wages, innovative products and services, and a stronger nation.

Helping Americans meet their needs and realize their drams, with tax relief and reform, remains a major challenge before the Senate this year.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred March 28, 1994 in Smithton, PA. A gay man, Paul Edward Steckman, was beaten to death. The attacker, a minor, said that he beat Mr. Steckman for making unwanted sexual advances.

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 of 2001 is now 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.

ADDITIONAL STATEMENTS

IN RECOGNITION OF THE INAUGURATION OF SISTER ROSE MARIE KUJAWA AS THE 6TH PRESIDENT OF MADONNA UNIVERSITY

• Mr. LEVIN. Madam President, I ask that the Senate join me today in commemorating the inauguration of Sister Rose Marie Kujawa as the 6th president of Madonna University. For over three decades, Sister Rose Marie has dedicated her time to educating the mind and spirit of youth in southeastern Michigan.

Sister Rose Marie, a 1966 graduate and mathematics major of Madonna College, returned to her alma mater in 1975 after a decade of teaching high school. During her first appointment in the mathematics department, Sister Rose Marie organized and taught the first computer courses at the college. Soon thereafter, she gained additional responsibilities in the planning and development office.

Madonna College underwent dramatic change in the years following Sister Rose Marie's promotion to the position of Academic vice president in 1978. Numerous undergraduate programs were introduced in areas such as applied science, biochemistry, computer science, international studies, Japanese, and psychology. At the same time, a number of departments and programs sought and received professional accreditations. The college also established writing and computer requirements for graduation.

The greatest change for the college, which came in 1991, was largely due to the dedication of Sister Rose Marie. As chairperson of the ''University Study'' committee, Sister Rose Marie compared the academic quality and support structures of Madonna with 13 other private universities and discovered that Madonna favorably compared with all of them. The college then took her findings to the regional accrediting body and the State of Michigan Department of Education. Both organizations concurred with her conclusions and soon thereafter Madonna College became Madonna University.

In addition to her work at the university, Sister Rose Marie committed a great deal of time to community service and sits on the boards of numerous community organization. She has also traveled to over 20 countries, where she has developed important overseas relationships for the University.

The importance of dedication such as Sister Rose Marie's cannot be overstated. I know that my Senate colleagues will join me in congratulating Sister Rose Marie and Madonna University on this significant occasion.•

CONGRATULATIONS TO THE KENTUCKY FIRE SPRINKLER CONTRACTORS ASSOCIATION FOUNDATION

● Mr. BUNNING. Madam President, I rise today to congratulate and honor the Kentucky Fire Sprinkler Contractors Association, KFSCA, Foundation of Frankfort, KY for winning an American Society of Association Executives', ASAE, 2002 Associations Advance America Award of Excellence. They were one of just 18 organizations nationwide to receive this notable distinction.

The ASAE, based here in Washington, D.C., recognizes associations and industry partners each year that advance American society with innovative programs in areas like education, skills training, standard setting, citizenship and community service. Oftentimes, these associations perform invaluable services for their communities that would typically be the responsibility of local, State, or Federal Government. As a member of the Kentucky State legislature, U.S. Congress, and now the U.S. Senate, I have come to realize how truly important these associations are to the everyday lives of the men and women residing in their communities.

The Kentucky Fire Sprinkler Contractors Association Foundation was selected to receive the AAA Award of Excellence out of 100 entries for its highly successful fundraising efforts for Burn Prevention. The KFSCA Foundation came into existence 7 years ago to provide a charitable base for burn prevention and education activities. In these 7 years, the foundation has donated more than $130,000 to a Pediatric Burn Center and to support a program to provide psychological intervention for juvenile fire starters. Also, the foundation operates and maintains a mobile burn education trailer that is used by fire departments across the commonwealth to educate school children and the public about fire and fire prevention. By winning a AAA Award of Excellence, the KFSCA will be automatically eligible to receive ASAE's highest honor, the Summit Award. In all, eight Summit Award winners will be chosen this summer to be formally honored at ASAE's 2002 Annual Meeting in Denver August 17–20, and at the ASAE Summit Awards Dinner, being held in September at the National Building Museum in Washington, D.C.

I am honored to have such a reputable and committed foundation working in the State I represent. I would like to thank all of those involved with the KFSCA for their hard work and urge them to continue their good deeds. They certainly are making a difference in people's lives.●

RICHARD HAIRE'S CONTRIBUTION TO NEW MEXICO'S FUTURE

● Mr. BINGAMAN. Madam President, after serving as an exemplary elementary school teacher in New Mexico for more than 32 years, Richard Haire is retiring this spring. At that time he will have enriched the lives of his fifth grade students at Corrales Elementary for 23 consecutive years.

Mr. Haire has unfailingly given our children the gifts of knowledge, goodwill, humor and a disciplined attention to detail. He has consistently set the highest standards for performance in the classroom and offered enthusiastic, dedicated support to each child's endeavors.

From the start, Mr. Haire has had a very impressive career. Voted ''most likely to succeed'' by his senior classmates, he graduated second in a class of 360 in 1965 from Commack High School in upstate New York. Mr. Haire obtained a BA in psychology from the State University of New York (SUNY) at Buffalo in 1969 and graduated cum laude among the top students. He then went on to receive his MS in Education from Syracuse University in 1970.

Mr. Haire dedicated much of his life to teaching. He taught at Adobe Acres Elementary School in Albuquerque from 1971–1978 and continued at John Baker Elementary School from 1978–1979. Mr. Haire joined the teaching staff at Corrales Elementary School in 1979. Scattered across the country. Mr. Haire's students have made remarkable achievements in such fields as education, literary criticism and science.

Good teachers are essential to maintaining New Mexico's unique cultural heritage and fostering the state's economic growth. Mr. Haire has made a very generous commitment to future generations.●

VOTE EXPLANATION

[Reprint of RECORD statement of Friday, April 12, 2002]

● Mr. BAUCUS. Mr. President, I submit this statement to explain my absence on Wednesday, April 10 on the rollcall votes regarding the amendments offered by the distinguished Senator from California. Senator FEINSTEIN, and the distinguished Senator from Idaho, Senator CRAIG. Unfortunately, I was absent for medical reasons and was unable to vote.

I wanted to express my support for Senator FEINSTEIN'S amendment and had I been here, my intention was to vote ''yes'' on the motion to invoke cloture on her energy derivatives amendment. I understand that this body specifically exempted over-the-counter trading in energy derivatives from anti-fraud, anti-manipulation and other oversight regulation by the Commodities Futures Trading Commission back in 2000. However, I believe the Enron collapse, and the dramatic energy price spikes we saw last year in California and the Northwest, including in my State of Montana, tell us that we should take a closer look at energy markets and make sure we are catching market manipulators. I was disappointed that cloture was not invoked on this amendment.

I also wanted to express my support for Senator CRAIG'S amendment, and had I been here, my intention was to vote for the Craig amendment to strike title II of S. 517. With so much uncertainty in today's energy markets. I was not convinced that the modified electricity restructuring provisions in S. 517 did enough to protect the best interests of consumers. This is a complicated area of Federal law, and I think the Senate needs more time to get it right. For that reason, I would have supported Senator CRAIG's amendment.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 1:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3762. An act to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide additional protections to participants and beneficiaries in individual account plans from executive investment in employer securities and to promote the provision of retirement investment advice to workers managing their retirement income assets, and to amend the Securities Exchange Act of 1934 to prohibit insider trades during any suspension of the ability of plan participants or beneficiaries to direct investment away from equity securities of the plan sponsor.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3762. An act to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide additional protections to participants and beneficiaries in individual account plans from excessive investment in employer securities and to promote the provision of retirement investment advice to workers managing their retirement income assets, and to amend the Securities Exchange Act of 1934 to prohibit insider trades during any suspension of the ability of plan participants or beneficiaries to direct investment away from equity securities of the plan sponsor; to the Committee on Health, Education, Labor, and Pensions.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 1009. An act to repeal the prohibition on the payment of interest on demand deposits.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–222. A resolution adopted by the House of the Legislature of the Commonwealth of Pennsylvania relative to Ronald Reagan Day; to the Committee on the Judiciary.

HOUSE RESOLUTION NO. 411

Whereas, Ronald Wilson Reagan, a man of humble background, worked throughout his life serving freedom and advancing the public good as an entertainer, union leader, corporate spokesperson, Governor of California and President of the United States; and

Whereas, Ronald Reagan served with honor and distinction for two terms as the 40th President of the United States and earned the confidence of three-fifths of the electorate in his reelection carrying 49 of the 50 states in the general election, a record unsurpassed in the history of American presidential elections; and

Whereas, At the time of Ronald Reagan's first inauguration in 1981, our nation confronted sustained inflation and high unemployment; and

Whereas, President Reagan's administration worked in a bipartisan manner to enact his bold agenda of restoring accountability and common sense to Government, leading to unprecedented economic expansion and opportunity for millions of Americans; and

Whereas, President Reagan's commitment to an active social policy agenda for the nation's children reduced crime and drug use in our neighborhoods; and

Whereas, President Reagan's commitment to our armed forces restored national pride and respect for values which were cherished and shared by the free world and readied America's military defenses; and

Whereas, President Reagan's vision of ''peace through strength'' led to the end of the Cold War and the ultimate demise of the Soviet Union, guaranteeing basic human rights for millions of people; and

Whereas, On February 6, 2002, President Reagan reaches 91 years of age, and we honor our nation's oldest living former president as a great American who restored pride and faith in our country; therefore be it

Resolved, That the House of Representatives designate February 6, 2002, as ''Ronald Reagan Day'' in this Commonwealth; and be if further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–223. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia relative to the Individuals with Disabilities Education Act; to the Committee on Appropriations.

HOUSE JOINT RESOLUTION NO. 30

Whereas, the Education for All Handicapped Children's Act, commonly known as P.L. 94–142, was enacted on November 29, 1975; and

Whereas, in 1990 the Education for All Handicapped Children's Act was renamed and reauthorized as the Individuals with Disabilities Education Act (IDEA), P.L. 101–476; and

Whereas, this federal law entitles disabled children to a free appropriate public education in the least restrictive environment; and

Whereas, as a result of this law, millions of children with disabilities attend public schools today, and steady progress has been made in their education, enabling many of them to complete high school and college; and

Whereas, special education has, however, historically been underfunded by the federal government since the enactment of the original mandates in 1975; and

Whereas, the law stipulates that the maximum federal grant is 40 percent of the national costs of public elementary and secondary education and Congress established its intention to meet this goal by 1980; and

Whereas, in fact, 34 C.F.R. §300.701(b) provides that the maximum amount of the grant that may be received by the states is the number of children with disabilities aged 3 through 21 in the state who are receiving special education and related services, multiplied by 40 percent of ''the average per-pupil expenditure in public elementary and secondary schools in the United States''; and

Whereas, by 1982 federal funding to defray state and local costs of implementing the law was approximately 40 percent of the total national costs of special education programs and services; and

Whereas, in 1997, however, IDEA was significantly revised by Congress to add new federal mandates that substantially increased the costs of special education in Virginia and across the nation; and

Whereas, although the federal government has committed itself to providing 40 percent of the average per pupil expenditure for funding special education programs in public elementary and secondary schools, the current funding provided to Virginia for special education is only approximately 12 percent of the actual costs to the Commonwealth and its localities; and

Whereas, in 1995 the federal government passed the ''Unfunded Mandates Reform Act of 1995,'' P.L. 104–4, providing that ''the Federal Government should not shift certain costs to the States, and the States should end the practice of shifting costs to local governments, which forces many local governments to increase property taxes''; and

Whereas, because special education programs and services are very expensive, and federal funding has consistently been inadequate, states and localities have been bearing great fiscal burdens for these federally mandated programs; and

Whereas, the federal government should honor its commitment to fund special education and its obligation to avoid shifting the costs for federal mandates to state and local governments; now, therefore, be it

Resolved by the House of Delegates, the Senate Concurring, That the Congress of the United States be urged to honor its commitment to fully fund the federal share of the special education costs required by the Individuals with Disabilities Education Act, P.L. 105–17, as amended, at the 40 percent level; and, be it

Resolved further, That Congress be encouraged to move the Individuals with Disabilities Education Act to the mandatory-spending category; and, be it

Resolved finally, That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Virginia Congressional Delegation in order that they may be apprised of the sense of the General Assembly of Virginia in this matter.

POM–224. A concurrent resolution adopted by the Legislature of the State of South Dakota relative to the Black Hills National Forest; to the Committee on Energy and Natural Resources.

HOUSE CONCURRENT RESOLUTION NO. 1018

Whereas, catastrophic wildfires not only cause environmental damage to forests and other lands but place the lives of firefighters at risk and pose threats to human health, personal property, sustainable ecosystems, wildlife habitat, air quality, and water quality; and

Whereas, the seriousness of the fire risk in the national forests has been well documented by both the General Accounting Office and the United States Forest Service; and

Whereas, research and experience have shown that forest management, including thinning, forest restoration, grazing, measures to control insects and disease, and small-scale prescribed burning, can be an effective long-term strategy for reducing the risk of catastrophic wildfires and insect epidemics, especially in ponderosa pine forests, such as the Black Hills National Forest; and

Whereas, the mountain pine beetle epidemic now occurring in the Black Hills National Forest has already increased the risk of forest fires in the Black Hills, possibly endangering the lives and property of the citizens of South Dakota; and

Whereas, the national forests are the property of all the residents of the United States, but the residents who live the closest to the national forests are the ones who will be the most impacted by decisions about how to manage those national forests; and

Whereas, since the inception of the National Forest System, its supporters have recognized the importance of the support of local residents; and

Whereas, local governments and residents of South Dakota now find themselves extremely frustrated at the failure of the Forest Service to deal proactively with the mountain pine beetle epidemic in the Black Hills, and especially with the Forest Service's inclination to base decisions more on directives and policies from Washington, D.C., than on the management needs of the Black Hills National Forest or the concerns and issues of local communities and governments in South Dakota; and

Whereas, a measure of this frustration has been the overwhelming support for the concepts embodied in House Bill 1236, which was introduced during the 2002 Session of the South Dakota Legislature: Now, therefore, be it

Resolved, by the House of Representatives of the Seventy-seventh Legislature of the State of South Dakota, the Senate concurring therein, that, in the interest of protecting the health and integrity of United States forests, wildlife habitats, watersheds, air quality, human health and safety, and private property, the United States should redefine its working relationship with state and local governments, communities, and residents of South Dakota to ensure that the people who will be the most affected by United States Forest Service decisions will receive the highest level of consideration in those decisions; and be it further

Resolved, That the United States Forest Service should (1) Fully implement the Western Governors Association ''Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment'' to reduce overabundance of forest fuels that place these resources at high risk of catastrophic wildfire; and (2) Utilize an appropriate mix of fire-prevention activities and management practices including forest restoration, thinning of at-risk forest stands, grazing, selective tree removal and other measures to control insects and pathogens, removal of excessive ground fuels, and small-scale prescribed burns; and be it further

Resolved, That South Dakota's Congressional Delegation is requested to help enact legislation that will allow the United States Forest Service to implement on-the-ground

steps to reduce the risk of catastrophic wildfire in Beaver Park and other high risk areas in the Black Hills National Forest prior to the 2002 fire season; and be it further

Resolved, That the Black Hills National Forest should be strongly considered for designation as a ''Charter Forest,'' as presented in the President's FY 2003 Budget Request to Congress; and be it further

Resolved, That the Secretary of State is hereby authorized and directed to forward a copy of this Resolution to the Honorable President of the United States, George W. Bush; the Secretary of Agriculture, Ann Venneman; the United States Forest Service Chief, Dale N. Bosworth; the President of the Senate and the Speaker of the House of Representatives of the United States Congress; and the Congressional Delegation representing the State of South Dakota in the Congress of the United States.

POM–225. An engrossed resolution adopted by the General Assembly of the State of Wisconsin relative to Puerto Rico; to the Committee on Energy and Natural Resources.

ENGROSSED RESOLUTION 46

Whereas, in 1898, the United States, aided by a significant number of Puerto Rican citizens, defeated the Spanish in the Spanish-American War; and

Whereas, the Treaty of Paris signed by the United States on December 10, 1898, and ratified by the United States on February 6, 1899, formally ended the Spanish-American War and established Puerto Rico as a territory of the United States; and

Whereas, persons born in Puerto Rico have been and are U.S. citizens since 1917 but do not possess full citizenship rights and the people of Puerto Rico do not enjoy representative democracy as a state of the Union or as an independent republic; and, although U.S. citizens, they are not permitted to vote in U.S. presidential elections and have no voting representation in the U.S. Congress; and

Whereas, despite the fact that over 200,000 Puerto Ricans have fought in all wars participated in by the United States since World War I, including our current war against terrorism, and nearly 2,000 have sacrificed their lives for democratic principles and self-determination, and 4 of them have received the Congressional Medal of Honor, yet they are not allowed to vote for their Commander-in-Chief; and

Whereas, Puerto Ricans pay all federal taxes except income and estate taxes, but they receive lower levels of federal benefits than residents of the States, and are excluded from or have limited participation in certain federal programs; and

Whereas, the current status is not helping the economy of Puerto Rico and federal economic policy has fostered dependence, caused massive capital flight, and a tremendous brain drain; and the subsidizing of the present colonial relationship costs U.S. taxpayers approximately $15 billion per year; and

Whereas, a resolution of the status issue would bring stability and economic development to the island that would sharply reduce or eliminate this burden on our taxpayers; and

Whereas, ever since the transition to commonwealth status in 1952, the majority of the people of Puerto Rico have sought an end to their status as a ''territory''; and

Whereas, in over 100 years of U.S. sovereignty, the U.S. government has never formally consulted the American citizens of Puerto Rico on their political status preference, and in 1997 the legislature of Puerto Rico formally petitioned the U.S. Congress to respond to the democratic aspirations of the U.S. citizens of Puerto Rico by means of a federally sanctioned plebiscite to be held no later than 1998, and Congress has not yet responded to this petition; and

Whereas, Puerto Rico has held 2 nonbinding referendums since 1993, and the most recent one indicated that only 0.06% of the population are satisfied with the status quo of being a territorial commonwealth, confirming that there is no longer the consent of the governed for the existing territorial status; and

Whereas, self-determination means presenting the U.S. citizens of Puerto Rico with an informed choice among valid, noncolonial status alternatives outlined in a clear, unambiguous plebiscite consistent with the U.S. Constitution; and

Whereas, the state of Wisconsin has a significant Puerto Rican community and an ever-increasing Hispanic population which has and continues to contribute to the state's economy and well-being; and

Whereas, the experience of the people of Wisconsin in resolving their own territorial status in 1848, after 65 years as a territory, makes them sympathetic to the aspirations of the people of Puerto Rico to resolve their own political status; now, therefore, be it

Resolved by the assembly, That the members of the Wisconsin assembly request that the U.S. Congress and the President of the United States enact legislation that would define the political status options available to the U.S. citizens of Puerto Rico and authorize a plebiscite to provide for Puerto Ricans to make an informed decision regarding the island's future political status; and, be it further

Resolved, That the members of the Wisconsin assembly request the Wisconsin congressional delegation to actively promote and support timely action on this important national issue; and, be it further

Resolved, That the assembly chief clerk shall transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the U.S. House of Representatives, the Majority Leader of the U.S. Senate, the Chairman of the U.S. Senate Energy and Natural Resources Committee, the Chairman of the U.S. House of Representatives Resources Committee, and each senator and representative from Wisconsin in the Congress of the United States.

POM–226. A concurrent resolution adopted by the Senate of the General Assembly of the State of Iowa relative to Upper Mississippi and Illinois River Inland Waterways Transportation System; to the Committee on Appropriations.

SENATE CONCURRENT RESOLUTION NO. 104

Whereas, over 360 miles of the Upper Mississippi River and 11 navigation locks and dams are contained on the border of or in the state of Iowa; and

Whereas, there are approximately 70 manufacturing facilities, terminals, and docks on the waterways of Iowa, providing thousands of jobs in this state; and

Whereas, the construction of the lock and dam system has spurred economic growth and a higher standard of living in the Mississippi and Illinois river basin, and today supplies more than 300 million tons of the nation's cargo, supporting more than 400,000 jobs, including 90,000 in manufacturing; and

Whereas, more than 60 percent of American agricultural exports including corn, wheat, and soybeans are shipped down the Mississippi and Illinois rivers to foreign markets; and

Whereas, Iowa agricultural producers, industry, and consumers rely on efficient transportation to remain competitive in a global economy, with efficiencies in river transport offsetting higher costs compared to those incurred by foreign competitors; and

Whereas, the Upper Mississippi and Illinois lock and dam system annually saves our nation more than $1.5 billion in higher transportation costs; and

Whereas, approximately 17 million tons of commodities and products including grain, coal, chemicals, and aggregates are annually shipped to, from, and within Iowa by barge, representing $2.7 billion in value; and

Whereas, shippers moving by barge in Iowa realize an annual savings of approximately $170 million compared to other transportation modes; and

Whereas, Iowa docks ship commodities and products by barge to 14 states and receives commodities and products from 18 states; and

Whereas, river transportation is the most environmentally benign form of transporting commodities and products, creating minimal levels of noise pollution, and emitting 35 to 60 percent fewer pollutants than trucks or trains, according to the United States Environmental Protection Agency; and

Whereas, decreasing river transport capacity would add millions of trucks and railcars to our nation's transportation infrastructure, dramatically increasing air pollution, traffic congestion, and highway maintenance costs; and

Whereas, lakes and wildlife refuges created by the lock and dam system provide habitat and breeding grounds for migratory waterfowl and fish; and

Whereas, the lakes and 500 miles of wildlife refuge along the Upper Mississippi and Illinois river basin support a $1 billion-a-year recreational industry, including hunting, fishing, and tourism; and

Whereas, many of Iowa's locks and dams are more than 60 years old and only 600 feet in length, making them unable to accommodate modern barge tows of up to 1,200 feet long, nearly tripling locking times and causing lengthy delays and ultimately increasing shipping costs; and

Whereas, the expansion and modernization of locks has been proven nationwide as the best method of optimizing efficiency, reducing congestion, and providing for additional safety of inland waterway administration; and

Whereas, failing to construct 1,200-foot locks will force agricultural producers and industry to use more expensive alternative modes of transportation, including road and rail systems; and

Whereas, according to the United States Army Corps of Engineers, congestion along the Upper Mississippi and Illinois rivers costs agricultural producers and consumers in the basin $98 million per year in higher transportation costs; and

Whereas, upgrading the system of locks and dams on the Upper Mississippi and Illinois rivers will provide 3,000 construction and related jobs over a 15-year to 20-year period; Now, therefore, be it

Resolved by the Senate, the House of Representatives concurring, That the General Assembly recognizes the importance of the Upper Mississippi and Illinois Rivers Inland Transportation System to the economic prosperity and ecological vitality of the state, the region, and the nation, and urges the United States Congress to provide immediate funding to modernize its lock and dam infrastructure. Be it further

Resolved, That the Secretary of the Senate send copies of this concurrent resolution to the President of the United States; the Chief of Engineers and Commander of the United States Corps of Engineers; the President of the United States Senate; the Speaker of the United States House of Representatives; the Chair of the Senate Committee on Commerce, Science, and Transportation; the

Chair of the United States Senate Committee on Agriculture, Nutrition and Forestry; the Chair of the House of Representatives Committee on Transportation and Infrastructure; the Chair of the United States House of Representatives Committee on Agriculture; and Iowa's congressional delegation.

POM–227. A petition from the Republic of the Marshall Islands relative to nuclear testing; to the Committee on Energy and Natural Resources.

POM–228. A resolution adopted by the City Commission of the City of Coconut Creek, Florida, relative to September 11, 2001; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 928: A bill to amend the Age Discrimination in Employment Act of 1967 to require, as a condition of receipt or use of Federal financial assistance, that States waive immunity to suit for certain violations of that Act, and to affirm the availability of certain suits for injunctive relief to ensure compliance with that Act. (Rept. No. 107–142).

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, with amendments:

H.R. 169: A bill to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws, and for other purposes. (Rept. No. 107–143).

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 Mrs. CARNAHAN (for herself, Ms. MIKULSKI, and Mr. JEFFORDS):

S. 2122. A bill to provide for an increase in funding for research on uterine fibroids through the National Institutes of Health, and to provide for a program to provide information and education to the public on such fibroids; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. HUTCHISON:

S. 2123. A bill to suspend temporarily the duty on triethyleneglycol-bis-(3-tert-butyl-4-hydroxy-5-methylphneyl) propionate; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 2124. A bill to suspend temporarily the duty on hand-held radio scanners; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 2125. A bill to suspend temporarily the duty on mobile and base radio scanners that are combined with a clock; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 2126. A bill to suspend temporarily the duty on mobile and base radio scanners that are not combined with a clock; to the Committee on Finance.

By Mr. INOUYE:

S. 2127. A bill for the relief of the Pottawatomi Nation in Canada for settlement of certain claims against the United States; to the Committee on the Judiciary.

By Mrs. LINCOLN (for herself and Mr. HUTCHINSON):

S. 2128. A bill to designate the United States courthouse located at 600 West Capitol Avenue in Little Rock, Arkansas, as the ''Richard S. Arnold United States Courthouse''; to the Committee on Environment and Public Works.

By Mr. BINGAMAN:

S. 2129. A bill to amend the Internal Revenue Code of 1986 to clarify that any home-based service worker is an employee of the administrator of home-based service worker program funding; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2130. A bill to amend the Internal Revenue Code of 1986 to allow self-employed individuals to deduct health insurance costs in computing self-employment taxes; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2131. A bill to amend the Internal Revenue Code of 1986 to adjust the dollar amounts used to calculate the credit for the elderly and the permanently disabled for inflation since 1985; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. BAYH, Mr. LOTT, Mr. BREAUX, Mr. ALLARD, Mr. CLELAND, Mr. BUNNING, Ms. LANDRIEU, Mr. CRAIG, Mrs. LINCOLN, Mr. DEWINE, Mr. WYDEN, Mr. FRIST, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. MCCAIN, Mr. SHELBY, Mr. SMITH of Oregon, and Mr. WARNER):

S. J. Res. 35. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID (for himself and Mr. NICKLES):

S. Res. 240. A resolution to authorize representation by the Senate Legal Counsel in Aaron Raiser v. Honorable Tom Daschle, et al; considered and agreed to.

By Mr. ROCKEFELLER (for himself, Mr. BYRD, Mr. HATCH, Mr. REID, Mr. DASCHLE, and Mr. DURBIN):

S. Res. 241. A concurrent resolution designating April 11, 2002, as ''National Alternative Fuel Vehicle Day''; considered and agreed to.

By Mr. CRAIG:

S. Con. Res. 101. A concurrent resolution extending birthday greetings and best wishes to Lionel Hampton on the occasion of his 94th birthday; considered and agreed to.

ADDITIONAL COSPONSORS

S. 313

At the request of Mr. GRASSLEY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 313, a bill to amend the Internal Revenue Code of 1986 to provide for Farm, Fishing, and Ranch Risk Management Accounts, and for other purposes.

S. 338

At the request of Mr. ENSIGN, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 338, a bill to protect amateur athletics and combat illegal sports gambling.

S. 710

At the request of Mr. KENNEDY, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Nevada (Mr. REID), and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 710, a bill to require coverage for colorectal cancer screenings.

S. 1226

At the request of Mr. CAMPBELL, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1226, a bill to require the display of the POW/MIA flag at the World War II memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial.

S. 1476

At the request of Mr. CLELAND, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1476, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1749

At the request of Mr. KENNEDY, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

S. 1777

At the request of Mrs. CLINTON, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1777, a bill to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil strife and warfare, and for other purposes.

S. 1864

At the request of Ms. MIKULSKI, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1864, a bill to amend the Public Health Service Act to establish a Nurse Corps and recruitment and retention strategies to address the nursing shortage, and for other purposes.

S. 1878

At the request of Mrs. HUTCHISON, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1878, a bill to establish programs to address the health care needs of residents of the United States-Mexico Border Area, and for other purposes.

S. 1899

At the request of Mr. BROWNBACK, the names of the Senator from Wyoming (Mr. THOMAS) and the Senator from Texas (Mr. GRAMM) were added as cosponsors of S. 1899, a bill to amend title 18, United States Code, to prohibit human cloning.

S. 1917

At the request of Mr. JEFFORDS, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1917, a bill to provide for highway infrastructure investment at the guaranteed funding level contained in the

Transportation Equity Act for the 21st Century.

S. 1918

At the request of Ms. COLLINS, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1918, a bill to expand the teacher loan forgiveness programs under the guaranteed and direct student loan programs for highly qualified teachers of mathematics, science, and special education, and for other purposes.

S. 2001

At the request of Mr. CAMPBELL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2001, a bill to require the Secretary of Defense to report to Congress regarding the requirements applicable to the inscription of veterans' names on the memorial wall of the Vietnam Veterans Memorial.

S. 2015

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 2015, a bill to exempt certain users of fee demonstration areas from fees imposed under the recreation fee demonstration program.

S. 2027

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2027, a bill to implement effective measures to stop trade in conflict diamonds, and for other purposes.

S. 2039

At the request of Mr. DURBIN, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 2039, a bill to expand aviation capacity in the Chicago area.

S. 2051

At the request of Mr. REID, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. CARNAHAN (for herself, Ms. MIKULSKI, and Mr. JEFFORDS):

S. 2122. A bill to provide for an increase in funding for research on uterine fibroids through the National Institutes of Health, and to provide for a program to provide information and education to the public on such fibroids; to the Committee on Health, Education, Labor and Pensions.

Mrs. CARNAHAN. Madam President, today I am proud to introduce the Uterine Fibroids Research and Education Act 2002. This bipartisan legislation addresses a serious health problem that affects women during their reproductive years. At least twenty to thirty percent of all women aged 35 and older have symptomatic fibroids that require treatment. This number rises to approximately fifty percent for African-American women.

I am pleased that two of my colleagues, Senator JEFFORDS and Senator MIKULSKI, are joining me in sponsoring this legislation. Both are strong advocates for women's health.

Uterine fibroids are benign tumors that impact the reproductive health of women, particularly minority women. If they go undetected or untreated, uterine fibroids can lead to childbirth complications or infertility, among other things.

For those who do seek treatment, the option prescribed most often is a hysterectomy. Uterine fibroids are the top reason for hysterectomies currently being performed in this country. A hysterectomy is a major operation—the average recovery time is six weeks. This is just the physical impact, the emotional impact lasts much longer.

We need to invest additional resources in research, so that there are more treatment options for women, including options less drastic than a hysterectomy. We also need to increase awareness of uterine fibroids, so that more women will recognize the symptoms and seek treatment.

To accomplish both of these goals we need a sustained Federal commitment to better understanding uterine fibroids. That is why I am introducing this legislation today.

My bill has two components. First, it authorizes $10 million for the National Institutes of Health, (NIH), for each of our years to conduct research on uterine fibroids.

Second, the bill supports a public awareness campaign. It calls on the Secretary of the U.S. Department of Health and Human Services to carry out a program to provide information and education to the public regarding uterine fibroids. The content of the program shall include information on the incidence and prevalence of uterine fibroids and the elevated risk for minority women. The Secretary shall have the authority to carry out the program either directly or through contract.

This legislation will make a meaningful difference in the lives of women and their families across this country. I encourage the entire Senate to support this important legislation.

By Mr. INOUYE:

S. 2127. A bill for the relief of the Pottawatomi Nation in Canada for settlement of certain claims against the United States; to the Committee on the Judiciary.

Mr. INOUYE. Madam President, almost seven years ago, I stood before you to submit a resolution ''to provide an opportunity for the Pottawatomi Nation in Canada to have the merits of their claims against the United States determined by the United States Court of Federal Claims.''

That bill was submitted as Senate Resolution 223, which referred the Pottawatomi's claim to the Chief Judge of the U.S. Court of Federal Claims and required the Chief Judge to report back to the Senate and provide sufficient findings of fact and conclusions of law to enable the Congress to determine whether the claim of the Pottawatomi Nation in Canada is legal or equitable in nature, and the amount of damages, if any, which may be legally or equitably due from the United States.

Earlier this year, the Chief Judge of the Court of Federal Claims reported back that the Pottawatomi Nation in Canada has a legitimate and credible legal claim. Thereafter, by settlement stipulation, the United States has taken the position that it would be ''fair, just and equitable'' to settle the claims of the Pottawatomi Nation in Canada for the sum of $1,830,000. This settlement amount was reached by the parties after seven years of extensive, fact-intensive litigation. Independently, the court concluded that the settlement amount is ''not a gratuity'' and that the ''settlement was predicated on a credible legal claim.'' *Pottawatomi Nation in Canada, et al.* v. *United States*, Cong. Ref. 94–1037X at 28 (Ct. Fed. Cl., September 15, 2000) (Report of Hearing Officer).

The bill I introduce today is to authorize the appropriation of those funds that the United States has concluded would be ''fair, just and equitable'' to satisfy this legal claim. If enacted, this bill will finally achieve a measure of justice for a tribal nation that has for far too long been denied.

For the information of our colleagues, this is the historical background that informs the underlying legal claim of the Canadian Pottawatomi.

The members of the Pottawatomi Nation in Canada are one of the descendant groups, successors-in-interest, of the historical Pottawatomi Nation and their claim originates in the latter part of the 18th Century. The historical Pottawatomi Nation was aboriginal to the United States. They occupied and possessed a vast expanse in what is now the States of Ohio, Michigan, Indiana, Illinois, and Wisconsin. From 1795 to 1833, the United States annexed most of the traditional land of the Pottawatomi Nation through a series of treaties of cession, many of these cessions were made under extreme duress and the threat of military action. In exchange, the Pottawatomis were repeatedly made promises that the remainder of their lands would be secure and, in addition, that the United States would pay certain annuities to the Pottawatomi.

In 1829, the United States formally adopted a Federal policy of removal, an effort to remove all Indian tribes from their traditional lands east of the Mississippi River to the west. As part of that effort, the government increasingly pressured the Pottawatomis to cede the remainder of their traditional lands, some five millions acres in and

around the city of Chicago and remove themselves west. For years, the Pottawatomis steadfastly refused to cede the remainder of their tribal territory. Then in 1833, the United States, pressed by settlers seeking more land, sent a Treaty Commission to the Pottawatomi with orders to extract a cession of the remaining lands. The Treaty Commissioners spent two weeks using extraordinarily coercive tactics, including threats of war, in an attempt to get the Pottawatomis to agree to cede their territory. Finally, those Pottawatomis who were present relented and on September 26, 1993, they ceded their remaining tribal estate through what would be known as the Treaty of Chicago. Seventy-seven members of the Pottawatomi Nation signed the Treaty of Chicago. Members of the ''Wisconsin Band'' were not present and did not assent to the cession.

In exchange for their land, the Treaty of Chicago provided that the United States would give to the Pottawatomis five million acres of comparable land in what is now Missouri. The Pottawatomi were familiar with the Missouri land, aware that it was similar to their homeland. But the Senate refused to ratify that negotiated agreement and unilaterally switched the land to five million acres in Iowa. The Treaty Commissioners were sent back to acquire Pottawatomi assent to the Iowa land. All but seven of the original 77 signatories refused to accept the change even with promises that if they were dissatisfied ''justice would be done. Nevertheless, the Treaty of Chicago was ratified as amended by the Senate in 1834. Subsequently, the Pottawatomis sent a delegation to evaluate the land in Iowa. The delegation reported back that the land was ''not fit for snakes to live on.''

While some Pottawatomis removed westward, many of the Pottawatomis particularly the Wisconsin Band, whose leaders never agreed to the Treaty, refused to do so. By 1836, the United States began to forcefully remove Pottawatomis who remained in the east with devastating consequences. As is true with many other American Indian tribes, the forced removal westward came at great human cost. Many of the Pottawatomi were forcefully removed by mercenaries who were paid on a per capita basis government contract. Over one-half of the Indians removed by these means died en route. Those who reached Iowa were almost immediately removed further to inhospitable parts of Kansas against their will and without their consent.

Knowing of these conditions, many of the Pottawatomis including most of those in the Wisconsin Band vigorously resisted forced removal. To avoid Federal troops and mercenaries, much of the Wisconsin Band ultimately found it necessary to flee to Canada. They were often pursued to the border by government troops, government-paid mercenaries or both. Official files of the Canadian and United States governments disclose that many Pottawatomis were forced to leave their homes without their horses or any of their possessions other than the clothes on their backs.

By the late 1830s, the government refused payment of annuities to any Pottawatomi groups that had not removed west. In the 1860s, members of the Wisconsin Band, those still in their traditional territory and those forced to flee to Canada, petitioned Congress for the payment of their treaty annuities promised under the Treaty of Chicago and all other cession treaties. By the Act of June 25, 1864 (13 Stat. 172) the Congress declared that the Wisconsin Band did not forfeit the annuities by not removing and directed that the share of the Pottawatomi Indians who had refused to relocate to the west should be retained for their use in the United States Treasury. (H.R. Rep. No. 470, 64th Cong., p. 5, as quoted on page 3 of memo dated October 7, 1949). Nevertheless, much of the money was never paid to the Wisconsin Band.

In 1903, the Wisconsin Band, most of whom now resided in three areas, the States of Michigan and Wisconsin and the Province of Ontario, petitioned the Senate once again to pay them their fair portion of annuities as required by the law and treaties. (Sen. Doc. No. 185, 57th Cong., 2d Sess.) By the Act of June 21, 1906 (34 Stat. 380), the Congress directed the Secretary of the Interior to investigate claims made by the Wisconsin Band and estabish a role of the Wisconsin Band Pottawatomis that still remained in the East. In addition, the Congress ordered the Secretary to determine ''the [Wisconsin Bands] proportionate shares of the annuities, trust funds, and other moneys paid to or expended for the tribe to which they belong in which the claimant Indians have not shared, [and] the amount of such monies retained in the Treasury of the United States to the credit of the clamant Indians as directed the provision of the Act of June 25, 1864.''

In order to carry out the 1906 Act, the Secretary of Interior directed Dr. W.M. Wooster to conduct an enumeration of Wisconsin Band Pottawatomi in both the United States and Canada. Dr. Wooster documented 2007 Wisconsin Pottawatomis: 457 in Wisconsin and Michigan and 1550 in Canada. He also concluded that the proportionate share of annuities for the Pottawatomis in Wisconsin and Michigan was $477,339 and that the proportionate share of annuities due the Pottawatomi Nation in Canada was $1,517,226. The Congress thereafter enacted a series of appropriation Acts from June 30, 1913 to May 29, 1928 to satisfy most of money owed to those Wisconsin Band Pottawatomis residing in the United States. However, the Wisconsin Band Pottawatomis who resided in Canada were never paid their share of the tribal funds.

Since that time, the Pottawatomi Nation in Canada has diligently and continuously sought to enforce their treaty rights, although until this congressional reference, they had never been provided their day in court. In 1910, the United States and Great Britain entered into an agreement for the purpose of dealing with claims between both countries, including claims of Indian tribes within their respective jurisdictions, by creating the Pecuniary Claims Tribunal. From 1910 to 1938, the Pottawatomi Nation in Canada diligently sought to have their claim heard in this international forum. Overlooked for more pressing international matters of the period, including the intervention of World War I, the Pottawatomis then came to the U.S. Congress for redress of their claim.

In 1946, the Congress waived its sovereign immunity and established the Indian Claims Commission for the purpose of granting tribes their long-delayed day in court. The Indian Claims Commission Act (ICCA) granted the Commission jurisdiction over claims such as the type involved here. In 1948, the Wisconsin Band Pottawatomis from both sides of the border, brought suit together in the Indian Claims Commission for recovery of damages. *Hannahville Indian Community* v. *U.S.*, No. 28 (Ind. Cl. Comm. Filed May 4, 1948). Unfortunately, the Indian Claims Commission dismissed Pottawatomi Nation in Canada's part of the claim ruling that the Commission had no jurisdiction to consider claims of Indians living outside territorial limits of the United States. *Hannahville Indian Community* v. *U.S.*, 115 Ct. Cl. 823 (1950). The claim of the Wisconsin Band residing in the United States that was filed in the Indian Claims Commission was finally decided in favor of the Wisconsin Band by the U.S. Claims Court in 1983. *Hannahville Indian Community* v. *United States*, 4 Ct. Cl. 445 (1983). The Court of Claims concluded that the Wisconsin Band was owed a member's proportionate share of unpaid annuities from 1838 through 1907 due under various treaties, including the Treaty of Chicago and entered judgment for the American Wisconsin Band Pottawatomis for any monies not paid. Still the Pottawatomi Nation in Canada was excluded because of the jurisdictional limits of the ICCA.

Undaunted, the Pottawatomi Nation in Canada came to the Senate and after careful consideration, we finally gave them their long-awaited day in court through the congressional reference process. The court has not reported back to us that their claim is meritorious and that the payment that this bill would make constitutes a ''fair, just and equitable'' resolution to this claim.

The Pottawatomi Nation in Canada has sought justice for over 150 years. They have done all that we asked in order to establish their claim. Now it is time for us to finally live up to the promise our government made so many years ago. It will not correct all the wrongs of the past, but it is a demonstration that this government is

willing to admit when it has left unfulfilled an obligation and that the United States is willing to do what we can to see that justice, so long delayed, is not now denied.

Finally, I would just note that the claim of the Pottawatomi Nation in Canada is supported through specific resolutions by the National Congress of American Indians, the oldest, largest and most-representative tribal organization here in the United States, the Assembly of First Nations, which includes all recognized tribal entities in Canada, and each and every of the Pottawatomi tribal groups that remain in the United States today.

By Mrs. LINCOLN (for herself and Mr. HUTCHINSON):

S. 2128. A bill to designate the United States courthouse located at 600 West Capitol Avenue in Little Rock, Arkansas, as the ''Richard S. Arnold United States Courthouse''; to the Committee on Environmental and Public Works.

Mrs. LINCOLN. Madam President, I am pleased to introduce legislation today with my colleague from Arkansas, Senator HUTCHINSON, to name the Federal courthouse in Little Rock after the Honorable Richard S. Arnold, a beloved Federal judge from our home state. Our legislation has strong support from members of the Federal judiciary in Arkansas and I am honored to help lead this effort in the Senate. Like so many Arkansans who have the good fortune to know Judge Arnold personally, I believe it is appropriate to recognize such a respected scholar and member of the legal community in this manner.

Judge Richard Arnold has served his country and the judiciary with rare distinction first at the District Court level and more recently as Chief Judge for the Eighth Circuit Court of Appeals. Judge Arnold was appointed by President Carter in October 1978 to the District Bench for the Eastern and Western Districts of Arkansas and was elevated to the Court of Appeals in 1980. Judge Arnold took senior status in April, 2001 after he turned 65.

While serving as a member of the Federal judiciary, Judge Arnold has earned a national reputation as a brilliant, fair and effective judge. In 1999, Judge Arnold was the winner of the highly prestigious Edward J. Devitt Distinguished Service to Justice Award. This honor is presented annually to a Federal judge who has achieved an exemplary career and has made significant contributions to the administration of justice, the advancement of the rule of law, and the improvement of society as a whole.

Judge Arnold has also received the prestigious Meador-Rosenberg Award from the American Bar Association for his work and dialogue with members of Congress about the problems facing the Federal courts during his service as Chairman of the Budget Committee of the Judicial Conference of the United States. The award, which has only been presented three times since its inception in 1994, was presented through the ABA's Standing Committee on Federal Judicial Improvements.

Judge Arnold received a Classical Diploma from Phillips Exeter Academy in 1953. He graduated from Yale with a B.A., summa cum laude, in 1957. Afterwards, Judge Arnold attended the Harvard Law School where he received the Sears Prize for achieving the best grades in the first-year class and the Fay Diploma for being first academically in his graduating class. Judge Arnold concluded his formal education upon receiving his LL.B. from Harvard magna cum laude in 1960.

After law school, Judge Arnold served as a law clerk to Justice William J. Brennan, Jr. Arnold then practiced law in Washington, D.C., and Texarkana, Arkansas. Prior to his appointment to the bench, Judge Arnold worked for the Honorable Dale Bumpers while Bumpers was Governor of Arkansas and a United States Senator.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 2128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF RICHARD S. ARNOLD UNITED STATES COURTHOUSE.

The United States courthouse located at 600 West Capitol Avenue in Little Rock, Arkansas, and any addition to the courthouse that may hereafter be constructed, shall be known and designated as the ''Richard S. Arnold United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the Richard S. Arnold United States Courthouse.

Mr. HUTCHINSON. Madam President, throughout a long career on the Federal bench, Judge Richard Sheppard Arnold has exhibited tremendous integrity and commitment to public service. I am honored to join my colleague from Arkansas in introducing legislation to designate the Federal Courthouse in Little Rock, Arkansas, as the Judge Richard S. Arnold United States Courthouse.

Finishing toward the top of his class both at Yale College and at Harvard Law School, Judge Arnold began his legal career as a Law Clerk to Justice William J. Brennan, Jr., of the Supreme Court of the United States. In October of 1978, President Carter appointed him to the District Bench for the Eastern and Western Districts of Arkansas, and he was soon elevated to the United States Court of Appeals for the Eighth Circuit in 1980. There he served as Chief Judge from 1992 through 1998. Since April of 2001, Judge Arnold has served as Senior U.S. Circuit Judge for the Eight Circuit.

For the duration of his service on the bench, Judge Arnold has maintained a reputation as a true gentleman who possesses a keen intellect. Perhaps the finest measure of a man, however, is found in his friends. Judge Arnold has many. It was the entire bench of the Eastern District of Arkansas that came up with the proposal to name the courthouse in his honor, and nearly every day my mail includes a letter from a Judge in Arkansas championing this designation. Such unqualified support at the end of a long career is truly remarkable.

Judge Arnold has certainly earned the honor this legislation would bestow. I hope my colleagues will join us in supporting the designation of the Little Rock, Arkansas, Federal Court House as the Judge Richard S. Arnold United States Courthouse.

By Mr. BINGAMAN:

S. 2129. A bill to amend the Internal Revenue Code of 1986 to clarify that any home-based service worker is an employee of the administrator of home-based service worker program funding; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2130. A bill to amend the Internal Revenue Code of 1986 to allow self-employed individuals to deduct health insurance costs in computing self-employment taxes; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2131. A bill to amend the Internal Revenue Code of 1986 to adjust the dollar amounts used to calculate the credit for the elderly and the permanently disabled for inflation since 1985; to the Committee on Finance.

Mr. BINGAMAN. Madam President, I rise today to introduce three pieces of legislation that combined are an important step in creating a fairer and simpler Internal Revenue Code. These bills simplify the tax filing process and/or reduce the tax burden for the self employed, home-based service workers, the elderly and the disabled. These proposals are consistent with recommendations contained in the 2001 Taxpayer Advocate's Report and need our attention in Congress this year.

The first piece of legislation will address a problem that negatively impacts many recipients and providers of state supported home-based service programs. Under current law, depending on the manner in which States manage their home-based service programs, these workers are sometimes treated for Federal income tax purposes as independent contractors instead of employees. This improper classification results in these workers being responsible for paying all of the payroll taxes owed on payments received for their services instead of paying only half as would be required if they were properly treated as employees. In other States, the home-based

service worker is treated as an employee, but the recipients of the service, generally the disabled and/or elderly, are treated as the employer thereby making them responsible for remitting payroll taxes for the worker. My first proposal would correct these inconsistent treatments and, for tax purposes, deem all home-based service workers to be employees. At the same time, it would deem the State or State-funded organization to be the employer. These changes will significantly reduce inadvertent tax filing errors and make certain that the elderly and disabled are not responsible for payroll taxes for their State supported home-based care. It will also guarantee that home-based care service workers will only pay their share of payroll taxes and not be burdened with paying the employer's share as well.

The second piece of legislation that I am introducing would allow self-employed workers to treat their expenses related to the purchase of health insurance in the same fashion as those workers who receive their health insurance on a pre-tax basis through their employer. Under current law, self-employed workers are required to remit payroll taxes on the amounts they pay for their health insurance coverage. This legislation would remove this inequity and allow the self-employed to reduce their net earnings by the cost of their health insurance for purposes of determining their payroll tax liability for the year. This proposal is another step in an effort to make sure that health insurance is an affordable option for all self-employed workers and their families.

The final piece of legislation that I am introducing would increase the number of taxpayers who would be eligible for the existing tax credit for the elderly and disabled as well as raise the amount that some would receive. This tax credit was created to guarantee that the elderly and disabled are able to support themselves when their Social Security or other non-taxable pensions are insufficient to cover their modest expenses. Since 1983, however, the amounts used to calculate the availability and amount of this credit have not been increased. By not indexing this provision for inflation, the number of taxpayers claiming this credit has dropped substantially. In 1998, the most recent year available from the IRS, 180,473 taxpayers claimed the credit as compared to 339,818 in 1990. This proposal would raise the limits of this credit to the level it would currently be at if the provision had been indexed for inflation starting in 1983 as well index it going forward.

I look forward to working with my colleagues on both sides of the aisle in advancing these pieces of legislation.

I ask unanimous consent that the text of the three bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF EMPLOYEE STATUS OF HOME-BASED SERVICE WORKERS.

(a) IN GENERAL.—Section 3121(d)(3) of the Internal Revenue Code of 1986 (defining employee) is amended by striking ''and'' at the end of subparagraph (C), by adding ''or'' at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

''(E) any qualified home-based service worker;''.

(b) DEFINITION.—Section 3121(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new flush sentence:

''For purposes of paragraph (3)(E), the term 'qualified home-based service worker' means an individual providing in-home household or personal care services for disabled and elderly individuals under a program the funding of which is administered by a State, State agency, or an intermediate services organization.''.

(c) PROGRAM AGENT TREATED AS EMPLOYER OF QUALIFIED HOME-BASED SERVICE WORKER.—Section 3504 of the Internal Revenue Code of 1986 (relating to acts to be performed by agents) is amended—

(1) by striking ''In case a fiduciary'' and inserting:

''(a) IN GENERAL.—In case of a fiduciary'', and

(2) by adding at the end the following new subsection:

''(b) HOME-BASED SERVICE WORKER PROGRAMS.—For purposes of subsection (a), in the case of any program under which is provided funding for the employment of qualified home-based service workers (as defined in section 3121(d)), the administrator of such funding shall be treated as the agent for any employer of such worker and such employer shall not remain subject to the provisions of law (including penalties) applicable in respect of such an employer.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed after December 31, 2002.

S. 2130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTION FOR HEALTH INSURANCE COSTS IN COMPUTING SELF-EMPLOYMENT TAXES.

(a) IN GENERAL.—Section 161(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

S. 2131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INFLATION ADJUSTMENT FOR ELDERLY AND DISABLED CREDIT DOLLAR AMOUNTS.

(a) IN GENERAL.—Section 22 of the Internal Revenue Code of 1986 (relating to credit for the elderly and the permanently disabled) is amended by adding at the end the following new subsection:

''(g) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning after 2002, each of the dollar amounts contained in subsections (c) and (d) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting '1983' for '1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

By Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. BAYH, Mr. LOTT, Mr. BREAUX, Mr. ALLARD, Mr. CLELAND, Mr. BUNNING, Ms. LANDRIEU, Mr. CRAIG, Mrs. LINCOLN, Mr. DEWINE, Mr. WYDEN, Mr. FRIST, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. MCCAIN, Mr. SHELBY, Mr. SMITH of Oregon, and Mr. WARNER):

S.J. Res. 35. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Madam President, National Crime Victims' Rights Week begins on Sunday.

Next week, communities across the country will be holding observances, candlelight vigils, rallies, and other events to honor and support crime victims and their rights.

Also, in just a few days—specifically, April 19—we will mark the 7th anniversary of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City.

That attack resulted in the deaths of 168 people.

And it was just over seven months ago that, over a period of two hours and three minutes, we suffered the deadliest act of domestic terrorism in our history.

Over 3,000 people died in the attacks on that day—more than died at Pearl Harbor.

Thus, it seems appropriate for all of us in this esteemed body to stop a minute and think about victims' rights.

Last year, the Senate debated a proposed constitutional amendment drafted by Senator KYL and me to protect the rights of victims of violent crime.

The amendment had been reported out of the Senate Judiciary Committee on a strong bipartisan vote of 12 to 5.

After 82 Senators voted to proceed to consideration of the amendment, there was a vigorous debate on the floor of the Senate.

Some Senators raised concerns about the amendment, saying that it was too long or that it read too much like a statute.

Ultimately, in the face of a threatened filibuster, Senator KYL and I decided to withdraw the amendment.

We then hunkered down with constitutional experts such as Professor Larry Tribe of Harvard Law School to

see if we could revise the amendment to meet Senators' concerns. We also worked with constitutional experts at the Department of Justice and the White House.

And we have come up with a new and improved draft of the amendment.

This new amendment provides many of the same rights as the old amendment.

Specifically, the amendment would give crime victims the rights to be notified, present, and heard at critical stages throughout their case.

It would ensure that their views are considered and they are treated fairly.

It would ensure that their interest in a speedy resolution of the case, safety, and claims for restitution are not ignored.

And it would do so in a way that would not abridge the rights of defendants or offenders, or otherwise disrupt the delicate balance of our Constitution.

There are many reasons why we need a constitutional amendment.

First, a constitutional amendment will balance the scales of justice.

Currently, while criminal defendants have almost two dozen separate constitutional rights—fifteen of them provided by amendments to the U.S. Constitution—there is not a single word in the Constitution about crime victims.

These rights trump the statutory and state constitutional rights of crime victims because the U.S. Constitution is the supreme law of the land.

To level the playing field, crime victims need rights in the U.S. Constitution.

In the event of a conflict between a victim's and a defendant's rights, the court will be able to balance those rights and determine which party has the most compelling argument.

Second, a constitutional amendment will fix the patchwork of victims' rights laws.

Eighteen states lack state constitutional victims' rights amendments. And the 32 existing state victims' rights amendments differ from each other.

Also, virtually every state has statutory protections for victims, but these vary considerably across the country.

Only a federal constitutional amendment can ensure a uniform national floor for victims' rights.

Third, a constitutional amendment will restore rights that existed when the Constitution was written.

It is a little know fact that at the time the Constitution was drafted, it was standard practice for victims—not public prosecutors—to prosecute criminal cases.

Because victims were parties to most criminal cases, they enjoyed the basic rights to notice, to be present, and be heard.

Hence, it is not surprising that the Constitution does not mention victims.

Now, of course, it is extremely rare for a victim to undertake a criminal prosecution.

Thus, victims have none of the basic procedural rights they used to enjoy.

Victims should receive some of the modest notice and participation rights they enjoyed at the time that the Constitution was drafted.

Fourth, a constitutional amendment is necessary because mere state law is insufficient.

State victims' rights laws lacking the force of federal constitutional law are often given short shrift.

A Justice Department-sponsored study and other studies have found that, even in states with strong legal protections for victims; rights, many victims are denied those rights. The studies have also found that statutes are insufficient to guarantee victims' rights.

Only a federal constitutional amendment can ensure that crime victims receive the rights they are due.

Fifth, a constitutional amendment is necessary because federal statutory law is insufficient.

The leading statutory alternative to the Victims' Rights Amendment would only directly cover certain violent crimes prosecuted in Federal court. Thus, it would slight more than 99 percent of victims of violent crime.

We should acknowledge that Federal statutes have been tried and found wanting. It is time for us to amend the U.S. Constitution.

The Oklahoma City bombing case offers another reason why we need a constitutional amendment.

This case shows how even the strongest Federal statute is too weak to protect victims in the face of a defendant's constitutional rights.

In that case, two Federal victims' statutes were not enough to give victims of the bombing a clear right to watch the trial and still testify at the sentencing—even though one of the statutes was passed with the specific purpose of allowing the victims to do just that.

Let me quote from the first of these statutes: the Victims of Crime Bill of Rights, passed in 1990. That Bill of rights provides in part that:

A crime victim has the following rights: The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

That statute further states that Federal Government officers and employees ''engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the[se] rights.''

The law also provides that ''[t]his section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the[se] rights.''

In spite of the law, the judge in the Oklahoma City bombing case ruled—without any request from Timothy McVeigh's attorneys—that no victim who saw any portion of the case could testify about the bombing's impact at a possible sentencing hearing:

The Justice Department asked the judge to exempt victims who would not be ''factual witnesses at trial'' but who might testify at a sentencing hearing about the impact of the bombing on their lives.

The judge denied the motion.

The victims were then given until the lunchbreak to decide whether to watch the proceedings or remain eligible to testify at a sentencing hearing.

In the hour that they had, some of the victims opted to watch the proceedings; others decided to leave to remain eligible to testify at the sentencing hearing.

Subsequently, the Justice Department asked the court to reconsider its order in light of the 1990 Victims' Bill of Rights. Bombing victims then filed their own motion to raise their rights under the Victims' Bill of Rights.

The court denied both motions. With regard to the victims' motion, the judge held that the victims lacked standing.

The judge stated that the victims would not be able to separate the ''experience of trial'' from the ''experience of loss from the conduct in question.'' The judge also alluded to concerns about the defendants' constitutional rights, the common law, and rules of evidence.

The victims and DOJ separately appealed to the Court of Appeals for the Tenth Circuit.

That court ruled that the victims lacked standing under Article III of the Constitution because they had no ''legally protected interest'' to be present at trial and thus had suffered no ''injury in fact'' from their exclusion.

The victims and DOJ then asked the entire Tenth Circuit to review that decision.

Forty-nine members of Congress, all six attorneys general in the Tenth Circuit, and many of the leading crime victims' organizations filed briefs in support of the victims. All to no avail.

The Victims' Clarification Act of 1997 was then introduced in Congress.

That act provided that watching a trial does not constitute grounds for denying victims the chance to provide an impact statement. This bill passed the House 414 to 13 and the Senate by unanimous consent.

Two days later, President Clinton signed it into law, explaining that ''when someone is a victim, he or she should be at the center of the criminal justice process, not on the outside looking in.''

The victims then filed a motion asserting a right to attend the trial under the new law.

However, the judge declined to apply the law as written.

He concluded that ''any motions raising constitutional questions about this legislation would be premature and would present questions issues that are not now ripe for decision.''

Moreover, he held that it could address issues of possible prejudicial impact from attending the trial by interviewing the witnesses after the trial.

The judge also refused to grant the victims a hearing on the application of the new law, concluding that his ruling rendered their request ''moot.''

The victims then faced a painful decision: watch the trial or preserve their right to testify at the sentencing hearing.

Many victims gave up their right to watch the trial as a result.

A constitutional amendment would help ensure that victims of a domestic terrorist attack such as the Oklahoma City bombing have standing and that their arguments for a right to be present are not dismissed as ''unripe.''

A constitutional amendment would give victims of violent crime an unambiguous right to watch a trial and still testify at sentencing.

There is strong and wide support for a constitutional amendment.

I am pleased that President Bush and Attorney General Ashcroft have endorsed the amendment. I greatly appreciate their support.

And I am also pleased that both former President Clinton and former Vice President Gore have all expressed support for a constitutional amendment on victims' rights.

Moreover, in the last Congress, the Victims' Rights Amendment was cosponsored by a bipartisan group of 41 Senators.

I have spoken to many of my colleagues about the amendment we introduce today and I am hopeful that it will receive even more support in this Congress. In addition:

Both the Democratic and Republican Party platforms call for a victims' rights amendment.

Governors in 49 out of 50 states have called for an amendment.

Four former U.S. Attorneys General, including Attorney General Reno, support an amendment. Attorney General Ashcroft supports an amendment.

Forty state attorneys general support an amendment.

Major national victims' rights groups—including Parents of Murdered Children, Mothers Against Drunk Driving, MADD, and the National Organization for Victim Assistance—support the amendment.

Many law enforcement groups, including the Nation Troopers' Coalition, the International Union of Police Associations AFL–CIO, and the Federal Law Enforcement Officers Association, support an amendment.

Constitutional scholars such as Harvard Law School Professor Larry Tribe support an amendment.

The amendment has received strong support around the country. Thirty-two states have passed similar measures—by an average popular vote of almost 80 percent.

I am delighted to join my good friend Senator JON KYL in sponsoring the Victims' Rights Amendment, and I look forward to its adoption by this Congress.

I think it is probably well known in this body that Senator KYL and I have authored what is called the victim's rights constitutional amendment. One of the most perplexing things about the history of this amendment has been that everybody outside of this Chamber supports it. Governors support it. Attorneys general support it. Democratic candidates support it. Republican candidates support it. But when it came down to the fine discussion on this floor, we were told, well, it is too pedantic. Well, there are too many words—well, well.

Senator KYL and I have hunkered down. We have gone back to our constitutional experts on this side of the aisle: Professor Larry Tribe, who has been a very active participant in drafting this, and Steve Twist representing the victims, and many victims' organizations, as well as Paul Cassell, show has worked with us on this amendment.

We have essentially redone the victims' rights constitutional amendment, really based on comments made on the floor. It is now succinct. It has a much more poetic flow to it. We believe it is an improved amendment. We are introducing it at this time because next week communities around the country will be holding observances, candlelight vigils, rallies, and other events to honor and support crime victims and their rights.

In just a few days—specifically April 19—we will mark the seventh anniversary of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City. That attack resulted in the deaths of some 168 people.

I would like to very quickly read from a study that was conducted by the Department of Justice, the Office of Justice Programs, on this particular subject because I think their findings are significant.

Let me read one of them. I quote:

> Nevertheless, serious deficiencies remain in the nation's victims' rights laws as well as their implementation.

The Presiding Officer will remember when we passed two statutes to clarify victims' rights as a product of the Oklahoma City bombing. The judge ignored them. Then we passed another one. It went to the appellate court, and the appellate court found that the victims were without standing in the Constitution. Of course, that is what we are trying to remedy here. Thirty-two States have passed victims' rights State amendments. They are all different. Sometimes they are observed and sometimes they are not.

Their report goes on to say:

> The rights of crime victims vary significantly among States and at the Federal level. Frequently, victims' rights are ignored. Even in States that have enacted constitutional rights for victims, implementation is often arbitrary and based on the individual practices and preferences of criminal justice officials. Moreover, many States do not provide comprehensive rights for victims of juvenile offenders.

Let me go on to the recommendation of the Department of Justice. I quote:

> A Federal constitutional amendment for victims' rights is needed for many different reasons, including: One, to establish a consistent floor of rights for crime victims in every State and at the Federal level; two, to ensure the courts engage in a careful and conscientious balancing of the rights of victims and defendants; three, to guarantee crime victims the opportunity to participate in proceedings related to crimes against them; and, four, to enhance the participation of victims in the criminal justice process.
>
> A victims' rights constitutional amendment is the only legal measure strong enough to rectify the current inconsistencies in victims' rights laws that vary significantly from jurisdiction to jurisdiction on the State and Federal level.

I know Senator KYL would like to address himself to this measure. His leadership has been unparalleled. It has been a great delight for me to work with him.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I thank Senator FEINSTEIN for her work on this amendment for several years now. She was tremendously helpful in working with the past administration. She and I have both worked with various victims groups. I think they rightly regard her as a champion of victims' rights in this country.

She mentioned that next week is National Crime Victims' Rights Week. It begins Sunday. It is fitting that we could introduce this legislation today because tomorrow, at a ceremony at the Department of Justice, it is my understanding there will be a very important announcement by the President and the Attorney General with respect to this amendment.

Just to be very brief about our support for this amendment at this time, I will simply address the differences between this year's amendment and last year's amendment.

Even though last year's amendment to the Constitution had 40 cosponsors and was bipartisan, and was considered—incidently, I appreciate the efforts of the distinguished Presiding Officer as chairman of the committee, the Judiciary Committee. We had a strong bipartisan vote of 12 to 5 for this amendment out of the Judiciary Committee last year. I appreciate the Presiding Officer's assistance in that, notwithstanding some differences of opinion with respect to the specifics of the amendment.

We withdrew the bill from consideration on the floor when we knew it would be the subject of prolonged discussion—we shall put it that way—and agreed to consider the criticism of some of the opponents at that time that the phrasing of the language was not elegant enough and perhaps too wordy.

Now, the constitutional amendment contains 12 key lines of text with respect to the rights of victims. There are another 10 lines of text that provide for exceptions or caveats to that grant of constitutional protection. I

think the language much more closely approximates the other amendments to the U.S. Constitution.

I thank Professor Laurence Tribe for his consideration, expertise, and assistance in developing the language toward that end. I am hopeful my colleagues will give a close look at this new protection. The rights protected are essentially the same, but I think the way in which it is done is more in line with other constitutional amendments. I am hopeful we will have an opportunity to make a substantive case for this amendment and to discuss in detail, with our colleagues, the reasons for our desire that we get a vote on it this year.

I will just conclude by noting—especially because starting Sunday we will be celebrating National Crime Victims' Rights Week—the number of groups that are represented here in Washington to participate in various presentations and celebrations of National Crime Victims' Rights Week and who will also be participating in the meeting tomorrow at the Department of Justice.

Supporters include the National Governors Association, which has voted in favor of an amendment. Both the Republican and Democratic Party platforms of the last Presidential election and their nominees supported such an amendment. It is supported by major national victims' rights groups, including Parents of Murdered Children, Mothers Against Drunk Driving, and the National Organization for Victim Assistance, in addition to the Stephanie Roper Foundation, the Arizona Voice for the Crime Victims, Crime Victims United, and Memory of Victims Everywhere.

And especially, in addition to Senator FEINSTEIN and the Attorney General of the United States, who has been very helpful in helping us formulate the specific wording of the amendment, I thank the National Organization for Victims Assistance, the National Constitutional Amendment Network, Mothers Against Drunk Driving, Parents of Murdered Children, Roberta Roper, and the Stephanie Roper Foundation, and Steve Twist, who has been enormously supportive in working the language and coordinating the efforts with these various victims' rights groups. Steve is a lawyer in Phoenix, AZ, and has been indispensable in my efforts.

Finally, Mr. President, Senator FEINSTEIN has asked that I have printed in the RECORD a letter dated April 15, 2002, from Laurence H. Tribe to Senator FEINSTEIN and myself. I will just read two excerpts from it, conclude my remarks, and submit it for the RECORD.

Professor Tribe says:

Dear Senators Feinstein and Kyl:

I think that you have done a splendid job at distilling the prior versions of the Victims' Rights Amendment into a form that would be worthy of a constitutional amendment—an amendment to our most fundamental legal charter, which I agree ought never be altered lightly. . . .

How best to protect that right without compromising either the fundamental rights of the accused or the important prerogatives of the prosecution is not always a simple matter, but I think your final working draft of April 13, 2002, resolves that problem in a thoughtful and sensitive way, improving in a number of respects on the earlier drafts that I have seen. Among other things, the greater brevity and clarity of this version makes it more fitting for inclusion in our basic law. That you achieved such conciseness while fully protecting defendants' rights and accommodating the legitimate concerns that have been voiced about prosecutorial power and presidential authority is no mean feat. I happily congratulate you both on attaining it.

I would say, editorially, not without substantial help from Professor Tribe himself.

Madam President, I ask unanimous consent that this letter be printed in the RECORD.

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

HARVARD UNIVERSITY
LAW SCHOOL,
Cambridge, MA, April 15, 2002.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Hon. JON KYL, *U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATORS FEINSTEIN AND KYL: I think that you have done a splendid job at distilling the prior versions of the Victims' Rights Amendment into a form that would be worthy of a constitutional amendment—an amendment to our most fundamental legal charter, which I agree ought never to be altered lightly. I will not repeat here the many reasons I have set forth in the past for believing that, despite the skepticism I have detected in some quarters both on the left and on the right, the time is past due for recognizing that the victims of violent crime, as well as those closest to victims who have succumbed to such violence, have a fundamental right to be considered, and heard when appropriate, in decisions and proceedings that profoundly affect their lives.

How best to protect that right without compromising either the fundamental rights of the accused or the important prerogatives of the prosecution is not always a simple matter, but I think your final working draft of April 13, 2002, resolves that problem in a thoughtful and sensitive way, improving in a number of respects on the earlier drafts that I have seen. Among other things, the greater brevity and clarity of this version makes it more fitting for inclusion in our basic law. That you achieved such conciseness while fully protecting defendants' rights and accommodating the legitimate concerns that have been voiced about prosecutorial power and presidential authority is no mean feat. I happily congratulate you both on attaining it.

A case argued two weeks ago in the Supreme Judicial Court of Massachusetts, in which a woman was brutally raped a decade and a half ago but in which the man who was convicted and sentenced to a long prison term has yet to serve a single day of that sentence, helps make the point that the legal system does not do well by victims even in the many states that, on paper, are committed to the protection of victims' rights. Despite the Massachusetts Victims' Bill of Rights, solemnly enacted by the legislature to include an explicit right on the part of the victim to a ''prompt disposition'' of the case in which he or she was victimized, the Massachusetts Attorney General, to who has yet to take the simple step of seeking the incarceration of the convicted criminal pending his on-again, off-again motion for a new trial—a motion that has not been ruled on during the 15 years that this convicted rapist has been on the streets—has taken the position that the victim of the rape does not even have legal standing to appear in the courts of this state, through counsel, to challenge the state's astonishing failure to put her rapist in prison to begin serving the term to which he was sentenced so long ago.

If this remarkable failure of justice represented a wild aberration, perpetrated by a state that has not incorporated the rights to victims into its laws, then it would prove little, standing alone, about the need to write into the United States Constitution a national commitment to the rights of victims. Sadly, however, the failure of justice of which I write here is far from aberrant. It represents but the visible tip of an enormous iceberg of indifference toward those whose rights ought finally to be given formal federal recognition.

I am grateful to you for fighting this fight. I only hope that many others can soon be stirred to join you in a cause that deserves the most widespread bipartisan support.

Sincerely yours,

LAURENCE H. TRIBE.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 240—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN AARON RAISER V. HONORABLE TOM DASCHLE, ET AL

Mr. REID (for himself, and Mr. NICKLES) submitted the following resolution; which was considered and agreed to:

S. RES. 240

Whereas, the Senate, Senator Tom Daschle, and Senator Trent Lott have been named as defendants in the case of Aaron Raiser v. Honorable Tom Daschle, et al., Case No. 01CV894B, now pending in the United States District Court for the District of Utah;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to represent the Senate and its Members in civil actions with respect to proceedings or actions taken in their official capacities; Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the Senate, Senator Tom Daschle, and Senator Trent Lott in the case of Aaron Raiser v. Honorable Tom Daschle, et al.

SENATE RESOLUTION 241—DESIGNATING APRIL 11, 2002, AS ''NATIONAL ALTERNATIVE FUEL VEHICLE DAY''

Mr. ROCKEFELLER (for himself, Mr. BYRD, Mr. HATCH, Mr. REID, Mr. DASCHLE, and Mr. DURBIN) submitted the following resolution; which was considered and agreed to.

S. RES. 241

Whereas the energy security of the United States needs to be strengthened to prevent future terrorist attacks;

Whereas the United States needs to reduce its dependence on foreign oil;

Whereas the United States needs to improve its air quality by reducing emissions from the millions of motor vehicles on the Nation's roads;

Whereas the United States needs to foster national expertise and technological advancement in cleaner alternative fuel vehicles;

Whereas the people of the United States need more choices in cleaner transportation;

Whereas the people of the United States need to know that alternative fuel vehicles are a positive choice for transportation; and

Whereas it is in the public interest of the United States to foster the support for new and existing technologies that offer more environmentally friendly transportation choices for the people of the United States during peacetime or wartime: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 11, 2002 as ''National Alternative Fuel Vehicle Day'';

(2) proclaims ''National Alternative Fuel Vehicle Day'' as a day to promote programs and activities that will lead to the greater use of cleaner transportation in the United States; and

(3) requests the President to issue a proclamation, calling upon interested organizations and the people of the United States—

(A) to promote programs and activities that take full advantage of the new and existing technologies in cleaner alternative fuel vehicles; and

(B) to foster public interest in the use of cleaner alternative fuel vehicles through the dissemination of information.

SENATE CONCURRENT RESOLUTION 101—EXTENDING BIRTHDAY GREETINGS AND BEST WISHES TO LIONEL HAMPTON ON THE OCCASION OF HIS 94TH BIRTHDAY

Mr. CRAIG submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 101

Whereas Lionel Hampton is regarded internationally as one of the greatest jazz musicians of all time and has shared his talents with the world for more than eight decades;

Whereas Lionel Hampton has consistently exemplified acceptance, tolerance, and the celebration of racial and cultural diversity, by being one of the first black musicians to perform in venues and events previously open only to white performers, including performances with the Benny Goodman Quartet from 1936–1940, and as the first black musician to perform for a presidential inauguration, that of Harry S. Truman in 1949;

Whereas Lionel Hampton has furthered the cause of cultural understanding and international communication, receiving a Papal Medallion from Pope Pius XII, the Israel Statehood Award, serving as a Goodwill Ambassador for the United States, and receiving the Honor Cross for Science and the Arts, First Class, one of Austria's highest decorations;

Whereas Lionel Hampton is one of the most recorded artists in the history of jazz;

Whereas Lionel Hampton has opened doors for aspiring musicians throughout the world, many of whom have established themselves as giants in the world of jazz, including Cat Anderson, Terrance Blanchard, Clifford Brown, Conte Candoli, Pete Condoli, Betty Carter, Ray Charles, Nat ''King'' Cole, Bing Crosby, Art Farmer, Carl Fontana, Aretha Franklin, Benny Golson, Al Grey, Slide Hampton, Joe Henderson, Quincy Jones, Bradford Marsalis, Wes Montgomery, James Moody, Fats Navarro, Joe Newman, Nicholas Payton, Benny Powell, Buddy Tate, Clark Terry, Stanley Turrentine, Dinah Washington, and Joe Williams, among others;

Whereas Lionel Hampton has worked to perpetuate the art form of jazz by offering his talent, inspiration, and production acumen to the University of Idaho since 1983, and in 1985, when the University of Idaho named its school of music after him, Lionel Hampton became first jazz musician to have both a music school and a jazz festival named in his honor;

Whereas Lionel Hampton has received many national accolades, awards, and commemorations, including an American Jazz Masters Fellowship from the National Endowment for the Arts, Kennedy Center Honors, and a National Medal of Arts;

Whereas Lionel Hampton has received numerous awards and commendations by local and State governments and has received acknowledgment from hundreds of civic and performance groups;

Whereas Lionel Hampton's legacy of inspiration, education, and excellence will be perpetuated by the development of the Lionel Hampton Center at the University of Idaho, a facility that combines the finest in performance, scholarship, and research;

Whereas Lionel Hampton has made a difference in many lives by inspiring so many who have now become jazz greats, by reinforcing the importance of education at all levels, and by showing the world a way of life where love and talent are shared without reservation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress, on behalf of the American people, extends its birthday greetings and best wishes to Lionel Hampton on the occasion of his 94th birthday.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3126. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; which was ordered to lie on the table.

SA 3127. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3525, supra; which was ordered to lie on the table.

SA 3128. Mr. BYRD proposed an amendment to the bill H.R. 3525, supra.

SA 3129. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3130. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3131. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3126. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, between lines 6 and 7, insert the following:

SEC. 403. PREARRIVAL MESSAGES FROM OTHER VESSELS DESTINED TO UNITED STATES PORTS.

(a) IN GENERAL.—Section 4(a)(5) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(5)) is amended by striking paragraph (5) and inserting the following:

''(5)(A) may require the receipt of prearrival messages from any vessel destined for a port or place subject to the jurisdiction of the United States, not later than 96 hours before the vessel's arrival or such time as deemed necessary under regulations promulgated by the Secretary to provide any information that the Secretary determines is necessary for control of the vessel and the safety and security of the port, waterways, facilities, vessels, and marine environment, including—

''(i) the route and name of each port and each place of destination in the United States;

''(ii) the estimated date and time of arrival at each port or place;

''(iii) the name of the vessel;

''(iv) the country of registry of the vessel;

''(v) the call sign of the vessel;

''(vi) the International Maritime Organization (IMO) international number or, if the vessel does not have an assigned IMO international number, the official number of the vessel;

''(vii) the name of the registered owner of the vessel;

''(viii) the name of the operator of the vessel;

''(ix) the name of the classification society of the vessel;

''(x) a general description of the cargo on board the vessel;

''(xi) in the case of certain dangerous cargo—

''(I) the name and description of the dangerous cargo;

''(II) the amount of the dangerous cargo carried;

''(III) the stowage location of the dangerous cargo; and

''(IV) the operational condition of the equipment under section 164.35 of title 33 of the Code of Federal Regulations;

''(xii) the date of departure and name of the port from which the vessel last departed;

''(xiii) the name and telephone number of a 24-hour point of contact for each port included in the notice of arrival;

''(xiv) the location or position of the vessel at the time of the report;

''(xv) a list of crew members on board the vessel, including with respect to each crew member—

''(I) the full name;

''(II) the date of birth;

''(III) the nationality;

''(IV) the passport number or mariners document number; and

''(V) the position or duties;

''(xvi) a list of persons other than crew members onboard the vessel, including with respect to each such person—

''(I) the full name;

''(II) the date of birth;

''(II) the nationality; and

''(IV) the passport number; and

''(xvii) any other information required by the Secretary; and

''(B) any changes to the information required by subparagraph (A), except changes in the arrival or departure time of less than 6 hours, must be reported as soon as practicable but not less than 24 hours before entering the port of destination. The Secretary may deny entry of a vessel into the territorial sea of the United States if the Secretary has not received notification for the vessel in accordance with this paragraph.''.

(b) INAPPLICABILITY OF FREEDOM OF INFORMATION ACT.—Section 4 of the Ports and Waterways Safety Act (33 U.S.C. 1223), as amended by subsection (a), is further amended by adding at the end the following new subsection:

''(e) INFORMATION NOT SUBJECT TO FREEDOM OF INFORMATION ACT.—Section 552 of title 5, United States Code, does not apply to any information submitted under subsection (a)(5)(A).''.

(c) RELATION TO THE PREARRIVAL MESSAGE REQUIREMENT.—Section 5 of the Ports and Waterways Safety Act (33 U.S.C. 1224) is amended by adding at the end the following new undesignated paragraph:

''Nothing in this section shall be construed to limit the Secretary's authority to require information under section 4(a)(5) of this Act before a vessel's arrival in a port or place that is subject to the jurisdiction of the United States.''.

SEC. 404. SAFETY AND SECURITY OF PORTS AND WATERWAYS.

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended—

(1) in section 2(a) (33 U.S.C. 1221 (a)), by striking ''safety and protection of the marine environment'' and inserting ''safety, protection of the marine environment, and safety and security of United States ports and waterways''; and

(2) in section 5(a) (33 U.S.C. 1224(a)), by striking ''safety and protection of the marine environment,'' and inserting ''safety, protection of the marine environment, and safety and security of United States ports and waterways,''.

On page 41, line 7, strike ''SEC. 403.'' and insert ''SEC. 405.''.

SA 3127. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 29, strike line 1 and all that follows through line 8 on page 30 and insert the following:

SEC. 304. TERRORIST LOOKOUT COMMITTEES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of State shall establish within each United States Embassy a Terrorist Lookout Committee, which shall include the head of the political section and senior representatives of all United States law enforcement agencies, and the intelligence community, under the authority of the chief of mission.

(2) CHAIR AND VICE CHAIR OF COMMITTEES.—Each committee established under subsection (a) shall be chaired by the respective deputy chief of mission, with the head of the consular section as vice chair.

(b) MEETINGS.—Each committee established under subsection (a) shall meet at least monthly and shall maintain records of its meetings. Upon the completion of its meeting, such committee shall report to the Department of State all names submitted for inclusion in the visa lookout system.

(c) CERTIFICATION.—If no names are submitted upon completion of a meeting under subsection (b), the chair of the committee that held the meeting shall certify to the Secretary of State, subject to potential application of the Accountability Review Board provisions of title III of the Omnibus Diplomatic Security and Antiterrorism Act of 1986, that none of the relevant sections of the United States Embassy had knowledge of the identity of any individual eligible for inclusion in the visa lookout system for possible terrorist activity.

(d) REPORT.—The Secretary of State shall submit a report on a quarterly basis to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on the status of the committees established under subsection (a).

SA 3128. Mr. BYRD proposed an amendment to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. CERTIFICATION REGARDING FORCED LABOR.

(a) SHORT TITLE.—This section may be cited as the ''Labor Certification Act of 2002''.

(b) CERTIFICATION REQUIRED.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Treasury shall require that any person importing goods into the United States provide a certificate to the United States Customs Service that the goods being imported comply with the provisions of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) and that no part of the goods were made with prison, forced, or indentured labor, or with labor performed in any type of involuntary situation.

(2) DEFINITIONS.—In this section:

(A) GOODS.—For purposes of this section, the term ''goods'' includes goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country.

(B) INVOLUNTARY SITUATION.—The term ''involuntary situation'' includes any situation where work is performed on an involuntary basis, whether or not it is performed in a penal institution, a re-education through labor program, a pre-trial detention facility, or any similar situation.

(C) PRISON, FORCED, OR INDENTURED LABOR.—The term ''prison, forced, or indentured labor'' includes any labor performed for which the worker does not offer himself voluntarily.

(c) INSPECTION OF CERTAIN FACILITIES.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the President shall renegotiate and enter into a new agreement with the People's Republic of China, concerning inspection of facilities in the People's Republic of China suspected of using forced labor to make goods destined for export to the United States. The agreement shall supercede the 1992 Memorandum of Understanding and 1994 Statement of Cooperation, and shall provide that within 30 days of making a request to the Government of the People's Republic of China, United States officials be allowed to inspect all types of detention facilities in the People's Republic of China that are suspected of using forced labor to mine, produce, or manufacture goods destined for export to the United States, including prisons, correctional facilities, re-education facilities, and work camps. The agreement shall also provide for concurrent investigations and inspections if more than 1 facility or situation is involved.

(2) FORCED LABOR.—For purposes of this subsection, the term ''forced labor'' means convict or prison labor, forced labor, indentured labor, or labor performed in any type of involuntary situation.

(d) AUTHORIZATION OF CUSTOMS PERSONNEL.—Section 3701 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 is amended by striking ''for fiscal year 1999'' and inserting ''for each of fiscal years 2002 and 2003''.

SA 3129. Ms. SNOWE submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 17, between lines 6 and 7, insert the following:

SEC. ___. CREDIT FOR ELECTRICITY PRODUCED FROM BLACK LIQUOR GASIFICATION.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting '', and'', and by adding at the end the following new subparagraph:

''(H) black liquor gasification.''.

(b) QUALIFIED FACILITY.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

''(G) BLACK LIQUOR GASIFICATION FACILITY.—In the case of a facility using black liquor gasification to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after date of the enactment of this subparagraph and before January 1, 2007.''.

(c) DEFINITION.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) BLACK LIQUOR GASIFICATION.—The term 'black liquor gasification' means electric power generated by the conversion of black liquor biomass to gas.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 3130. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 73, between lines 2 and 3, insert the following:

SEC. ___. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45K. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under

section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

''(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

''(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

''(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

''(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

''(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

''(2) an organization exempt from tax under section 501(a).

''(d) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction under this subtitle for any tax imposed by subchapter B of chapter 31 or part III of subchapter A of chapter 32 for any taxable year shall be reduced (but not below zero) by the amount of the credit determined under this subsection for such taxable year.

''(e) TERMINATION.—This section shall not apply with respect to any calendar year after 2004.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting '', plus'', and by adding at the end the following new paragraph:

''(24) the commercial power takeoff vehicles credit under section 45K(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45K. Commercial power takeoff vehicles credit.''.

(d) REGULATIONS.—Not later than January 1, 2005, the Secretary of the Treasury, in consultation with the Secretary of Energy, shall by regulation provide for the method of determining the exemption from any excise tax imposed under section 4041 or 4081 of the Internal Revenue Code of 1986 on fuel used through a mechanism to power equipment attached to a highway vehicle as described in section 45K(b)(2) of such Code, as added by subsection (a).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 3131. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VII—COPS REAUTHORIZATION

SEC. 701. SHORT TITLE.

This title may be cited as the ''Providing Reliable Officers, Technology, Education, Community Prosecutors, and Training In Our Neighborhoods Act of 2002'' or ''PROTECTION Act''.

SEC. 702. PROVIDING RELIABLE OFFICERS, TECHNOLOGY, EDUCATION, COMMUNITY PROSECUTORS, AND TRAINING IN OUR NEIGHBORHOOD INITIATIVE.

(a) COPS PROGRAM.—Section 1701(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)) is amended by—

(1) inserting ''and prosecutor'' after ''increase police''; and

(2) inserting ''to enhance law enforcement access to new technologies, and'' after ''presence,''.

(b) HIRING AND REDEPLOYMENT GRANT PROJECTS.—Section 1701(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by inserting after ''Nation'' the following: '', or pay overtime to existing career law enforcement officers to the extent that such overtime is devoted to community policing efforts''; and

(ii) by striking ''and'' at the end;

(B) in subparagraph (C), by—

(i) striking ''or pay overtime''; and

(ii) striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(D) promote higher education among in-service State and local law enforcement officers by reimbursing them for the costs associated with seeking a college or graduate school education.''; and

(2) in paragraph (2) by striking all that follows SUPPORT SYSTEMS.—'' and inserting ''Grants pursuant to—

''(A) paragraph (1)(B) for overtime may not exceed 25 percent of the funds available for grants pursuant to this subsection for any fiscal year;

''(B) paragraph (1)(C) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year; and

''(C) paragraph (1)(D) may not exceed 5 percent of the funds available for grants pursuant to this subsection for any fiscal year.''.

(c) ADDITIONAL GRANT PROJECTS.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (2)—

(A) by inserting ''integrity and ethics'' after ''specialized''; and

(B) by inserting ''and'' after ''enforcement officers'';

(2) in paragraph (7) by inserting ''school officials, religiously-affiliated organizations,'' after ''enforcement officers'';

(3) by striking paragraph (8) and inserting the following:

''(8) establish school-based partnerships between local law enforcement agencies and local school systems, by using school resource officers who operate in and around elementary and secondary schools to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, combat school-related crime and disorder problems, gang membership and criminal activity, firearms and explosives-related incidents, illegal use and possession of alcohol, and the illegal possession, use, and distribution of drugs;'';

(4) in paragraph (10) by striking ''and'' at the end;

(5) in paragraph (11) by striking the period that appears at the end and inserting ''; and''; and

(6) by adding at the end the following:

''(12) develop and implement innovative programs (such as the TRIAD program) that bring together a community's sheriff, chief of police, and elderly residents to address the public safety concerns of older citizens.''.

(d) TECHNICAL ASSISTANCE.—Section 1701(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(f)) is amended—

(1) in paragraph (1)—

(A) by inserting ''use up to 5 percent of the funds appropriated under subsection (a) to'' after ''The Attorney General may'';

(B) by inserting at the end the following: ''In addition, the Attorney General may use up to 5 percent of the funds appropriated under subsection (d), (e), and (f) for technical assistance and training to States, units of local government, Indian tribal governments, and to other public and private entities for those respective purposes.'';

(2) in paragraph (2) by inserting ''under subsection (a)'' after ''the Attorney General''; and

(3) in paragraph (3)—

(A) by striking ''the Attorney General may'' and inserting ''the Attorney General shall'';

(B) by inserting ''regional community policing institutes'' after ''operation of''; and

(C) by inserting ''representatives of police labor and management organizations, community residents,'' after ''supervisors,''.

(e) TECHNOLOGY AND PROSECUTION PROGRAMS.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended by—

(1) striking subsection (k);

(2) redesignating subsections (f) through (j) as subsections (g) through (k); and

(3) striking subsection (e) and inserting the following:

''(e) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—Grants made under subsection (a) may be used to assist police departments, in employing professional, scientific, and technological advancements that will help them—

''(1) improve police communications through the use of wireless communications, computers, software, videocams, databases and other hardware and software that allow law enforcement agencies to communicate more effectively across jurisdictional boundaries and effectuate interoperability;

''(2) develop and improve access to crime solving technologies, including DNA analysis, photo enhancement, voice recognition, and other forensic capabilities; and

''(3) promote comprehensive crime analysis by utilizing new techniques and technologies, such as crime mapping, that allow law enforcement agencies to use real-time crime and arrest data and other related information—including non-criminal justice data—to improve their ability to analyze, predict, and respond pro-actively to local crime and disorder problems, as well as to engage in regional crime analysis.

''(f) COMMUNITY-BASED PROSECUTION PROGRAM.—Grants made under subsection (a) may be used to assist State, local or tribal prosecutors' offices in the implementation of community-based prosecution programs that build on local community policing efforts. Funds made available under this subsection may be used to—

''(1) hire additional prosecutors who will be assigned to community prosecution programs, including programs that assign prosecutors to handle cases from specific geographic areas, to address specific violent crime and other local crime problems (including intensive illegal gang, gun and drug enforcement projects and quality of life initiatives), and to address localized violent and other crime problems based on needs identified by local law enforcement agencies, community organizations, and others;

''(2) redeploy existing prosecutors to community prosecution programs as described in paragraph (1) of this section by hiring victim and witness coordinators, paralegals, community outreach, and other such personnel; and

''(3) establish programs to assist local prosecutors' offices in the implementation of programs that help them identify and respond to priority crime problems in a community with specifically tailored solutions.

At least 75 percent of the funds made available under this subsection shall be reserved for grants under paragraphs (1) and (2) and of those amounts no more than 10 percent may be used for grants under paragraph (2) and at least 25 percent of the funds shall be reserved for grants under paragraphs (1) and (2) to units of local government with a population of less than 50,000.''.

(f) RETENTION GRANTS.—Section 1703 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–2) is amended by inserting at the end the following:

''(d) RETENTION GRANTS.—The Attorney General may use no more than 50 percent of the funds under subsection (a) to award grants targeted specifically for retention of police officers to grantees in good standing, with preference to those that demonstrate financial hardship or severe budget constraint that impacts the entire local budget and may result in the termination of employment for police officers funded under subsection (b)(1).''.

(g) DEFINITIONS.—

(1) CAREER LAW ENFORCEMENT OFFICER.—Section 1709(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended by inserting after ''criminal laws'' the following ''including sheriffs deputies charged with supervising offenders who are released into the community but also engaged in local community policing efforts.''.

(2) SCHOOL RESOURCE OFFICER.—Section 1709(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gangs and drug activities, firearms and explosive-related incidents, and the illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;'';

(B) by striking subparagraph (E) and inserting the following:

''(E) to train students in conflict resolution, restorative justice, and crime awareness, and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for the implementation of prevention/intervention programs within the schools;''; and

(C) by adding at the end the following:

''(H) to work with school administrators, members of the local parent teacher association, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;

''(I) to assist in documenting the full description of all firearms found or taken into custody on school property and to initiate a firearms trace and ballistics examination for each firearm with the local office of the Bureau of Alcohol, Tobacco, and Firearms;

''(J) to document the full description of all explosives or exposure devices found or taken into custody on school property and report to the local office of the Bureau of Alcohol, Tobacco, and Firearms; and

''(K) to assist school administrators with the preparation of the Department of Education, Annual Report on State Implementation of the Gun-Free Schools Act which tracks the number of students expelled per year for bringing a weapon, firearm, or explosive to school.''.

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11) is amended—

(1) by amending subparagraph (A) to read as follows:

''(A) There are authorized to be appropriated to carry out part Q, to remain available until expended—

''(i) $1,150,000,000 for fiscal year 2003;

''(ii) $1,150,000,000 for fiscal year 2004;

''(iii) $1,150,000,000 for fiscal year 2005;

''(iv) $1,150,000,000 for fiscal year 2006;

''(v) $1,150,000,000 for fiscal year 2007; and

''(vi) $1,150,000,000 for fiscal year 2008''; and

(2) in subparagraph (B)—

(A) by striking ''3 percent'' and inserting ''5 percent'';

(B) by striking ''1701(f)'' and inserting ''1701(g)'';

(C) by striking the second sentence and inserting ''Of the remaining funds, if there is a demand for 50 percent of appropriated hiring funds, as determined by eligible hiring applications from law enforcement agencies having jurisdiction over areas with populations exceeding 150,000, no less than 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations exceeding 150,000 or by public and private entities that serve areas with populations exceeding 150,000, and no less than 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations less than 150,000 or by public and private entities that serve areas with populations less than 150,000.'';

(D) by striking ''85 percent'' and inserting ''$600,000,000''; and

(E) by striking ''1701(b),'' and all that follows through ''of part Q'' and inserting the following: ''1701 (b) and (c), $350,000,000 to grants for the purposes specified in section 1701(e), and $200,000,000 to grants for the purposes specified in section 1701(f).''.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce that the Committee on Energy and Natural Resources will meet during the session of the Senate on Thursday, April 18, at 3:00 p.m. to conduct a hearing. The purpose of the hearing is to receive testimony on the following bills:

S. 1441 and H.R. 695, to establish the Oil Region Heritage Area;

S. 1526, to establish the Arabia Mountain National Heritage Area in the State of Georgia, and for other purposes;

S. 1638, to authorize the Secretary of the Interior to study the suitability and feasibility of designating the French colonial Heritage Area in the State of Missouri as a unit of the National Park System, and for other purposes;

S. 1809 and H.R. 1776, to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Buffalo Bayou National Heritage Area in west Houston, Texas;

S. 1939, to establish the Great Basin National Heritage Area, Nevada and Utah; and

S. 2033, to authorize appropriations for the John H. Chafee Backstone River Valley National Heritage Corridor in Massachusetts and Rhode Island, and for other purposes.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, April 17, 2002, at 2:00 p.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on subsistence hunting and fishing issues in the State of Alaska.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 240 submitted earlier today by Senator NICKLES and myself.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 240) to authorize representation by the Senate Legal Counsel in Aaron Raiser v. Honorable Tom Daschle, et al.

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

Mr. REID. Madam President, a resident of Utah has commenced a civil action against the Senate, Senator DASCHLE, and Senator LOTT in Federal court in Utah to challenge the Senate's procedures for handling judicial nominations. Specifically, the plaintiff alleges that the practice of nominations that have not been reported out of committee over the past 5 years not being voted on by the full Senate violates the Senate's constitutional duty to advise and consent to nominations. The plaintiff asks the court to order the Senate to change its rules for considering judicial nominations.

The Senate's practices for handling controversial nominations present a subject appropriate for robust debate both within the Senate and among the public at large. However, they do not present a justiciable issue for the courts in this case. This resolution would authorize the Senate Legal Counsel to represent the defendants in this action to protect the Senate's prerogative to fashion its own rules for the exercise of its confirmation duties under the Constitution.

Mr. REID. Madam President, I ask unanimous consent that the resolution

and preamble be agreed to, en bloc, the motion to reconsider be laid on the table, and that any statements relating thereto be printed in the RECORD with the above occurring without intervening action or debate.

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

The resolution (S. Res. 240) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 240

Whereas, the Senate, Senator Tom Daschle, and Senator Trent Lott have been named as defendants in the case of *Aaron Raiser* v. *Honorable Tom Daschle, et. al.*, Case No. 01CV894B, now pending in the United States District Court for the District of Utah;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to represent the Senate and its Members in civil actions with respect to proceedings or actions taken in their official capacities; Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the Senate, Senator Tom Daschle, and Senator Trent Lott in the case of *Aaron Raiser* v. *Honorable Tom Daschle, et. al.*

NATIONAL ALTERNATIVE FUEL VEHICLE DAY

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 241 submitted earlier today by Senators ROCKEFELLER, BYRD, and REID.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 241) designating April 11, 2002, as ''National Alternative Fuel Vehicle Day.''

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

Mr. ROCKEFELLER. Madam President, it is my pleasure to join my colleagues Senator HATCH and Senator BYRD to introduce a resolution designating April 11, 2002 as National Alternative Fuel Vehicle Day. I have long been a supporter of alternative fuels and alternative fuel vehicles because they contribute to our nation's energy independence and provide needed environmental benefits.

The transportation sector accounts for more than 65 percent of the petroleum consumed in the United States. Reducing the amount of petroleum used by the transportation sector by encouraging greater use of alternative fuel vehicles and fuels will improve our energy security and bring the added benefit of reducing emissions from that sector of the economy. As the price of gasoline continues to rise, these facts are perhaps more relevant than ever before.

Adoption of this Resolution will enhance a national event this Thursday, April 11, 2002, organized by industry leaders, educational institutions, Alternative Fuel Vehicles (AFV) coalitions, and others. The event, called National AFV Day Oydssey, is a public awareness event being held in more than 50 locations in 31 states nationwide with more than 72 organizations. Thousands of people will participate all over the country. The purpose of the event is to build awareness and enthusiasm for AFV's as a viable option for consumer and fleet transportation.

The debate over energy security and national security issues has been at the forefront of policy discussions in recent months. We must, as a nation, continue searching for alternatives to our dependence on foreign oil. Supporting these existing and new environmentally friendly transportation choices will reduce our oil use and help prevent the environmental damage being done by conventional cars, trucks, and vans.

Alternative fuel vehicles offer the opportunity for continued personal mobility while significantly reducing the harm done to the environment. Nearly 100 cities across the U.S. fail to meet federal air quality standards, and approximately 62 million people live in counties where monitored data show unhealthy air for one or more of the six ''criteria'' pollutants (carbon monoxide, lead, nitrogen oxides, ozone, particulate matter, and sulfur dioxide).

For many urban areas, alternative fuel vehicles can be a particularly important means to substantially reduce emissions of mobile source pollutants, including volatile organic compounds and oxides of nitrogen that are the precursors of smog. When integrated into America's transportation network in meaningful quantities, alternative fuels—such as electricity, ethanol, hydrogen, natural gas, methanol and propane—can contribute to mitigating the environmental problems caused by the transportation sector.

Mr. REID. Madam President, I ask unanimous consent the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 241) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 241

Whereas the energy security of the United States needs to be strengthened to prevent future terrorist attacks;

Whereas the United States needs to reduce its dependence on foreign oil;

Whereas the United States needs to improve its air quality by reducing emissions from the millions of motor vehicles on the Nation's roads;

Whereas the United States needs to foster national expertise and technological advancement in cleaner alternative fuel vehicles;

Whereas the people of the United States need more choices in cleaner transportation;

Whereas the people of the United States need to know that alternative fuel vehicles are a positive choice for transportation; and

Whereas it is in the public interest of the United States to foster the support for new and existing technologies that offer more environmentally friendly transportation choices for the people of the United States during peacetime or wartime: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 11, 2002 as ''National Alternative Fuel Vehicle Day'';

(2) proclaims ''National Alternative Fuel Vehicle Day'' as a day to promote programs and activities that will lead to the greater use of cleaner transportation in the United States; and

(3) requests the President to issue a proclamation, calling upon interested organizations and the people of the United States—

(A) to promote programs and activities that take full advantage of the new and existing technologies in cleaner alternative fuel vehicles; and

(B) to foster public interest in the use of cleaner alternative fuel vehicles through the dissemination of information.

EXTENDING BIRTHDAY GREETINGS AND BEST WISHES TO LIONEL HAMPTON

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Con. Res. 101, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 101) extending birthday greetings and best wishes to Lionel Hampton on the occasion of his 94th birthday.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution and its preamble be agreed to, the motion to reconsider be laid upon the table, and any statements regarding this concurrent resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 101) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. CON. RES. 101

Whereas Lionel Hampton is regarded internationally as one of the greatest jazz musicians of all time and has shared his talents with the world for more than eight decades;

Whereas Lionel Hampton has consistently exemplified acceptance, tolerance, and the celebration of racial and cultural diversity, by being one of the first black musicians to perform in venues and events previously open only to white performers, including performances with the Benny Goodman Quartet from 1936–1940, and as the first black musician to perform for a presidential inauguration, that of Harry S. Truman in 1949;

Whereas Lionel Hampton has furthered the cause of cultural understanding and international communication, receiving a Papal Medallion from Pope Pius XII, the Israel Statehood Award, serving as a Goodwill Ambassador for the United States, and receiving the Honor Cross for Science and the Arts, First Call, one of Austria's highest decorations;

Whereas Lionel Hampton is one of the most recorded artists in the history of jazz;

Whereas Lionel Hampton has opened doors for aspiring musicians throughout the world, many of whom have established themselves as giants in the world of jazz, including Cat Anderson, Terrance Blanchard, Clifford Brown, Conte Candoli, Pete Candoli, Betty Carter, Ray Charles, Nat ''King'' Cole, Bing Crosby, Art Farmer, Carl Fontana, Aretha Franklin, Benny Golson, Al Grey, Slide Hampton, Joe Henderson, Quincy Jones, Bradford Marsalis, West Montgomery, James Moody, Fats Navarro, Joe Newman, Nicholas Payton, Benny Powell, Buddy Tat, Clark Terry, Stanley Turrentine, Dinah Washington, and Joe Williams, among others;

Whereas Lionel Hampton has worked to perpetuate the art form of jazz by offering his talent, inspiration, and production acumen to the University of Idaho since 1983, and 1985, when the University of Idaho named its school of music after him, Lionel Hampton became first jazz musician to have both a music school and a jazz festival named in his honor;

Whereas Lionel Hampton has received many national accolades, awards, and commemorations, including an American Jazz Masters Fellowship from the National Endowment for the Arts, Kennedy Center Honors, and a National Medal of Arts;

Whereas Lionel Hampton has received numerous awards and commendations by local and State governments and has received acknowledgment from hundreds of civic and performance groups;

Whereas Lionel Hampton's legacy of inspiration, education, and excellence will be perpetuated by the development of the Lionel Hampton Center at the University of Idaho, a facility that combines the finest in performance, scholarship, and research;

Whereas Lionel Hampton has made a difference in many lives by inspiring so many who have now become jazz greats, by reinforcing the importance of education at all levels, and by showing the world a way of life where love and talent are shared without reservation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress, on behalf of the American people, extends its birthday greetings and best wishes to Lionel Hampton on the occasion of his 94th birthday.

ORDERS FOR TUESDAY, APRIL 16, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 11 a.m., Tuesday, April 16; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate be in a period of morning business until 12:30 p.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided between the two leaders or their designees; further, that the Senate recess from 12:30 to 2:15 p.m. for their weekly party conferences, and at 2:15 p.m. the Senate resume consideration of S. 517, the energy reform bill.

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

ADJOURNMENT UNTIL TUESDAY, APRIL 16, 2002, AT 11 A.M.

Mr. REID. Madam 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.

There being no objection, the Senate, at 7:30 p.m., adjourned until Tuesday, April 16, 2002, at 11 a.m.

NOMINATIONS

Executive nomination received by the Senate April 15, 2002:

MARCOS D. JIMENEZ, OF FLORIDA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF FLORIDA FOR THE TERM OF FOUR YEARS, VICE THOMAS E. SCOTT, RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate April 15, 2002:

TERRENCE L. O'BRIEN, OF WYOMING, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT.