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House of Representatives

The House was not in session today. Its next meeting will be held on Monday, March 1, 2004, at 12 noon.

Senate

FRIDAY, FEBRUARY 27, 2004

The Senate met at 9:32 a.m. and was called to order by the Honorable LARRY E. CRAIG, a Senator from the State of Idaho.

PRAYER

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

Let us pray.

As we begin another day, most gracious God, help us to see that we never escape Your love and care. Forgive us for duties unperformed and for promptings disobeyed. Make us worthy of Your goodness. Thank You for guiding us and for blessing our land. May we trust Your plan for our lives.

Bless our Senators. Remind them that they do not live by their own strength, but that You sustain them. Lord, empower each of us to reflect upon the things that are true, just, pure, lovely, good, and honest, as You keep us with Your constant care. May we strive less for success and more for faithfulness. We pray this in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LARRY E. CRAIG led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant Journal clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 27, 2004.

To the Senate:

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

TED STEVENS,
President pro tempore.

Mr. CRAIG thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, this morning we will resume consideration of the gun manufacturers liability bill. We have made real progress over the course of the week. The managers are here to discuss the legislation and other Senators are expected to come to the floor for further debate over the course of the day.

There will be no rollcall votes today. Therefore, the next vote will occur on Monday. As to the timing of that vote on Monday, I will have more to announce over the course of the day after consultation with the bill managers and the Democratic leader.

Pursuant to the agreement that was reached on Wednesday, we will finish this bill on Tuesday. I thank everyone for their assistance in reaching that consent agreement. I commend the bill managers for their efforts during the negotiations.

HIGHWAY REAUTHORIZATION

We have a very important outstanding issue before we finish our business this week. As Members know, the current highway authorization expires this weekend. Thus, it is imperative that we pass an extension of the authorization before we conclude our work today. I have talked to Members on both sides of the aisle, as well as to our House counterparts, as to how best to achieve this temporary extension.

Yesterday the House passed a 2-month extension, and they have adjourned for the week. Regardless of what Senators think about the long-term solution for this legislation—legislation which we debated—we have an issue that we must settle today in terms of the extension. The House, again, passed a 2-month extension. They sent that to us and they have adjourned.

The real issue is that we absolutely must extend the current law to keep people working until we find some agreement. We will need to address this over the next several minutes because of the sense of urgency, the significance of not passing this highway extension today, this week. That is because beginning Monday, 3 days from now, no funds will be available to pay

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

for the operation of surface transportation programs or the salaries of individuals who run them. That is why we must act today.

That means, as of this Monday, more than 4,600 Department of Transportation employees will be furloughed, if we fail to act today. The Federal Highway Administration will have to stop paying bills on Monday. That includes reimbursements to States for ongoing highway projects.

Federal Highway Administration employees, 2,925 Federal Highway Administration employees, will be furloughed, in Washington, DC, and, indeed, in State offices around the country. If they are furloughed on Monday, these Federal Highway Administration employees will not be able to carry out the necessary steps required to approve the federally approved, funded highway projects. We have construction contractors and their suppliers who will suffer economic losses and hardships.

The National Highway Traffic Safety Administration also will be affected. They would have to stop paying bills on Monday. There are 630 Highway Traffic Safety Administration employees who would be furloughed. The operation of our Federal highway safety programs would be dramatically impacted. States would receive no Federal funding for things such as alcohol-impaired driving and safety belt programs.

In addition, the Federal Motor Carrier Safety Administration would have to stop its operations. The Motor Carrier Safety Administration employees, numbering 1,078, would have to be furloughed, and the agency and its partners would not be able to carry out the new entrant safety audits on motor carriers.

The issues go on and on. I state those at the outset because by the end of the day we have to come to some agreement to make sure that what could happen doesn't happen. It is important for people to understand the significance of where we are, in particular the leadership, as we address the other important issues we will talk about shortly.

For clarification, the House sent us two vehicles, a 2-month extension as well as a 4-month extension. The House is not in session today. The practical reality is we must pass one of the extensions—I think it would be the 2-month extension today—or 4,600 people are going to be laid off on Monday. We cannot let that happen.

Now the challenge is to figure out how we are going to address that. Again, it is a very important issue, which I know my colleague from Arizona will address shortly and we need to resolve it.

At this point, I am prepared to ask unanimous consent to allow us to pass the short-term extension. I know Senators will want to comment.

UNANIMOUS CONSENT REQUEST—H.R. 3850

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 3850, a highway program extension bill, which is at the desk. I further ask unanimous consent that the bill be read the third time and passed, and the motion to reconsider be laid upon the table.

(Mr. CHAFEE assumed the Chair.)

Mr. REID. Is this the 2-month extension?

Mr. FRIST. Yes.

Mr. MCCAIN. Mr. President, reserving the right to object. first of all, I don't object to taking up the highway extension bill under the normal Senate procedures, which is that the bill is an amendable vehicle. That is the normal parliamentary procedure we abide by as we address legislation, so I don't object to taking up the highway extension bill under the normal Senate procedures, which makes the bill amendable. I would obviously have an amendment to the bill.

I object to the unanimous consent request that it be taken up and passed without debate or amendment.

Second of all, we have to make some choices here. The choice is whether we will have a short-term disruption—and I might point out no existing projects now underway would be cut off—of the highway programs, or we renege on our commitment to the families who lost their loved ones, brave firefighters and members of law enforcement agencies, on September 11, 2001.

Senator LIEBERMAN and I introduced legislation that created a commission to study the causes of the tragedy of September 11, 2001, and also an effort to prevent a recurrence of that terrible tragedy. We have a choice here between a temporary disruption—I might say a minor one, although it will be described, as it is whenever a government agency might be disrupted, as ''Apocalypse Now''—or telling the families of those who died on September 11 the Commission will not be able to complete its work and part of the reason for it, as described by Commission members, is because of failure to cooperate on the part of the administration.

We are faced with a choice. If there is another amendable vehicle that would have an amendment on it that must pass by the House, I would be glad to agree to passage of this extension. If there is any way we could get the other body to agree with what the President has asked for—not Senators MCCAIN and LIEBERMAN, but what the President asked for—and that is an extension of 2 months of the 9/11 Commission, which was reported out of the Intelligence Committee unanimously yesterday, then I would be glad to withdraw my objection.

The majority leader just pointed out, this is the end of civilization as we know it if these highway employees are deprived of some hours. I might point out we knew when this bill was going to expire. Why is it we do business in such a way that we are faced with a shutdown unless we give an extension, knowing when the bill was going to expire? Most importantly, we all have a choice to make here, including the majority leader and the Senator from Missouri and the Senator from Nevada. We have a choice. Are we going to face a disruption in some highway projects which, although important, can be fixed and repaired over time or are we going to abandon the families of 9/11 who demanded and received the appointment of a commission that would thoroughly and completely investigate the events that led up to one of the greatest tragedies in American history? That is our choice. I intend to again object to this unanimous consent agreement.

I will agree to taking up the highway extension bill and to not blocking it if I am allowed to amend it. I cannot dictate the schedule of the other body. But I do know the President of the United States, the majority leader, a majority of the Senate, the members of the 9/11 Commission, and the families of those who died want this Commission to be able to complete its work and, by God, we should honor that commitment to them.

I object.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, reserving the right to object, I intend to join Senator MCCAIN in this objection. Let me say this briefly because he has spoken clearly and powerfully. Life is about choices. We don't take any pleasure in stopping the extension of the highway law and the consequent disruption that may occur. There are priorities here.

As I see this, the objection we are registering in pursuit of an extension of the time limit or deadline of the work of the September 11 Commission, as agreed to by the White House, as requested by the bipartisan 9/11 Commission led by the distinguished former Governor of New Jersey, Republican Tom Kean, as demanded by the families of the victims of September 11, that has to take precedence in the choices we make.

I believe the work of this Commission is a critical element in the larger war on terrorism because the work of this Commission is to determine independently, aggressively how did September 11 happen. September 11 occasioned the official commencement of our war on terrorism. Unless we exhaust every opportunity to determine how it happened, we cannot feel we are successfully prepared to fight and win the war on terrorism and to protect the American people at home from ever having to suffer again the kind of devastating attack we suffered September 11, 2001. It is that important.

Senator MCCAIN and I introduced this proposal in the fall of 2001 to create the Commission. It took more time than it

should have to create it. It has been created. The Commission has had more trouble than it should have had obtaining documents, including noncooperation—or at least footdragging by folks in the administration, which I don't understand, because we are all on the same side here. It is possible had that kind of delay not occurred, the original deadline of May 27 of this year for the work of the Commission would have been adequate. It is not.

The bipartisan commissioners have told us that the White House has agreed—to the President's credit and the administration's credit—that a 2-month extension is necessary, to July 27, plus an additional month for the Commission to wind down after it issues its report and the work it is doing.

The Senate Intelligence Committee unanimously reported out such a proposal yesterday. I don't believe there is any objection to it here in the Senate. There is bipartisan support. Yet some of our friends in the House leadership apparently do object. With all respect, I say they are plain wrong. I don't understand it.

Therefore, Senator MCCAIN and I are faced with a choice. We have to make a choice. We have made the choice and, in doing so, respectfully, there may be consequences to this highway bill. I join the Senator in saying we would be happy to have another vehicle that the House will definitely have to take up to get this done. It is that important.

We do not live in ordinary times. We have constitutional responsibilities to provide for the common defense and to insure domestic tranquility. To me, with all respect to the consequences of not extending the highway law—and they are real—they pale in significance to not giving this commission the extra time it needs to complete its work.

Here again, the Congress is challenged procedurally to find a way to allow what I think every Member of the Senate wants to happen. That is why Senator MCCAIN and I are standing up and basically crying out to our colleagues: Help us. Don't just help us, help the country successfully prosecute the war on terrorism with the information that will result from this Commission's report. Help us honor the memory of the 3,000 who were killed on September 11, 2001, and help us respond to the understandable appeals of the families of the victims of September 11, of which about 114 families live in the State of Connecticut.

It is for those reasons, respectfully, that I join Senator MCCAIN in this objection.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Objection is heard. The majority leader.

Mr. FRIST. Mr. President, let me make several points in response because we are going to work this out in some shape or form. I am not exactly sure how yet, but the challenge has been laid out.

We have two independent issues that my two colleagues are rightfully linking, but by linking them, 5,000 Americans and their families are going to be hurt. I would argue they are being hurt by their proposal—it can be blamed on all sorts of situations as to how we got to where we are, but the point is, if the action they propose is taken, 5,000 families who have nothing to do with the Commission—they are separate issues—these transportation families are going to be hurt unnecessarily by their action today.

I hope what I have just said is proven right by us working together today and settling this matter because what they propose, because the House is out of session and because the bill is before us, if amended, cannot be acted upon by the House until next Tuesday night, and 5,000 transportation families will be hurt by what they are insisting upon. Therefore, that is unacceptable to me.

I say that very quickly. Let me say that I support the extension. Both Senators who have spoken know I am a supporter of their initiative. The President of the United States supports their initiative of an extension. But I am not going to have 5,000 families hurt unnecessarily today. That is what we need to work out. That is No. 1.

No. 2, the Commission—I have talked mainly about transportation—the Commission about which my colleagues from Arizona and Connecticut talked so eloquently, and the families, my commitment is to them to also make sure through this Commission that we have an extension, and I will use all the powers that a leader has in his caucus to make sure that Commission has sufficient time and access in fairness to the benefit of those families. They deserve that. It is very important the families understand that is my commitment as majority leader of the Senate and that is what the majority of the Senate believes. Though we are having a disagreement with the House, in part, I am confident we will be able to work through that, as well.

The reason I say these 5,000 families do not have to be hurt, with paychecks stopping, a big furlough, don't show up for work, which has real repercussions throughout our transportation system, is that what we decide today on extension of the Commission will not have any impact if we can make that same decision a week from now or 2 days from now or 3 days from now.

Why do I say that? Because the Commission is still working. It is working February, March, April, and May. The Commission is underway. They are doing their work. Originally, on May 27, the Commission is supposed to end, and the idea is extending it 2 months beyond that, which, again, I support. But the Commission is underway. We do not have to hurt 5,000 people in transportation families which will affect our infrastructure today because the Commission is working and we can still address the extension.

There is no urgency about addressing the extension today. I understand my colleagues are using the leverage of this must-pass transportation bill, in my mind, to force the vote today on the extension. But for me, it does not have to be done today. I pledge to keep working with them.

Mr. REID. Will the Senator yield for a question?

Mr. FRIST. Let me go through my points quickly because it is important for people to understand we have been working on this for the last couple of days. I have been working with the Senator from Arizona, and he knows my commitment in trying to work out alternatives.

The Senators from Arizona and Connecticut asked if there is another vehicle on which we can put this extension that is a must-do that will get through the system and make sure it will happen, which is their objective and my objective. The problem with that—and again we had this discussion—is, What vehicle does he suggest?

I suggested the adjournment resolution. That is usually a must-do. But then the response to that was that is not certain these days for all sorts of reasons. Can we put it on the underlying bill that is pending before the Senate, the gun liability bill? That may not quite work because we don't know what the outcome of that bill is going to be.

I mention that only to say, let's work together, and if we can agree on another amendable vehicle, then I am willing to work with that, and I will do everything I can. I think we can be successful. The problem is when you set a bar that is going to become law in the next few days, it is impossible.

Mr. MCCAIN. Will the majority leader yield?

Mr. FRIST. One other point, because it is going to be important as we go forward, has to do with what the Intelligence Committee did yesterday. Again, all of the Senators are aware that the Intelligence Committee yesterday, on Thursday, marked up a bill which is consistent with what I believe and what the Senator from Arizona believes, that a 2-month extension is appropriate. They marked up that legislation. We are going to hotline that bill right now to see if we can get unanimous consent for that bill. I just want to put that on the table. Again, it is a freestanding bill that later this morning I will ask unanimous consent that we address. That bill would be brought to the floor and passed, which again is exactly what the families want, what Senator MCCAIN wants, what Senator LIEBERMAN wants, what the President of the United States, I suppose, the administration wants and would ask that my two colleagues at least consider that approach as well.

Let me close and say it is unnecessary to hurt these 5,000 people today. There are alternatives that will allow the Commission, if we work together, to be extended, if that is the will of the

Senate. We would be unnecessarily hurting our transportation community by linking two unrelated issues just to use leverage to get this extension passed.

Mr. MCCAIN. Mr. President, will the majority leader yield for one question?

Mr. FRIST. Let me yield to the Senator from Connecticut and then the Senator from Arizona, or either one.

Mr. MCCAIN. Mr. President, I just have a brief question for the majority leader. In case he missed the morning Washington Post, it says that the independent commission investigating the September 11, 2001, attacks will have to consider scaling back the scope of its inquiry and limiting public hearings unless Congress agrees by next week to give the panel more time to finish its work, its chairman. Governor Keane, a Republican chairman, said that their ability to conduct their investigation will be impaired permanently and severely unless Congress acts by next week.

Mr. FRIST. In response to the Senator's question, I have not read the article today, but I am glad he pointed it out. Let's do it by next week and not hurt 5,000 people with an unrelated issue trying to use leverage that he knows we have no alternative to deal with on the floor of the Senate.

I am glad he pointed it out. Let's deal with it next week. He knows I am working to deal with it, which shows it does not have to be dealt with today and hurt 5,000 people.

Mr. MCCAIN. The majority leader is incorrect. This article was last Friday, talking about this week, the chairman of the panel talking about this week.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair and the leader.

My friend from Arizona is right. That is the first thing I wanted to point out that it was February 20, 1 week ago, in the Washington Post that Governor Keane made those statements.

I will give a quote from him:

Every week that goes by makes the extension less valuable. When you have to work toward the earlier deadline, you have to start cancelling things and you can't go over things quite as clearly as you might like.

This is last Friday. He says:

Congress comes back into session next week and we really need to hear something by then.

We all know we would not be here doing this if the leadership in the House at one point had not said quite clearly that they were not going to let this extension pass, notwithstanding the fact that the Commission requested it, the President has accepted the extension, and it is pretty clear to me, Senator FRIST, the leader, the Democratic leadership, all support the extension.

Unfortunately, the nature of the presses that often breaks down here, the only way one can get done what one really thinks is necessary in the national interest is to stand up and say, stop.

Of course, we do not want to put those 5,000 families at a disadvantage even temporarily, but we do not have an alternative.

Mr. FRIST. Will the Senator yield?

Mr. LIEBERMAN. Yes.

Mr. FRIST. Is it the contention of both the Senators that the Commission right now has had to shut down this week because we have not allowed this extension?

Mr. LIEBERMAN. No, not at all.

Mr. FRIST. Is that what the Senator from Arizona is basically implying, that the Commission has cut back this week or if it is not settled today that the Commission has been compromised?

Mr. MCCAIN. Could I respond by again repeating what was in last week's Washington Post: The independent Commission will have to consider scaling back the scope of its inquiry, limiting public hearings, unless the Congress agrees by next week—that is this week—to give the panel more time.

They may not have to shut down but certainly their ability to conduct their investigation, according to the chairman of the Commission, Mr. Keane, former Governor of New Jersey, a Republican, says would be impaired.

Every week that goes by makes the extension less valuable, and when they have to work toward the earlier deadline they have to start cancelling things and cannot go over things quite as clearly as they might like. There is a certain urgency, obviously, to Governor Keane's plea that we act this week.

Mr. FRIST. Mr. President, let me go ahead, because I had asked that we further explore the only option I see, and again I think we ought to at least address that. If we do what the Senator from Arizona has proposed, 4,600 employees cannot show up for work, are not going to be paid and are going to be hurt if we accept their proposal. So I ask that they consider the proposal which I mentioned a few minutes ago, I said we would be hotlining, and to take the bill that was passed out of the Intelligence Committee yesterday, that does exactly what they want, what I want, which is to extend the Commission, and pass that as a free-standing bill. So as majority leader, I am prepared to get this bill done this minute.

EXTENSION OF FINAL REPORT DATE OF NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Mr. FRIST. I ask unanimous consent that the Senate now proceed to the consideration of S. 2136, a bill to extend the 9/11 Commission. I further ask unanimous consent that the bill be read the third time and passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Reserving the right to object, and I will not object, that is the bill that was passed through the Intelligence Committee yesterday; is that correct?

Mr. FRIST. That is correct.

Mr. MCCAIN. I do not object.

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

The bill (S. 2136) was read the third time and passed, as follows:

S. 2136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES.

(a) FINAL REPORT DATE.—Subsection (b) of section 610 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 6 U.S.C. 101 note; 116 Stat. 2413) is amended by striking ''18 months'' and inserting ''20 months''.

(b) TERMINATION DATE.—Subsection (c) of that section is amended—

(1) in paragraph (1), by striking ''60 days'' and inserting ''30 days''; and

(2) in paragraph (2), by striking ''60-day period'' and inserting ''30-day period''.

(c) ADDITIONAL FUNDING.—Section 611 of that Act (6 U.S.C. 101 note; 116 Stat. 2413) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection (b):

''(b) ADDITIONAL FUNDING.—In addition to the amounts made available to the Commission under subsection (a) and under chapter 2 of title II of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 591), of the amounts appropriated for the programs and activities of the Federal Government for fiscal year 2004 that remain available for obligation, not more than $1,000,000 shall be available for transfer to the Commission for purposes of the activities of the Commission under this title.''; and

(3) in subsection (c), as so redesignated, by striking ''subsection (a)'' and inserting ''this section''.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent to proceed as if in morning business for 15 minutes.

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

Mr. GREGG. Mr. President, I ask unanimous consent to modify my unanimous consent to have the Senator from Missouri proceed for 5 minutes followed by myself for 15.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Missouri.

EXTENSION OF TEA–21

Mr. BOND. Mr. President, I thank my colleague from New Hampshire for his request.

Before the distinguished minority assistant leader leaves the Chamber, I want to say I appreciate the good work of the majority leader and the minority to try to resolve this roadblock.

What we have before us is a false choice posited by the Senators from Arizona and Connecticut. It does not matter how much they try to hold hostage the extension of the highway bill to keep these people working, there is no guarantee—and they cannot guarantee—that the House would accept whatever they put on.

They can hold this body hostage, and they have shown their willingness and ability to do so, but should they be able to add an amendment to the highway extension, or now that we have passed the bill on extending the 9/11 Commission, it still has to go to the House.

The action of the Senate Intelligence Committee yesterday was not unanimous. There are many other issues that should be debated about that bill, but I was not here to object and no one objected to passing the bill from this body to extend the 9/11 Commission.

It is important to realize this Commission was set up a long time ago. They knew their deadline was May 27, and if one were to ask the Senator from Mississippi, Mr. LOTT, who appointed members of the Commission, I believe he said at the time that the problem with commissions is we give them a lot of time and a lot of money and they do not always come up with the deadline.

They have had this time. They have had extensive hearings. Now the question is whether the House will accept the proposal that the Senate has adopted to extend the 9/11 Commission for 2 more months.

This body cannot hold hostage the other body. What the Senators from Arizona and Connecticut are doing is seeking to hold hostage the whole highway program in the United States. If they hold that hostage, there is no assurance that even next week there will be agreement by the House to take a bill with the 9/11 Commission.

TEA–21's current extension expires on Sunday. If we fail to extend this, there will be a shutdown of any further contract authority for Federal aid highway projects and a shutdown of payments for work already contracted for by the States and performed by contractors. This means no further projects can be approved or awarded. It also means that not only the Federal Highway Administration but also the National Highway Traffic Safety Administration, the Federal Motor Carrier Administration, as well as the Bureau of Transportation Statistics, will cease operation.

The Federal Highway Administration said that 2,925 employees will be furloughed. These are not just employees in Washington but Federal employees in every State office throughout the Nation, including those in the States of Arizona and Connecticut. This also does not even include the many contractors that will be affected by the shutdown.

The National Highway Traffic Safety Administration employees would also be furloughed affecting about 630 Federal employees. The Federal Motor Carrier Safety Administration would stop operation. This action would put out of work 1,078 employees, and that does not even include the Bureau of Transportation Statistics.

All told, 4,633 people will not be able to report to work on Monday, March 1, if this bill is held hostage to a proposition that may or may not be acceptable sometime or any time by the House of Representatives. Not only are we talking about people's livelihoods, we are shutting down the Federal agencies, which will have an adverse consequence for our Nation's highways, motor carrier safety, and consequentially for the condition and operation of our Nation's surface transportation system.

The Federal Transit Administration will be affected without passage of this extension. This is a time when the States are reaching the most intense quarter of the fiscal year for announcing construction projects.

States, particularly those that have seasonal construction award periods, and others that have work immediately prepared to go to bid, will be effectively stopped from making further awards or bid lettings that have not been previously approved. Construction and other contractors will suffer economic loss with the potential for smaller operators to suffer substantial economic hardship. Many of the businesses and many of the operations involved are small businesses that would effectively be cut off from their ability to be paid for their work if we refuse to do this extension.

Jobs will be lost in the private sector. Immense harm could happen. It is not possible to calculate immediately the actual job impacts for shutdown outside the workforce, but there was a survey, AASHTO's August 2003 survey, which emphasized that perhaps 90,000 jobs could be lost if we went to a short-term extension. An extension is bad enough, but a complete disruption of the program when there are crucial job needs across the country will have an economic impact on the families directly, and on the economy.

Another major problem if we fail to extend it is that further debts will not be paid. In the absence of an extension, the Government will not have authority to continue to reimburse States for projects for which expenditures by States have already been made. This has caused a cashflow crisis, since States are obligated to pay contractors with or without reimbursement from the Federal Highway Administration. Some States depend on Federal aid funds to pay bond debt service, and the highway trust fund will be charged interest under the Cash Management Improvement Act. We need the extension to stop playing politics with people's jobs in this most important legislation.

I thank my colleague from New Hampshire.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

CHARLES TAYLOR

Mr. GREGG. Mr. President, in 1989, a little known thief and thug named Charles Taylor set in motion a series of events which have thrown the impoverished nation of Liberia into chaos and its neighboring nations into genocide. From Ivory Coast he launched a successful coup against Liberia's sitting President, Samuel Doe, plunging Liberia into 15 years of civil war. We are still dealing with the fallout of that war today.

The coup, notably, followed after Charles Taylor had escaped from a Massachusetts prison in 1985, where he was about to be extradited for embezzlement.

Groups on all sides of the Liberian conflict have committed atrocities, including widespread rape, massacres, mutilation and torture, and forced labor of children. There are literally hundreds of accounts of villagers having been slaughtered as they tried to flee, women being raped, children being brutally raped. Such atrocities have been part of the deliberate policies of Charles Taylor, his government, and the groups that fought for him.

In the conflict, it is estimated approximately 60,000 to 200,000 people died in the violence, and many more died from hunger, disease, and lack of medical care.

After the end of the civil war in 1996—it really wasn't a civil war; it was more of an attempt by Charles Taylor to use brutality to force his way into Liberia—Charles Taylor became the President of Liberia by winning an election which he won simply by saying if he did not win, he would continue the violence, continue the rape and destruction and plunder of the country. Meanwhile, in 1991, civil war erupted in the neighboring country of Sierra Leone. Sierra Leone is one of the most impoverished nations in the world, which is particularly tragic in light of the fact that it has some tremendous natural resources. The conflict was primarily between the Government of Sierra Leone and a rebel group known as the Revolutionary United Front. The RUF lacked any discernible political agenda other than violence and plunder. Its main objective was to take control of the Sierra Leone diamond mines.

The RUF became notorious for its use of forced amputations to control the civilian population. The conflict between the government and the RUF and other factions has resulted in tens of thousands of deaths and the displacement of more than 2 million people, well over one-third of the population.

The situation in Sierra Leone became so bad in 1999 the United Nations established a peacekeeping mission. This mission was called UNAMSIL and has

cost the U.S. taxpayers a total of $646 million over a period of 6 years. This mission got off to a rocky start. The British intervention in 2000 helped stabilize the situation, and we should congratulate the British for being willing to step up to this issue.

Today, Sierra Leone is a relatively stable country, which is quite a miracle. It is widely known that the then-Liberian President, Charles Taylor, during the time of the violence in Sierra Leone, was essentially the force behind the RUF. He was supplying the weapons, the training, and it was his purpose to use the RUF to control the diamond trade. For his support, he got a great amount of the resources in the diamond trade. This is an important point because herein lies two roots of the cause of Sierra Leone's woes: First Charles Taylor, and second, conflict diamonds.

We have addressed the issue of conflict diamonds through the Kimberley Process, which is something that our committee has played a major role in driving forward, where we now have some control over the types of diamonds that are sold into the international market and whether or not they are conflict diamonds.

We have also attempted to address Charles Taylor. This is why I come to the floor today, to talk about where we stand in addressing Charles Taylor. Back in Liberia, around the time that the mission to Sierra Leone got underway, the anti-Taylor forces began to mobilize and to actively fight the Taylor government in Liberia. In 1999, an anti-Taylor faction called the Liberians United for Reconciliation and Democracy, LURD, was formed in northern Liberia. In 2003, a second anti-Taylor faction called the Movement for Democracy in Liberia, or MODEL, emerged in the southern Liberia area. Both groups have been accused of atrocities similar to those committed by the Taylor forces.

As the situation in Liberia worsened in the summer of 2003, the United States came under intense pressure to intervene. At one point, the U.S. sent marines in to protect U.S. citizens in Monrovia and to conduct an assessment of the situation in Monrovia. On September 19, 2003, with U.S. support, the United Nations established a full-blown peacekeeping mission to Liberia, ordering the deployment of some 15,000 troops. One month later Congress responded by appropriating $245 million to cover the U.S. cost of the UNMIL project, which is the U.N. initiative there—$200 million for humanitarian aid in Liberia. In the fiscal year 2005 budget request, the State Department has requested another $215 million for UNMIL. I am told the amount fell short of what the U.S. believes its share of the cost will actually be. I am unclear what will be required to stabilize Liberia, but it is estimated that 40,000 combatants, including 15,000 children, must be disarmed, demobilized, and reintegrated into society.

Hundreds of thousands of civilians who were forced to flee their homes during the wars must be reintegrated into their villages from squalid refugee camps in and outside Liberia. Liberia's infrastructure must be rebuilt. So it is an expensive and long path.

In the fall of 2002, the neighboring and equally unstable country of Ivory Coast also collapsed into violence. Charles Taylor is known to have recruited some of his mercenary fighters in Ivory Coast. He is now reported to have supported rebels in west Ivory Coast who were trying to oust the President of Ivory Coast. He is now reported to be supporting the rebels in west Ivory Coast that seek to oust the President of Burkina Faso, a neighboring country that has enjoyed relative stability.

The U.N. is expected to take a vote as early as tomorrow, or maybe even today, on the establishment of another U.N. peacekeeping mission to Ivory Coast. The State Department has informed me that the United States will vote for such a mission. The U.S. share of that cost will be about $60 million.

Both Sierra Leone and the Liberian missions are attributable in large part to Charles Taylor. It is clear that Taylor is also heavily involved in the Ivory Coast conflict. We know he continues to dabble in other west African countries.

The conflicts that plague west Africa have many common denominators, but the one that stands out is Charles Taylor. Another one that stands out is the amount of death, destruction, and loss of economic well-being that has occurred in that region as a result of Charles Taylor's actions.

In 2000, with strong U.S. backing, the U.N. and the Government of Sierra Leone began the process of establishing a special court for Sierra Leone. The mission of the Special Court is to try those who bear the greatest responsibility for the genocide which occurred in Sierra Leone and to try them under Sierra Leone law.

The Special Court for Sierra Leone indicted Charles Taylor as its first act. As its first act, it indicted the President of Liberia. He is accused of 17 counts of war crimes against humanity, and other serious violations of international humanitarian law.

But where is Charles Taylor? Not in prison awaiting trial where he should be. He is living in a luxury villa in the southeastern port city of Calabar, Nigeria. He is able to live in luxury because of the timber he plundered from Liberia and the diamonds he plundered from Sierra Leone, much of which can be tracked to terrorists. He is able to live in luxury because he was allowed to leave Liberia and to go to Nigeria.

When the situation in Monrovia last summer became so bad that his safety could no longer be assured, Taylor began looking for an escape route.

As pressure mounted in the international community for an intervention in Liberia, key players such as the U.S., U.N., the Economic Community of West African States—ECOWAS—and Nigeria correctly realized that a peace agreement—a necessary precursor to U.N. intervention—could not include Taylor, an indicted war criminal. Further, the parties recognized that even if an agreement could be reached, the rebels would never trust Taylor to abide by it, given his long history of reneging on peace agreements. So Taylor had to go—and fast.

The U.S., U.N., ECOWAS, and Nigeria engaged in talks about how to get Taylor out of Liberia. An agreement was reached in which Nigeria would offer Taylor asylum, but would not then be pressured to turn Taylor over. The details of these talks are vague, but finding a way to bring Taylor to the Special Court was reportedly not even discussed. But such a promise to Nigeria—that it would not be pressured to hand over Taylor—should not have been made.

The parties involved decided that getting Taylor out of Liberia was the fastest way to ''stop the bloodshed.'' I would argue that, indeed, giving Taylor asylum in Nigeria was the surest way to prolong the bloodshed. Now safely ensconced in Nigeria with a hefty security detail, Taylor is arguably in a better position now to destabilize Liberia and other West African nations. I will come back to this point.

Taylor, astutely, took Nigeria up on its offer of asylum. And on August 11, 2003, he and his entourage of 100 flew to Nigeria. Taylor used Nigeria's offer to escape both the rebels and prosecution by the Special Court.

The Nigerians have been offended by Congress' recent calls for them to hand over Charles Taylor to the Special Court. The Nigerians should be commended for the important leadership role they have played in this and other West African crises. But their past and continued contributions do not justify their refusal to cooperate with the Special Court. If Nigeria is going to play a leadership role in West Africa, it must be committed to seeing those who destabilize that region stopped and held accountable for their actions. It must be committed to promoting the rule of law.

But the blame does not rest on Nigeria alone. The blame rests equally on the parties that negotiated for Taylor's transfer to Nigeria instead of his delivery to the Special Court—the U.S. and the U.N. It is inconceivable that the U.S. and the U.N., which have been driving forces behind the Special Court, would cast aside an opportunity to get the Special Court halfway to its goal and would not pursue the first person consequential in their activities of violence in Sierra Leone.

Upon his departure from Liberia, Taylor pledged: ''I'll be back.'' Taylor has reneged on at least 13 cease fire agreements and 8 peace agreements, each time using the negotiations to stall and re-arm. It is clear from statements like this and from Taylor's past

actions that he intends to use asylum in Nigeria to stall and re-arm, just as he has done in the past. The result of this is that, now, no one believes Liberia has seen the last of Charles Taylor—least of all the Liberians.

Very clear conditions were placed upon Mr. Taylor's offer of asylum: he was to completely disengage himself from the day to day affairs—military or otherwise—of Liberia. Immediately upon his arrival in Nigeria, however, Taylor began breaking—flagrantly—the terms of his asylum agreement.

Taylor has maintained contact with his lieutenants and supporters through telephone calls, instant messaging, and intermediaries who act as couriers. It is also said that Taylor maintains control over substantial numbers of combatants. Sources told me that Taylor was ''on a satellite phone every day talking with Liberian officials.'' Even the United Nations Security Council in October, 2003, then under U.S. chairmanship, issued a warning that Taylor should discontinue communications with his supporters in Liberia.

In November, 2003, it was reported that Taylor's former chief of staff was recruiting mercenaries in Ivory Coast, Burkina Faso, and Ghana, all small and similarly troubled West African nations. Also in November, it was reported that Charles Taylor's son was in Ukraine negotiating for arms with which to launch a fresh attack from Ivorian territory.

It is reported that Taylor lieutenants and loyalists have carved out a piece of western Ivory Coast and have clashed with French peacekeepers there.

It has even been reported by highly reliable sources that Taylor engineered the attempted coup in Burkina Faso last October. The reason? The President of Burkina Faso, a former ally of Taylor's, was starting to cooperate with the Special Court. It is also thought that Taylor supported the coup because he believes renewed regional chaos would assist him in his return to power in Liberia. Taylor is reported to be training 400 armed men in the town of Guiglo Ivory Coast. This group, called ''Death Roll M–15'', was reportedly established for the sole purpose of destabilizing Burkina Faso.

These are just reports. It will be partly the Special Court's job to confirm or discredit them. But if even one of these reports is true, that is enough.

As long as Taylor's former warlords take their orders from the man himself, no one is going to disarm. I am told that Taylor supporters are already, in fact, refusing to disarm because they believe he will return to power. Anti-Taylor rebels also refuse to disarm because they too believe Taylor's exile is temporary. They believe they will need to maintain the ability to defend themselves against reprisals or prevent his return to power.

Disarmament, Demobilization, and Reintegration, or DDR, is the backbone of all U.N. peacekeeping missions. U.N. peacekeepers do not have the authority to disarm rebels forcibly. Disarmament is always voluntary. What incentive, I ask you, do combatants have to lay down their arms while their boss is still calling the shots from his mobile command center in Calabar?

Similarly, many Taylor subordinates hold key positions in Liberia's transitional government. What incentive do they have to cooperate on necessary reforms when they too believe that Taylor could one day return? The longer Taylor escapes justice, the longer UNMIL will last and the worse its prospects for success.

As if all of this weren't bad enough, I am told by well-placed sources that reports of Taylor's link to Al Qaeda and other terrorist groups are ''highly credible''. We have heard public testimony from members of the Liberian media, now living in the U.S., that Taylor ''supports terrorists and encourages the presence of al-Qaeda members in Liberia''. Taylor's reported motive for supporting terrorists is to assure himself access to large amounts of arms.

What am I missing here? Why are we so willing to go around cleaning up messes created by Charles Taylor, and yet we seem so content to let him live his life peacefully in his villa? He continues to terrorize and destabilize, and yet now he does so under the protection of a nation that is in danger of becoming an accomplice, though most certainly unwitting, to his crimes.

The people of Sierra Leone deserve justice. They deserve the right to have the person who essentially designed and was the brains behind the RUF and the atrocities which it committed brought to justice.

It sends a terrible signal to Charles Taylor, an indicted war criminal by an internationally recognized tribunal set up by the United Nations, underwritten by the United Nations and supported with American tax dollars. That tribunal has not been able to bring Charles Taylor before it. The forces which are keeping that from happening are the very forces which set up the tribunal itself. This is not only a bad precedent for the Sierra Leone situation but we know that other special courts are going to be needed to deal with atrocities in other countries, with genocide in other countries. Who is going to take those courts seriously when a court that has been set up by the U.N. and underwritten by the United States finds itself stymied when the person it believes is most responsible for the genocide and the horror, the destruction and the death in Sierra Leone is not allowed to be brought before the court because the intermediaries that allow him to maintain his safe haven in Nigeria are the same people who set up the court? Nobody is going to take the special court seriously if we do not pursue Charles Taylor and bring him to justice before that court. He cannot be tried in absentia under Sierra Leone law; he must be present in Sierra Leone.

I have heard that some have the position, maybe we could try him in Nigeria while doing the trial in Sierra Leone. That does not work because Sierra Leone does not allow that to happen. Nigeria tried to be a positive and constructive player in this effort. I congratulate them for their purpose of being constructive and positive. But it is now time to hand over Mr. Taylor. We should support Nigeria in that effort. The United States should support Nigeria in that effort.

We are not pursuing the handover of Charles Taylor to the special court for what I believe are selfish reasons. That we are pursuing the Taylor handover is critical to peace and stability in west Africa and because the people of Sierra Leone deserve justice.

I commend the men and women of Sierra Leone. They have gone through extraordinary pain and trauma. They have made the difficult decision to support the special court. They are trying to run a democratic government. They have done this with the expectation that the international community will support the commitments we have made. Clearly, one of the fundamental commitments we have made is that the special court, when it indicts an individual, will have the ability to bring that person before it.

The prosecutor of the special court is a man named David Crane. He is an American, a very competent and dedicated former Defense Department official. Each day, he and his team demonstrate that justice can be effectively and efficiently delivered in a war-torn region of the world. We should be proud of what they have done. What they have done is incomplete and will continue to be incomplete as long as they are not allowed to bring Charles Taylor before the bar of justice in Sierra Leone.

It is time for the international community, the U.N., the United States, to put an end to this extraordinarily destructive chapter in west African history. The only way we can put an end to it is if we allow the court to try Charles Taylor and bring him to justice. It is time to support that effort.

I yield the floor.

Mr. LEAHY. Mr. President, I want to thank Senator GREGG for his important statement.

As we all know, Charles Taylor was the brutal dictator of Liberia, responsible for numerous atrocities in West Africa. His loyalists raped, killed and hacked the limbs off of innocent civilians. To bring Mr. Taylor—and others responsible for these crimes—to justice, the United States and United Nations Security Council established an international tribunal—the Special Court for Sierra Leone.

Congress has consistently supported the Special Court by appropriating $20 million for it. The Prosecutor for the Special Court is an American, a former lawyer in the Defense Department. He moved quickly to indict Mr. Taylor for his crimes. To back up this indictment,

INTERPOL issued a Red Notice asking member states to help bring him to justice.

Today, Mr. Taylor remains beyond the reach of the court. He is in Nigeria—shielded by that government. To make matters worse, Taylor continues to work to destabilize parts of West Africa. The State Department says it will not pressure Nigeria to turn Taylor over to the court.

This is completely unacceptable. Taylor is under indictment by a UN-backed court. He continues to destabilize parts of West Africa. We know where he is. The United States needs to act and it needs to act now.

Yesterday, Senator GREGG and I—along with 5 other Senators—sent a letter to the State Department urging immediate action to get Taylor to the court. It is time for the United States to do the right thing. It is time for Taylor to come before the court.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1805, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1805) to prohibit civil liability actions from being brought or continuing against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

Pending:

Hatch (for Campbell) amendment No. 2623, to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

Kennedy amendment No. 2619, to expand the definition of armor piercing ammunition and to require the Attorney General to promulgate standards for the uniform testing of projectiles against body armor.

Craig (for Frist/Craig) amendment No. 2625, to regulate the sale and possession of armor piercing ammunition.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, today we begin the third day of debate on this important bill, S. 1805, addressing the problem that should outrage many Members of this Senate and by the cosponsorship we have at this moment, I believe that is the case. That outrage should be against the abuse of our courts by those who cannot change public policy through representative government but instead are attempting an end run around the State and Federal legislatures to impose their political agenda on the people of this country through litigation. In this case, their target is the one consumer product whose access is protected by nothing less than the U.S. Constitution itself; that is, firearms.

The bill, the Protection of Lawful Commerce In Arms Act, we are talking about today and debated thoroughly yesterday and the day before, would stop what I call junk lawsuits that attempt to pin the blame and the cost of criminal misbehavior on business men and women who are following the law and selling a legal product.

This bill responds to a series of lawsuits filed primarily by municipalities advancing a variety of theories as to why gun manufacturers and sellers should be liable for the cost of injuries caused by people over whom they have no control, criminals who use firearms illegally.

This is a bipartisan bill. Let me acknowledge my Democrat sponsor, MAX BAUCUS of Montana, for his work on this initiative. Many others have helped advance it, as well as the leaders and the assistant leaders on both sides. By that demonstration, this bill is truly a bipartisan effort. The cosponsors we have to date are substantial. With myself and Senator BAUCUS included, we now have 54 cosponsors.

We introduced the bill nearly a year ago, last March, with more than half of the Senate as cosponsors at that time: Senator ALEXANDER, Senator ALLARD, Senator ALLEN, Senator BENNETT, Senator BOND, Senator BREAUX, Senator BROWNBACK, Senator BUNNING, Senator BURNS, Senator CAMPBELL, Senator CHAMBLISS, Senator COCHRAN, Senator COLEMAN, Senator COLLINS, Senator CORNYN, Senator CRAPO, Senator DOLE, Senator DOMENICI, Senator DORGAN, Senator ENSIGN, Senator ENZI, Senator GRAHAM of South Carolina, Senator GRASSLEY, Senator GREGG, Senator HAGEL, Senator HATCH, Senator HUTCHISON, Senator INHOFE, Senator JOHNSON, Senator KYL, Senator LANDRIEU, Senator LINCOLN, Senator LOTT, Senator MILLER, Senator MURKOWSKI, Senator NELSON of Nebraska, Senator NICKLES, Senator ROBERTS, Senator SANTORUM, Senator SESSIONS, Senator SHELBY, Senator SNOWE, Senator SMITH, Senator SPECTER, Senator STEVENS, Senator SUNUNU, Senator TALENT, Senator THOMAS, and Senator VOINOVICH.

This range of cosponsorship reflects extraordinarily widespread support that crosses party and geographical lines and covers the spectrum of political ideologies that is clearly always represented in the Senate. It demonstrates a strong commitment by a majority of this body to take a stand against a trend of predatory litigation that impugns the integrity of our courts, threatens a domestic industry that is critical to our Nation's defense, jeopardizes hundreds of thousands of good-paying jobs, and puts at risk access Americans have to a legal product used for hundreds of years across this Nation for lawful purposes such as recreation and defense.

We have been joined in this effort by a host of supporting organizations representing literally tens of millions of Americans from all walks of life. I thank them all for their effort to help pass the Protection of Lawful Commerce in Arms Act. I invite my colleagues to consider a broad cross section of American citizens represented by such diverse organizations as unions, including United Mine Workers of America, United Steelworkers of America, United Automobile, Aerospace and Agricultural Implement Workers of America, the locals of the International Association of Machinists and Aerospace Workers; business groups, including the U.S. Chamber of Commerce, the Alliance of America's Insurers, the National Association of Wholesale Distributors, the National Association of Manufacturers, and the American Tort Reform Association, the National Rifle Association; and more than 30 different sportsmen's groups and organizations whose members are engaged in the conservation and hunting and the shooting sports industry in all 50 States across this great Nation.

I have used the term ''junk lawsuits,'' and I want to make it very clear, because this was part of our discussion yesterday, to anyone listening to this debate, I do not mean any disrespect to the victims of gun violence in any way who might be involved or brought into these actions by other groups.

Although their names are sometimes used in the lawsuits, they are not the people who came up with the notion of going after the industry instead of going after criminals responsible for their injuries or for their losses. The notion originated with some bureaucrats and some anti-gun advocates, and the lawyers they were with.

Victims, including their families and communities, deserve our support and our compassion, not to mention our insistence, on the aggressive enforcement of the laws that provide punishment for the criminals who have caused harm to them.

There are adequate laws out there now, and we constantly encourage our courts to go after the criminal, to lock them up, and to toss the key away when they are involved in gun violence and when they use a gun in the commission of a crime. If those laws need to be toughened, our law enforcement efforts improved, then the proper source of help is the legislatures and the governments, not the courts, and certainly not law-abiding businessmen and workers who have nothing to do with their victimization. No.

The reason there are junk lawsuits is that they do not target the responsible party for those terrible crimes. They are predatory litigation looking for a convenient deep pocket to pay for somebody else's criminal behavior. Let me repeat that. I define junk lawsuits as predatory litigation looking for a convenient deep pocket to pay for somebody else's criminal behavior.

They are junk lawsuits by any definition of the word because they are driven by political motives to hobble or bankrupt the gun industry as a way to control guns, not to control crime.

By definition, the legislation we are considering today aims to stop lawsuits that are trying to force the gun industry into paying for the crimes of people over whom they have absolutely no control.

Let me stop a minute right here and make sure everyone understands the very limited nature of this bill. I have expressed it. I have explained it. I have talked about it. I have asked all of our Members to read S. 1805.

What this bill does not do is as important as what it does. This is not a gun industry immunity bill. This bill does not create a legal shield for anyone who manufacturers or sells firearms. It does not protect members of the gun industry from every lawsuit or legal action that could be filed against them. It does not prevent them from being sued for their own misconduct.

Let me repeat that. It does not prevent them—''them,'' the gun industry—from being sued for their own misconduct. This bill only stops one extremely narrow category of lawsuits: lawsuits that attempt to force the gun industry to pay for the crimes of third parties over whom they have no control.

We have tried to make that limitation clear in the bill in several ways. For instance, section 2 of the bill says its No. 1 purpose is:

> To prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products for the harm caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended.

We have also tried to make the bill's narrow purpose clear by defining the kind of lawsuit that is prohibited. Section 4 defines the one and only kind of lawsuit prohibited by this bill. Let me repeat that. Section 4 defines the one and only kind of lawsuit prohibited by this bill. Let me quote:

> a civil action brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages resulting from the criminal or unlawful misuse of a qualified product by the person or a third party . . .

We have also tried to make the narrow scope of the bill clear by listing specific kinds of lawsuits that are not prohibited. Section 4 says they include: actions for harm resulting from defects in the firearm itself when used as intended—that is product liability suits—actions based on the negligence or negligent entrustment by the gun manufacturer, seller, or trade association; actions for breach of contract by those parties.

Furthermore, if someone has been convicted under title 18, section 924(h), in plain English, that means someone who has been convicted of transferring a firearm knowing that the gun will be used to commit a crime of violence or drug trafficking, that individual is not shielded from a civil lawsuit by someone harmed by the firearms transfer.

Finally, the bill does not protect any member of the gun industry from lawsuits for harm resulting from any illegal action they have committed. Let me repeat that. If a gun dealer, manufacturer, or trade association violates the law, this bill is not going to protect them from a lawsuit brought against them for harm resulting from that misconduct.

What I have listed for my colleagues' convenience is all spelled out in section 4 of the bill. We have been through that section several times over the last several days. Again, this is a rundown of the universe of lawsuits against members of the firearms industry that would not be stopped—I repeat, not be stopped—by this narrowly targeted bill.

What all these nonprohibited lawsuits have in common is that they involve actual misconduct or wrongful actions of some sort by a gun manufacturer, seller, or trade association. Whether you support or oppose the bill, I think we can all agree that individuals should not be shielded from the legal repercussions of their own lawless acts. The Protection of Lawful Commerce in Arms Act expressly does not provide such a shield.

I am going to repeat this again because some opponents continue to mischaracterize the bill. This is not a gun industry immunity bill. It prohibits one kind of lawsuit: a suit trying to fix the blame of a third party's criminal acts or misdeeds on the manufacturer or seller of the firearm used in that crime.

Even though this is a narrowly focused bill, it is an extremely important bill. The junk lawsuits we are addressing today would reverse a longstanding legal principle in this country that manufacturers of products are not responsible for the criminal—I repeat, the criminal—misuse of their products.

You do not have to be a lawyer to know that runaway juries and activist judges can turn common sense on its head in specific cases, setting precedents that have had dramatic repercussions. The potential repercussions here could be devastating.

If a gun manufacturer is held liable for the harm done by a criminal for misusing a gun, then there is nothing to stop the manufacturers of any products used in crimes from having to bear the cost of those crimes. Since when is this country going to step to that level? So automobile manufacturers will have to take the blame for the death of a bystander who gets in the way of a drunk driver? Yes, there are some who would suggest that. The local hardware store will be held responsible for a kitchen knife it sold that was later used in the crime of rape? A baseball team, whose bat was used to bludgeon a victim, will have to pay for the cost of that crime?

Now, does that sound silly to the average listener? It may. But those kinds of charges are being brought today because this country does not want to hold its criminal element accountable, in many instances.

It is not just unfair to hold law-abiding businesses and workers responsible for criminal misconduct with the products they make and sell, but it would also bring havoc to our marketplaces.

Hold on to your wallets, America, because those businesses that don't actually go into bankruptcy will have to pass their costs through to the consumer. My guess is that many in the anti-gun community would say: That is just fine; if we cannot bankrupt the business, then let's price the product out of the range of the average law-abiding citizen who would like to afford a gun. To the criminal element that probably steals for a living, they may have the kind of funds to buy that gun in the black market at any price, and oftentimes they do.

Even without being successful, this litigation imposes enormous financial burdens on the gun industry. It is important to keep in mind that the deep pocket of the gun industry isn't all that deep. In hearings on the House side, experts testified that the firearms industry, taken together—I mean put them all together, look at their assets, their income—would not collectively equal one Fortune 500 company.

Last year it was estimated—and we can only estimate because the costs of litigation are confidential business information—that these baseless lawsuits have cost the firearms industry more than $100 million. Furthermore, don't think these companies can just pass the costs off to their insurer because in nearly every case, insurance carriers have denied coverage.

I quote from what a Massachusetts union had to say about the issue, the union whose members work at the Savage Arms Company in Westfield, MA:

> Today, we have 160 members from Savage workforce. By comparison, about a dozen years ago, we had over 500 Savage workers who were members of our Local. . . .

Savage Arms is not alone. Other businesses have closed their doors, and the jobs have not been lost because of the sheer cost, the jobs have been lost because of the sheer cost of fighting these junk lawsuits.

The impact on innocent workers and communities is not the only potential repercussion of these lawsuits. If U.S. firearms manufacturers close their doors, where will our military and peace officers have to go to obtain their guns? Do we then have to start a government gun manufacturing company? I doubt that the efficiencies and the qualities and the costs would be the same. Surely we don't want foreign suppliers to control our national defense and community law enforcement, not to mention the ability of individual American citizens to exercise their second amendment protected rights through accessing firearms for self-defense, recreation, and other lawful purposes.

For all these reasons, more than 30 States have laws on the books offering some protection for the gun industry from these extraordinary suits. Support has steadily grown in Congress for taking action at the Federal level. This would not be the first time Congress had acted to prevent this kind of threat to industries. Some would suggest it is unprecedented, it has never happened before.

Let me give an example. There are a number of Members in this Chamber who were serving when the Congress passed the General Aviation Revitalization Act barring product liability suits against manufacturers of planes that were more than 18 years old. Just a couple of years ago, in the Homeland Security Act, Congress placed limits on the liability of a half a dozen industries, including manufacturers of smallpox vaccine and sellers of antiterrorist technologies. These are only a couple examples out of a significant list of Federal tort reform measures that have been enacted over the years when Congress perceived a need to protect a specific sector of our economy or defense interests from burdensome, unfair, and/or frivolous litigation.

I could go on. I have said enough for the moment. My colleagues are here. Senator REED, who is handling the opposition, has statements to make. I believe Senator LEVIN has an amendment he would like to offer. But clearly, this is an issue whose time has come. It is time to step out and say: We are not going to suggest to law-abiding citizens that you ought to bear the brunt of the criminal action. That is not the case. Law-abiding citizens already bear a substantial amount of that brunt. Taxpayers usually pick up most of the bills in these tragic instances. That is why enforcing the law, putting those who misuse firearms behind bars, is what it really ought to be all about.

But for social purposes, for political purposes, for whatever reason that the anti-gun community has not been able to legislate either on the floor of the Senate, on the floor of the House, or in State legislatures across the Nation, they now run to the court system.

We suggest they can't do that, nor should they do that. We want to protect the victims. We certainly want to protect them from the criminal element. Much legislation is talked about now for the victim and victims' rights. I support all of those kinds of things. But why should the law-abiding manufacturer of any product in this country, that is quality but simply misused and that misuse takes the life of a third party—why should that manufacturer be responsible? We already have a broad range of areas in which that responsibility is described and in which the consumer is protected if that responsibility is not followed by the manufacturer or those who sell that product in the marketplace. That is an arena that is well litigated today. That is an arena in tort law that is well spelled out.

Here today and in past lawsuits, we have had great imagination that tries to cook up the issue of negligence or to redefine it or shape it in a way that Americans have said and that tort law has said for centuries: You shall not go there; you cannot go there.

Judges are saying that today and have said it consistently in these kinds of lawsuits. That doesn't stop the lawsuits from coming. That does not stop these lawsuits from draining hundreds of millions of dollars out of a law-abiding, responsible commercial and manufacturer entities.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Rhode Island.

Mr. REED. Madam President, the legislation before us can't be all things. It can't be an effective barrier against litigation to protect the gun industry and yet a way to protect the legitimate rights of citizens who have been harmed by guns.

In fact, it is not both; it is one of them. It is carefully, cleverly worded legislation to immunize the gun industry—dealers, manufacturers, and the National Rifle Association—from any type of liability with respect to guns, virtually.

There are perhaps minor exceptions, but the cases we see before us today—the case of the DC snipers, the case of two police officers in New Jersey—would be barred. These cases have already been filed. In fact, one of the sweeping aspects of this legislation is, it doesn't attempt to set the rules prospectively, to say as we go forward these cases would not be heard by the courts. It literally walks in and tells people who have filed cases, cases that have survived summary judgment motions already by State court judges: You are out of court.

This is sweeping, and it is unprecedented. It deals a serious blow to citizens throughout this country while enhancing dramatically the legal protections for the gun industry.

Consistently the proponents say: You can't hold someone responsible for the criminal actions of another. That is not what these cases are about. These cases suggest, declare, allege that an individual failed in his or her duties, his or her responsibility to do what is necessary, responsibility in the conduct of their activity—in the case of gun dealers, to take sensible, reasonable precautions, the standard of care that a business person would use, the standard of care that any business person must use in the United States.

The allegation is they fail to do that. The evidence is overwhelming there was no standard of adequate care. Here is a gun dealer who could not account for 238 weapons, who claims a teenager—he didn't realize it at the time—must have walked in and shoplifted an automatic weapon, a sniper weapon, and carried it away undetected. In fact, this weapon was missing without his knowledge for weeks and months, undetermined.

Is that the standard of care we would expect a businessperson to exercise, particularly one who deals in products that can kill? I don't think so. That is what this is about. This is not about punishing people for the criminal activity of others. It is about holding individuals up to a standard of conduct we expect from anyone. There are various examples. Some say, my God, if the hardware store sells a knife to somebody and it is used in a crime, they are not responsible. If you have a car dealer who leaves the keys in the cars and has no security, and a teenager takes that car and gets into an accident and harms someone, certainly I think the parents of the individuals harmed or that individual could legitimately go to court and say this dealer didn't meet the rational standard of care of anybody in the automobile industry. They have to secure these cars. You cannot make them available to people and teenagers who might steal them. That is common sense.

That would apply to the automobile dealer, but if this legislation passes, common sense doesn't apply to the gun industry in this country. In fact, this is really a license for irresponsibility we are considering today. As I said before, when they get the Federal firearms license, if this bill passes, you can get another license. You are being irresponsible. That is not to suggest all dealers are irresponsible, but many are.

We talk about junk lawsuits. It is not a junk lawsuit when your husband has been shot while sitting in the bus waiting to go to work. I don't think the Johnson family volunteered to be part of this social experiment. I think any suggestion to that effect is offensive. They have been harmed grievously. A wife has lost her husband; children have lost their father. Their livelihoods are in question. They seek redress, as anyone would. That is not a junk suit. That is someone who says I have been harmed by the negligence of someone and that person should pay.

The suggestion that this suit is in response to some avalanche of lawsuits that is devastating the firearm manufacturers is without any foundation. The industry is so stressed they have raised $100 million to protect themselves, not just legally, but also in terms of controlling the documents and communications between themselves and their attorneys. This is not an industry that seems to be without resources. But I can tell you many of the families of victims of the Washington snipers are looking forward to a lifetime where they might have the resources to send children to college and do the things they would have been able to do if their spouse was still alive. The industry, it has been suggested, is being pushed into bankruptcy because of these frivolous junk lawsuits.

Well, Savage Arms was mentioned. It is a company that was founded in 1894. It has provided firearms for now over a century. It went bankrupt in 1988 because, according to the CEO, Ron

Coburn: ''We had too many products, each of them in dire need of re-engineering.''

There is no suggestion they were being intimidated by these fancy political science lawsuits. Under the bankruptcy plan, Coburn reduced the product line and fired 400 employees. There has been contraction in this industry, as in every manufacturing industry, but it is not as a result of these suits.

Since that time, Savage has done remarkably well. They have taken the lead in many different aspects. They are a responsible company. They were honored as manufacturer of the year and in many other aspects. It has been suggested this company, in effect, is overwhelmed by these lawsuits. I don't think that is the case. I think they make business judgments as any business—based upon products, demand, and all these things.

We are not facing a situation where we would be without the benefit of gun manufacturers in the United States because of these lawsuits. The suggestion that this somehow would interfere with our national security is outlandish. The suggestion we would then have to turn to foreign suppliers for our military is rather odd. Indeed, today, many of the suppliers for our national defense are the subsidiaries of foreign companies. Browning, Winchester and Fabrique Nationale, which supplies M–16 A–4 assault rifles and the M–2 49G squad automatic weapon, are subsidiaries of Herstal, a Belgium firm. The Pentagon contracted with Heckler and Koch, a German firm, to help develop the next generation of industry weapons.

Clearly, the Pentagon doesn't feel American manufacturers are so distressed that they have to go overseas. They are going overseas because they are looking for superior weapons. They are dealing with American subsidiaries of foreign companies. This is not about preserving the defense and the ability to access weapons. This is about protecting one industry from the legal responsibility to exercise caution any individual must exercise—one industry, when all industries must do that, or indeed the vast majority. This is not about protecting the integrity of the courts. What does it say to the integrity of the courts of West Virginia when a judge already found that a suit involving these two New Jersey police officers should proceed, when we say, no, you are wrong, this case is out the door? This is not about protecting courts. It is about protecting an industry.

We have been asked to look closely at the law. We have to look closely at the law in terms of the cases we know are pending because, frankly, we could hypothesize about cases in the future. This is the law:

A qualified civil liability action may not be brought in any Federal or State court.

That is not a particularly narrow excerpt. It is not a listing of those exemptions the gun industry made available themselves. This is broad and sweeping, barring the doors of these types of suits. In addition to that—talking about overreaching, dismissal of pending actions—it is rare indeed that this Congress could go in and tell plaintiffs who have a case in progress you are out the door, you cannot proceed. This is extraordinary, to me.

A qualified civil liability action that is pending on the date of enactment of this act shall be immediately dismissed by the court.

Not reviewed but dismissed. I think, again, that is extraordinarily broad and sweeping. The real aspect of this legislation goes to the definition on the next chart.

A qualified civil liability action means a civil action brought by any person against a manufacturer or a seller of a qualified product or trade association, for damages resulting from the criminal or unlawful misuse of the qualified product by the person or a third party, but shall not include—

So it is any action, again not narrowly constrained, carefully worded legislation.

Then there are several exemptions. Let me point out, if this were a narrowly crafted piece of legislation, the exemption I think should apply to the gun industry, not to the litigants. It should be those safe harbors where if they do certain things, they are protected, if they exercise due care. That is the way we want to draft narrowly worded legislation. And this is quite to the contrary.

The burden is now on the individual to show that they qualify to bring their case to court, not on the companies to show that their case is somehow outside the normal range of negligent actions.

The key provision, in terms of the sniper case—and I will talk about the sniper case in a moment—is sections ii and iii. Madam President, ii is ''actions brought against a seller for ''negligent entrustment'' or ''negligence per se.''

Negligent entrustment is a defined term in the legislation. It means:

. . . the supplying of a qualified product by a seller for use by another person when the seller knows, or should know, the person to whom the product is supplied to is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

The key element is ''know.'' For example, in the sniper case, the dealer claims he did not know that the weapon was missing. It has been acknowledged by the sniper that the weapon was shoplifted. This theory will not provide that case to go forward.

''Negligence per se,'' again, is an element of knowledge which does not seem to exist within the facts as we know them about the Bull's Eye situation. By the way, it has been abrogated as a theory of law in Washington State which would be an appropriate forum for the trial, or at least for consideration. That doesn't work.

The next section is actions in which a manufacturer or seller of a qualified product who violated a State or Federal statute and, quite importantly, that violation was a proximate cause of the harm.

In the case of the sniper shootings, literally it would have to be shown that the individual gun dealer at Bull's Eye knew the particular weapon was missing more than 48 hours before he was confronted by the ATF and that he failed to report it and, as a result, the sniper using that weapon inflicted the harm. But, of course, the facts suggest otherwise. The weapon was shoplifted. The individual claimed he did not know it was missing at all.

All of these carefully worded exceptions do not provide relief for individual plaintiffs. They do not provide it for the plaintiffs in the case of the snipers. They do not provide relief in the case of the two police officers in New Jersey. Yesterday, we had an opportunity to correct that, just a small correction that would allow for these situations, and we failed to do that.

This legislation is designed with one purpose: to immunize the gun industry. I think it is unfortunate, it is unprecedented, and it leads to the conclusion that we are essentially encouraging the kind of reckless behavior, the kind of irresponsible behavior which is not the norm, but it is certainly present and, indeed, it is present in the context that firearms pose a particular danger to the community.

We talked about Bull's Eye Shooter Supply in Tacoma, WA, over 238 weapons missing. You are not supposed to have any weapons missing.

Then there are the situations, for example, of Buckner Enterprises, Pro Guns and Sporting Goods, D&D Discount, Hock Shop, Julie's Pawn, Kent Arms, Northwest Shooters, Woodstove Supply, and Steve's Guns and Archery, all in Michigan.

Over a 4-month period, an undercover State trooper and a 20-year-old convicted felon traveled to 14 firearms retailers and attempted to make a straw purchase. The eight stores I mentioned above agreed to make the straw deal—irresponsible and reckless and, under this legislation, perhaps invulnerable to a suit by someone who might have been hurt as a result of the potential straw sales.

Bob's Gunshop, Bristol, PA, repeatedly sold firearms to convicted felons and out-of-State residents, including a 9 mm Taurus sold to a New Jersey convicted felon. The owners of the store counseled criminals and out-of-State residents to find a local resident to complete the background check.

Is that irresponsible? Yes. Is that against the law? Perhaps not.

It goes on and on. One gun store with which I am intrigued is Illinois Gun Works in Chicago, IL. John ''No Nose'' DiFronzo, a reputed mobster, owns the property where Illinois Gun works is located. Illinois Gun Works is one of the leading suppliers of crime guns to local criminals. This is from the Chicago Sun Times.

There are gun dealers out there who are acting irresponsibly and negligently. They will escape liability if this legislation passes. There are manufacturers that are not policing the

ranks of their dealers effectively enough who continue to sell to dealers such as these, who continue to report, as Bushmaster, the company that manufactured the sniper weapon, reported in regard to Bull's Eye. They are a good company. Even after all of this, they will escape liability.

We are in an extraordinarily important moment. Will we extend this unprecedented protection to an industry, will we signal to an industry that they can be irresponsible, they can be negligent? That is what we are talking about today.

I know my colleague, Senator LEVIN, is here to offer an amendment. Let me ask that he be allowed to do that. I retain my time for additional comments later.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. CRAIG. Madam President, may I briefly say, I think the Senator is here for the offering of an amendment, and then I believe Senator WARNER would like to follow him in the offering of an amendment. If there is no objection, I ask unanimous consent that be the procedure.

Mr. LEVIN. Reserving the right to object, it is my understanding the Senator from Virginia wants to offer an amendment.

Mr. WARNER. Following the Senator from Michigan, that is correct.

Mr. LEVIN. Madam President, I ask the Senator from Virginia, is it a second-degree amendment?

Mr. WARNER. Madam President, no, it is a freestanding amendment in no way related to the amendment of my distinguished colleague from Michigan.

Mr. LEVIN. I would agree to that providing—

Mr. CRAIG. Let me clarify—

Mr. LEVIN. I want to make sure we get a vote on my amendment. This is what this is all about. We might as well get this out in the open as to whether or not there will be votes that will be agreed to on the amendments that are offered. The unanimous consent agreement talked about amendments being offered today and Monday. The Senator from Idaho, I think, as well as I believe the Senator from Nevada, talked about votes on these amendments, but it is not clear in the UC that the amendments offered would be voted upon.

I do not want to lose the regular order that my amendment would be disposed of by agreeing to a unanimous consent agreement that my good friend from Virginia would then come next. That is the issue, I tell my good friend from Idaho.

Mr. CRAIG. If the Senator will yield.

Mr. LEVIN. I will be happy to yield.

Mr. CRAIG. It is our belief, it is my purpose today to disallow any votes from occurring. There will be no votes today.

Mr. LEVIN. Of course.

Mr. CRAIG. On any action. The Senator can offer his amendment. We have just seen it. Senator REED and I will review it over the weekend, or our staffs will. I think that is fair and appropriate. Because the amendment of the Senator from Virginia is not in the second degree, it is my understanding the amendment of the Senator from Michigan would have to be set aside for the purpose of offering the amendment by the Senator from Virginia.

Mr. LEVIN. I would then offer—Madam President, do I have the floor?

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. LEVIN. I then suggest the amendment in a unanimous consent request, that my amendment again be the regular order first thing on Monday. The reason for this is that it is important to assure that there be votes on these amendments. I do not know what the intention of the Senator from Idaho is relative to——

Mr. CRAIG. I object to that unanimous consent. There may be other amendments offered today by other parties.

Mr. LEVIN. I have no objection, of course, to that, but my question to the Senator from Idaho is, is it the intention of the Senator from Idaho that there be votes on amendments that are offered on Monday?

Mr. CRAIG. I believe the leadership on both sides intends for there to be votes, or a vote on an amendment, but I cannot tell the Senator what that amendment will be. I object to a specific amendment at this time.

Mr. LEVIN. Then I would have to object because otherwise I am no longer the regular order.

The PRESIDING OFFICER. The objection is heard.

Mr. WARNER. Might I seek a clarification from the distinguished floor manager?

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. LEVIN. I am happy to yield for a question without losing my right to the floor.

Mr. WARNER. Well, I do not seek to take the floor, but if the Senator carried out his objection to the full meaning, it would prohibit any amendments coming up today unless the Senator agreed to laying his amendment aside so that another amendment could come up. Is that the desire of the Senator?

Mr. LEVIN. Not at all. My desire is that I not lose my opportunity to have a vote on my amendment.

I do not want a vote today. Let's be very clear on this. When the operating UC was entered into, it was my understanding that amendments would be allowed to be offered today and Monday. It was also my understanding that there was an intention that that meant those amendments would be voted on at some point—not today but at some point. If there is any doubt that that is the intention of the leadership or of the floor managers, to allow votes on amendments that are offered today, the only way I can come close to having assurance that there will be a vote on my amendment at some point will be to modify any UC to agree to set aside my amendment, which will be fine, but then make it a part of the UC that my amendment then be the amendment that is in order on Monday, because otherwise I am weakening the position I have.

Mr. WARNER. Madam President, there is no intention of this Senator to weaken. As a matter of fact, I intend to vote in favor of the Senator's amendment, subject to a colloquy we will have to clarify a question I have in my mind. But the Senate must go forward today on amendments. I am trying to figure out what is the procedure by which we do it so that my colleague from Michigan is protected.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. LEVIN. I have no objection to yielding the floor for an answer to that question, without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Certainly the explanation of the Senator as to what leadership proposed in the unanimous consent request, that amendments could be offered today and Monday, is accurate. But the unanimous consent request guaranteed votes only to those amendments that were within the unanimous consent request. I am not today going to allow that unanimous consent request to be amended for the purpose of stacking up a variety of votes. I am willing to look at that on Monday. I have not yet seen the Senator's amendment. We just received it. We are reviewing it now. There may be other amendments I want to review with staff over the weekend.

So I renew my objection to allowing the Senator to become in order again. We have an amendment that we did not get to last night, and that is Senator BINGAMAN's amendment that was in order under the unanimous consent agreement. The hour was late and most were wanting to go home. The Senator was kind enough to put that vote over. It is my understanding that that will be at least one amendment that could be voted on, because it is entitled to be voted on within the unanimous consent agreement, late Monday afternoon.

Mr. LEVIN. I thank my good friend from Idaho.

AMENDMENT NO. 2631

Mr. LEVIN. Madam President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant Journal clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 2631:

(Purpose: To exempt any civil action against a person from the provisions of the bill if the gross negligence or reckless conduct of the person proximately caused death or injury)

On page 11, after line 19, add the following:

SEC. 5. GROSS NEGLIGENCE OR RECKLESS CONDUCT.

(a) IN GENERAL.—None of the provisions in the Act shall be construed to prohibit a civil liability action from being brought or continued against a person if that person's own gross negligence or reckless conduct was a proximate cause of death or injury.

(b) DEFINITIONS.—As used in this section—

(1) the term ''gross negligence'' has the meaning given the term in subsection (b)(7) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(7)); and

(2) the term ''reckless'' has the meaning given the term in the application notes under section 2A1.4 of the Federal Sentencing Guidelines Manual.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, let us try to sort this out so that the Senator from Virginia is not left out.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant Journal clerk proceeded to call the roll.

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

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

Mr. CRAIG. Madam President, let me place a unanimous consent request to facilitate actions of the two Senators on the floor. I ask unanimous consent the Levin amendment be temporarily set aside for the purpose of allowing the Senator from Virginia to offer his amendment. Once that amendment is offered and discussed, the Warner amendment would then be set aside for the purpose of returning to the Levin amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Do I understand, then, that the Levin amendment would continue to be the regular order under that unanimous consent?

Mr. WARNER. I believe that is correct, yes.

The PRESIDING OFFICER. It would be the pending question.

Mr. LEVIN. I thank the Senator from Idaho. It is fine with me.

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

Mr. CRAIG. I thank the Senator for his cooperation and turn to the Senator from Virginia.

AMENDMENT NO. 2624

Mr. WARNER. I thank my colleagues. I ask that amendment No. 2624 be the pending business.

The PRESIDING OFFICER. The clerk will report the amendment.

The senior Journal clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 2624.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. WARNER. Madam President, I want to make it eminently clear that I desire in every way to cooperate with the joint leadership which, in a bipartisan way, has indicated their desire, together with expressions of the President, that this bill move forward. This is not a dilatory tactic on my part, nor is it to be construed in any way as a political tactic. The subject of this amendment simply is a very heartfelt, personal matter for me.

Each of us counts our joys and benefits through life. I was blessed with two very strong and wonderful parents. My father devoted his life to the medical profession. He served in World War I as a very young doctor in the trenches. He returned a decorated soldier, and established his practice as a surgeon. He concluded a lifetime of total dedication to the profession of medicine, his patients, and the healing of those who have the misfortune of illnesses and other diseases. It is for that reason I bring up this amendment for consideration in the Senate. In brief, this amendment states that if the Senate believes certain protections from lawsuits should be afforded to the gun industry, then certain protections should be likewise afforded to the medical profession. It is as simple as that.

Earlier this week, we dealt with a similar piece of legislation. But this amendment differs in the sense that I have purposely removed any reference to insurance companies or to those companies engaged in the manufacture of healing drugs. I have done this to point out with absolute clarity in the minds of all Senators that if the underlying bill does move forward, then should comparable fair treatment be extended to the medical profession that serves every single American.

The gun industry has a narrow following, in terms of those served under this bill. I don't say that with any disrespect. I, throughout my life, have owned and enjoyed guns. My father gave me my first gun when I was 9 years old, and I have a modest collection to this day. I enjoy the fields and the streams. I pride myself as being a hunter and an outdoorsman. In no way, do I make any personal affront against those who similarly follow the joys of the outdoors.

But, I believe it is essential that if this mighty institution of the Senate move forward with the underlying bill, they carry with it an amendment which accords the same protections to the medical profession, whether it is an emergency room or the doctor's office.

With that in mind, I hope my colleagues look upon my effort as one of purity of heart, and not for political reason. I have no reason to try to impede the underlying bill, but I simply want to give the medical profession such benefits as the Senate is now contemplating in giving to a very narrow segment of our industry; namely, the gun industry and the gun dealers.

I rise today to offer an amendment to address the issue of a form of tort reform. Today the Senate is debating tort reform for the gun industry. I wish to take a few minutes to raise the issue of tort reform with regard to another industry—the health care profession.

I have indicated my father's lifework was in medicine. I had often thought as a young man to pursue that profession. But without getting too personal about this, I served briefly in World War II in the Navy. My father died just months after I returned home. I think had he lived I might well have followed in his profession. But nevertheless, I went on to law school, and had a modest career in the practice of law and in one thing and another. And here I am today, proud to represent my great State in the Senate.

Soon, the Senate will vote on S. 1805, legislation to provide certain legal protections to the gun industry—legal protections which are denied almost across the board to almost every other industry in the private sector, and certainly the medical profession.

It is a very selective piece of legislation for a very selective group. Proponents have argued this legislation is necessary because lawsuits are driving gun dealers and gun manufacturers out of business.

It is very simple. The same thing is happening to the medical profession. Simply stated, the same situation, although far more serious in my judgment and in the judgment of others, is happening to the medical profession. Doctors, nurses, and other health care professionals are leaving the practice of medicine due to the astronomical cost of malpractice insurance, frivolous lawsuits, and what is regarded as runaway jury verdicts where awards, by any standard of fairness, far exceed the damages which some may have suffered as a consequence of receiving medical attention.

In my view, if we are going to be protecting the gun industry from lawsuits, we at least ought to protect the medical profession. We have all heard the real stories from doctors about the rapidly increasing cost of medical malpractice insurance. Some States' malpractice insurance premiums have increased as much as 75 percent in a single year.

As a result, the fact is these doctors, unable to afford ever increasing premiums, are leaving the profession altogether and patients are losing access to health care.

Again, my father's profession was surgery primarily, but he also practiced gynecology.

I was astonished to learn that in many medical schools today those young people studying to go into the various segments of medical practice are shunning gynecology. Some medical schools are not even graduating those engaged in gynecology. They have just stopped that segment of the profession because they know of the difficulties to practice gynecology as a result of medical malpractice suits.

I have here today the front pages of two of the leading magazines we all read. There it is. One: ''The Doctor Is

Out.'' The other: ''Lawsuit Hell—How Fear of Litigation Is Paralyzing Our Professions.''

There is the story.

All I am asking is if this bill passes the Senate that doctors, nurses, and other practitioners in health care are given the same equal treatment as the gun dealers and the gun manufacturers. It is as simple as that.

I have received numerous letters, as have every single Member of this body, from medical professionals in the Commonwealth of Virginia that share with me the very real difficulties they are encountering with malpractice insurance as a consequence of this problem.

I myself went through a modest medical procedure the other day. The radiologist literally cornered me as I was exiting the examination, and stopped to talk to me—not one, not two, but about eight came in knowing the Senator from Virginia was in the facility. They had me flat on my back. I listened very carefully as they explained—not complaining nor whining in any way, but in a factual way—how the radiologists in their profession have watched the astronomical increase in cost of their insurance.

Let me read a letter I just received. I will withhold the name. But the letter is in my office. This young doctor writes:

I am writing you to elicit your support and advice for the acute malpractice crisis going on in Virginia. . . . I am a 48-year-old single parent of a 14- and 17-year-old. After all the time and money spent training to practice OB-GYN, I find myself on the verge of almost certain unemployment and unemployability because of the malpractice crisis. I have been employed by a small OB-GYN Group for the last 7 years. Our malpractice premiums were increased by 60 percent in May 2003. The prediction from our malpractice carrier is that our rates will probably double at our renewal date in May 2004. The reality is that we will not be able to keep the practice open and cover the malpractice insurance along with other expenses of practice.

Colleagues, that is happening in just about every State in this great country of ours. We have here and now the chance to address this crisis in a fair and constructive way.

I mentioned the two magazines: The June 2003 edition of Time magazine had a cover story on the effects of rising malpractice insurance costs. The story, entitled ''The Doctor Is Out,'' discusses several doctors all across America who have had to either stop practicing medicine or have had to take other action due to increased insurance premiums. One example cited in this magazine is the case of Dr. Mary-Emma Beres. Time reports this doctor, a family practitioner from Sparta, NC—incidentally, the distinguished Presiding Officer represents this State with great distinction. That doctor in Sparta, NC ''has always loved delivering babies. But last year, Beres, 35 years old, concluded that she couldn't afford the tripling of her $17,000 malpractice premium and had to stop'' caring for those women going through perhaps the greatest joy of life; that is, childbirth.

The article continues:

''With just one obstetrician left in town for high-risk cases, some women who need C-sections now must take a 40-minute ambulance ride'' to other communities to try to get that service.

Dr. Beres' case makes clear that not only doctors are being affected by the medical practice insurance crisis, but patients are as well. With increased frequency, due to rising malpractice rates, more and more patients are not able to find the medical specialists they need.

The second magazine, Newsweek, also recently had a cover story on the medical liability crisis entitled ''Lawsuit Hell.''

I was particularly struck by the feature in this magazine about a doctor from Ohio who saw his malpractice premiums rise in 1 year from $12,000 to $57,000—1 year. As a result, this doctor ''decided to lower his bill by cutting out higher-risk procedures like vasectomies, setting broken bones and delivering babies—even though obstetrics was his favorite part of the practice. Now he glances wistfully at the cluster of baby photos still tacked to his wall in the office. 'I miss that part of the practice terribly,' he says.''

While these stories are compelling on their own, the consequences of this malpractice crisis can be more profound. On February 11, 2003, a young woman in Gulfport, MS, shared with both the HELP Committee in the Senate, on which I serve, and the Judiciary Committee her personal story about how this crisis affected her.

This woman told us how on July 5, 2002, her husband Tony was involved in a single car accident, in which he had a head injury, and was rushed to a hospital in Gulfport where he received medical attention. He could not be treated at the Gulfport hospital because they did not have the specialist necessary to care for him. After a 6-hour wait, he was airlifted to University Medical Center.

Today, Tony is permanently brain damaged. According to the person delivering this story, no specialist was on staff that night in Gulfport because overriding medical costs forced almost all the brain specialists in that community to abandon their practice. As a result, Tony had to wait 6 hours before the only specialist left in Gulfport could treat him to reduce the swelling of his brain.

Without a doubt, the astronomical increases in medical malpractice premiums are having wide-ranging effects. It is a national problem. It is time for a fair and national solution. This moment in the life of this great Senate is the chance to address that.

The President has indicated that the medical liability system in America is largely responsible for the rising costs of malpractice insurance. The American Medical Association and the American College of Surgeons agree with him as does almost every doctor in Virginia who I have discussed the issue with.

The president of the AMA, Dr. John Nelson, has publicly stated, ''We cannot afford the luxury of waiting until the liability crisis gets worse to take action. Too many patients will be hurt.''

The American College of Surgeons concurs by stating, ''More and more Americans aren't getting the care they need when they need it. . . . The 'disappearing doctor' phenomenon is getting progressively and rapidly worse. It is an increasingly serious threat to everyone's ability to get the care they need.''

Let me state unequivocally that I agree with our President, with the AMA, with the American College of Surgeons, and with the vast majority of doctors all across Virginia. That is why I am offering my amendment today.

My amendment is simple, like other measures that have come before the Senate, my amendment provides a nationwide cap on damages in medical malpractice lawsuits.

My amendment differs from other measures that have been voted on in the Senate in one key aspect—whereas these other bills would have applied to doctors, my amendment is solely limited to the caring medical professionals who take care of each and every one of us when we need medical care.

It is a commonsense solution to a serious problem.

Now that I have laid out the amendment, I would like to reiterate one important point. As you know, the gun immunity bill provides broad protection to gun manufacturers and gun dealers in both Federal and State court. The bill is aimed at protecting the manufacturers and dealers from lawsuits that result from the criminal or unlawful use of a firearm. The basic data is that if a manufacturer or dealer follows the statutory law in the manufacturing and sale of a legal product, they should not be held responsible for the actions of a third party.

While some may claim that this gun immunity bill might be an important component of tort reform, in my opinion, health care liability reform is even more important. We must protect the medical profession and the patients it serves.

How can we give near absolute protection from litigation for one industry—the gun industry—and do absolutely nothing for another industry that is solely dedicated to saving lives?

Let's ask ourselves, in the event that a bullet from a firearm is shot into an innocent victim, is our healthcare system prepared to help that victim? Without healthcare liability reform, it may not be, as there might not be the appropriate doctor in the area to tend to the patient. That is why my amendment goes hand-in-hand with the gun immunity bill.

So now it is up to my colleagues in the Congress. It is your choice. If we are going to give legal protections to the gun industry, all I say is let's give it to the doctors as well.

If you gave this choice to the American people, there is no doubt that the doctors would win by a 100 to 1 margin.

I urge my colleagues to support my amendment.

I yield the floor.

AMENDMENT NO. 2631

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, what is the pending amendment?

The PRESIDING OFFICER. The Senator's amendment is pending, the Levin amendment.

Mr. LEVIN. Madam President, in the fall of 2002 the entire country was focused on the Washington, DC, area as an unknown sniper indiscriminately shot 16 innocent people in little more than a month, from September 14 to October 24. Among the sniper victims were Jim Martin, shot and killed on October 2 while walking across a Shoppers Food Warehouse parking lot in Wheaton, MD, after purchasing groceries for his church; Sarah Ramos was shot and killed while sitting on a bench in front of a post office. She was waiting for a ride to take her to a babysitting job; Thirteen-year-old Iran Brown, the youngest of the victims, was shot in the chest and wounded on October 7 after getting out of a car at his middle school; and Conrad Johnson, a 35-year-old busdriver, was shot and killed on October 22 while standing on the top step of his bus at a ride-on bus staging area in Aspen Hill, MD.

On Thursday, October 24, members of the sniper task force arrested John Allen Muhammad and John Lee Boyd Malvo at a rest stop on I–75 in Frederick County. They were charged with shooting the victims with a Bushmaster semiautomatic assault rifle. Both were prohibited under Federal law from possessing a gun. Malvo is a juvenile and Muhammad was the subject of a domestic violence restraining order. Both have been convicted of capital murder in Virginia.

The sniper rifle used by Malvo and Muhammad was later traced to Bull's Eye Shooter Supply in Takoma, WA. Bull's Eye representatives claim not to have any record of sale of the weapon, cannot account for how the snipers obtained the assault rifle. Malvo later admitted he had shoplifted the gun.

The sniper case prompted an ATF investigation of Bull's Eye. The investigation revealed that the gun dealer had no record that the gun used by the snipers was missing from the inventory. The ATF investigation also determined that 77 other guns were missing from the Bull's Eye store. Four prior audits of the dealer found at least 160 additional guns missing from the store. The guns that were missing from Bull's Eye were not all handguns that could walk out the door in somebody's pocket. The gun shoplifted by Malvo was an assault rifle.

The families of the sniper victims filed a lawsuit against Bull's Eye and Bushmaster, the manufacturers that supplied the sniper weapon to the dealer, claiming that Bull's Eye operated its business in such a grossly negligent manner that scores of guns routinely disappeared from its store and that Bushmaster continued to supply that dealer even after years of audits by ATF showing that scores of guns were missing from the dealer's inventory.

Did Bull's Eye or Bushmaster violate any Federal or State statute? That is the issue. That is the heart of the issue we are debating. If you are reckless in your operations, even though you may not have acted illegally, but if you are reckless or if you are grossly negligent in your operations, should you be held accountable for your own actions? That is the question. Should you be held accountable for your own reckless or grossly negligent actions if that gross negligence or recklessness is the proximate cause of somebody else's death or injury?

That is what this amendment is all about. Frankly, that is what the bill is all about, to eliminate the possibility of recovery in cases where somebody can prove recklessness or negligence unless they can also prove illegality. That is the purpose of the bill, to give that immunity unless plaintiffs can prove illegality. The purpose of this amendment is to say that if you can prove gross negligence or recklessness on the part of an individual, and if that recklessness and gross negligence is the proximate cause of injury or death, then you are entitled to bring a lawsuit.

I listened to this debate; I have not been here for much of it, but I read a great deal and tried to follow it. It seems to me that is the heart of the matter and what it comes down to. That is what this amendment is intended to clarify.

Mr. WARNER. Could I ask my distinguished colleague a question, because Virginia was hard hit, as were Maryland and other States, by that sniper case, which the Senator recounted in the opening remarks.

It is my understanding—and I have followed the debate very carefully on all aspects of this legislation—but the legislation, if it were to pass, would put in doubt, to some considerable extent, the right of the many families. The greater community of the Nation's Capital was in semiparalysis. Schools closed. People could not conduct their normal activities because of the sense of lack of safety. They could not even do something simple such as filling the gas tank of the car.

It seems to me unless we let the full force and brunt of all the legal remedies available to citizens of our Nation be utilized to bring to justice, either civilly or criminally, all those who may have contributed—as the Senator says, by gross negligence—then we are denying, particularly to these sniper victims' families and others across the Nation, some very fundamental rights.

I commend my distinguished colleague from Michigan. It is my intent to support the Senator.

Am I correct in my premise, in my question?

Mr. LEVIN. The Senator from Virginia is very much on point and is correct. This is a victim's right remedies issue. Do we provide a remedy for a victim of somebody's gross negligence or recklessness that has injured that victim where the proximate cause of the injury—or a proximate cause of the injury, to be technically correct—is the defendant's recklessness or gross negligence or are we going to deny victims that remedy? Are we going to tell a victim: You have to prove that someone violated a law in order to get recovery, even though you can prove gross negligence or recklessness. Even though you can prove that recklessness or gross negligence on the part of someone you sue was a proximate cause of death or injury, you have to prove that there was a violation of law?

Why would we immunize any particular industry from that kind of recovery where it is not somebody else who is being sued for their contribution to somebody's injury but it is the industry itself or a gunstore itself or any store that contributed, through recklessness or gross negligence, to somebody's death or injury?

I have read and heard a lot in this debate about individual responsibility and accountability, that you should not be accountable for somebody else's actions injuring somebody else, and I do not disagree with that. My amendment says where it is your own recklessness or gross negligence which is a proximate cause of an injury or a death, you should not be immunized. That is what my amendment provides, that if your own recklessness or your own gross negligence is a proximate cause of death or injury, you should still be held accountable.

That is what we are going to be voting on. I hope we are going to be voting on it, I should say.

Mr. WARNER. Mr. President, for clarification, when my distinguished colleague from Michigan refers to ''victims,'' we should make it clear that oftentimes victims perish, so it is their spouses, their families we are talking about. I think in our discussion we ought to make it clear it is a class of people we are trying to protect.

Mr. LEVIN. The Senator is correct. In terms of the definition of ''victims,'' we are talking here about families who lose loved ones as well as people who are injured themselves.

I want to emphasize one fact here, which is there was a motion to dismiss this case in the State of Washington brought by victims against Bull's Eye and against Bushmaster. On June 27, 2003, the court denied the motions, and here is what the court said:

> [T]he facts in the present case indicate that a high degree of risk of harm to the plaintiffs was created by Bull's Eye Shooter Supply's alleged reckless or incompetent conduct in distributing firearms.

The court said it was the defendant's actions that caused damage to the

plaintiffs. It seems to me for us to say even though Bull's Eye caused damage through recklessness or gross negligence to victims, we are going to deny those victims a remedy unless they can prove there was an illegal action—not just a reckless action, but an illegal action—is to mistreat this particular class of victims.

To single out this class of victims and say, ''You cannot recover unless you can prove illegal action on the part of the defendant''—not just that they were reckless, not just that they were negligent—I think is highly arbitrary and discriminatory treatment of real victims who right now can go to court, and if they can show reckless behavior, negligent behavior on the part of the defendants that was a proximate cause of their injury, then they can recover.

I do not even know that Congress can constitutionally destroy the pending claim. I hope not. I hope we cannot destroy a claim that is pending for an injury that has already been caused, constitutionally, but I do know we should not try. We should not be trying to remove the rights of victims to sue people whose recklessness or gross negligence was a proximate cause of their injury.

That is what this amendment would assure, that that right of action for recklessness or gross negligence which is a proximate cause of the injury can be compensated for.

There are a number of other troubling cases that have been referred to that would be jeopardized. Again, I do not know that we can constitutionally eliminate a claim based on an action which has already taken place. I sure hope not. But I know what the intent of this bill is, which is to immunize the defendants whose reckless or negligent conduct is being sued upon.

The Guzman case, on Christmas Eve 1999—this was a man who was killed by a shot to his heart while standing in front of a Worcester, MA, nightclub. About a week later, the police recovered a handgun in a lot near where this man, Danny Guzman, was killed. The gun was lacking a serial number. It was found by a 4-year-old child. A ballistics test determined the gun was the one that killed Danny Guzman.

The investigation following the shooting revealed the gun was one of several stolen by employees of Kahr Arms. It was discovered that one of the employees in the Kahr manufacturing facility had stolen the gun used to kill Danny Guzman and sold it to buy crack cocaine.

Publicly available records, summarized in a complaint filed by Danny Guzman's family, indicate this employee of the Kahr facility had not only been arrested on various charges over the years but as early as 1995 had been addicted to cocaine and was ''habitually stealing money to support his cocaine habit.''

In March of 2000, the police arrested the Kahr employee who later pled guilty to the gun thefts. The investigation also led to the arrest of a second Kahr employee who also pled guilty to stealing a gun.

According to a complaint that was filed by Danny Guzman's family, Kahr Arms not only apparently hired a drug addict with a record of criminal charges, but the company also chose not to utilize basic security measures that could have prevented the theft, or an inventory tracking system that could have determined that guns were missing. According to the family's complaint, Kahr Arms did not conduct background checks on employees. The company did not install medal detectors, security cameras, x-ray machines, or other devices to ensure that employees did not just walk off with guns.

In fact, an affidavit signed by ATF Special Agent Michael Curran says the person who stole the gun that ended up killing Danny Guzman once said—we all should listen to those words—''he had taken the firearm out of the company, that he does it all the time, and that he can just walk out with them.'' Those are his words. He takes guns out of here ''all the time''—this drug addict. He can just walk out with them.

The company did not track its inventory in any meaningful way. And according to the complaint, from February 1998 to February 1999, approximately 16 shipments of handguns from Kahr Arms failed to arrive at their points of destination.

Did Kahr Arms violate a State or Federal statute? Nobody has claimed they did. And unless they did, under this pending bill, immunity from suit would result. It seems to me this is something all of us ought to be troubled by and focus on because there is a lot of uncertainty and confusion, I believe, as to what this bill would provide.

But at its heart, the issue is this: Should we say unless you can prove an act was illegal on the part of the defendant, you will not be able to recover for damages caused by that defendant's recklessness or gross negligence?

Should that defendant be immune from suit even though his recklessness or gross negligence has caused your injuries, unless you can prove that that conduct was also illegal?

The lawsuit that was filed by Danny Guzman's surviving family members alleges the wrongful death based on Kahr Arms alleged negligence. While the defendants moved to dismiss this case on April 7, 2003, the Massachusetts Superior Court denied the motions. This bill is aimed at nullifying that kind of case. I hope we can't constitutionally do it retroactively. I hope we cannot destroy that cause of action. But we should not try and we surely should not single out one industry to help immunize them against their own acts of recklessness or gross negligence.

In a third case, a team of Orange, NJ, police officers was operating undercover at a gas station that had been robbed repeatedly over the course of several months. Detective Lemongello was among the officers taking part in the undercover surveillance. In the course of a stakeout, Detective Lemongello attempted to question a man who had suspiciously approached the gas station. Lemongello walked up to the man and asked him to remove his hand from his pockets, whereupon the man turned and opened fire, shooting Detective Lemongello three times—once each in his stomach, chest, and left arm.

Detective Lemongello was able to announce over his police radio that he had been shot and that the suspect had fled the scene. In response to the radio call, Officer Kenneth McGuire set off on foot after the shooter, who had fled into a nearby neighborhood. When Officer McGuire entered a backyard where the suspect was hiding, the suspect emptied his ammunition clip, shooting Officer McGuire in the abdomen and leg. Officer McGuire managed to return fire, killing the suspect. It turned out that the man who shot Officer McGuire and Detective Lemongello was wanted for attempted murder and had at least three felony convictions on his record. This man could not have legally purchased a gun, so the question is, Where did he get it?

Mr. President, I have been asked by my good friend from Vermont to interject a statement on a different subject at this point. To accommodate him, I would be perfectly happy if the Senator from Idaho would be willing to have me yield to him for a statement, without losing my right to the floor.

Mr. CRAIG. If the Senator will yield, we had hoped to conclude the offering of amendments. I know there are many on your side who asked for morning business time today, some to make fairly extensive statements. I would not object to this happening. I hope you can get another Senator here for the offering of that amendment. Then we could step off the bill into morning business and open up other opportunities.

Mr. REID. Will the Senator from Michigan yield?

Mr. LEVIN. Yes.

Mr. REID. Mr. President, we have a situation we have to address. We know Senator LAUTENBERG is coming to the floor to offer an amendment, but that can't be done unless Senator LEVIN sets his amendment aside. If Senator LEVIN sets his amendment aside, he loses his rights to maybe have a vote. I certainly have no problem whatsoever with the Senator from Vermont speaking for 10 minutes since that is my understanding. Senator LEVIN would get the floor again. But I think for Senator LAUTENBERG, he should understand that he may not be able to offer his amendment today, as it is my understanding from my conversations with the Senator from Michigan, he is not going to allow his amendment to be set aside.

Mr. LEVIN. I would be happy to have my amendment set aside, providing

that after the Lautenberg amendment is offered, the floor then be returned to me.

Mr. REID. We could certainly do it that way.

Mr. LEAHY. If the Senator will yield for a question, I saw the distinguished Senator from New Jersey just enter the Chamber. I ask my friends, the senior Senators from Michigan, Nevada, Rhode Island, and Idaho, if perhaps the senior Senator from Vermont could proceed for about 10 minutes on the subject of land mines without the Senator from Michigan losing his right to reclaim the floor. In the meantime, maybe through the work that is always done with such finesse by the senior Senator from Nevada, something can be worked out.

Mr. REID. I ask unanimous consent that the Senator from Vermont be allowed to speak as in morning business for up to 10 minutes and, following that, the Senator from Michigan would reclaim his right to the floor. He would be recognized after that.

The PRESIDING OFFICER (Mr. SESSIONS). Is there objection?

Mr. CRAIG. Reserving the right to object, what the Senator from Michigan did a few moments ago—the Senator from Nevada may not have been present—was yield to the Senator from Virginia for the offering of an amendment. He did not lose his place. We returned to that. So if you are willing to extend that kind of courtesy to the Senator from New Jersey, we certainly have no objection.

Mr. REID. What we should do is have it go back to the Senator from Michigan, and then we will try to do something that will get us out of here today.

Mr. CRAIG. I have no objection.

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

The Senator from Vermont is recognized.

PRESIDENT BUSH'S POLICY ON LANDMINES

Mr. LEAHY. Mr. President, as an aside, for one who has been here for 29 years, sometimes the press talks about the rancor in the Senate. This was a matter of courtesy shown by the senior Senator from Idaho, the senior Senator from Rhode Island, and the senior Senator from Michigan to the Senator from Vermont. These are the kind of things that make the Senate work. I appreciate it.

Mr. President, back in the 1980s, about 15 years ago, I flew in a helicopter from Tegucigalpa, Honduras to the border of Honduras and Nicaragua. It was at the height of the Iran-contra war. On the way I met with the contras there at their camp. And on the way back, there was a clearing in the jungle. You could see a Quonset hut with a red cross on the top. We landed there. It was a field hospital. There was a dirt floor inside, with beds, and an operating room next to it.

Inside I met a little boy, probably about 12 years old, with one leg; he had a homemade crutch. He had no place to live, and the doctors let him stay there on sort of a makeshift bed of blankets and rags in the corner.

He was a nice boy. He had no idea who I was or what I was doing there. He was just excited to see a helicopter come in. I talked with him through a translator. He had lost his leg from a landmine along one of the trails near where his family lived. They were farmers.

I asked him if the landmine was placed there by a Sandinista or a contra. He didn't have the foggiest idea. He wasn't even sure what this country, just a few miles away across the border, Nicaragua, was.

What he did know was his life was changed forever, and that he would not be able to run again, or work in the fields, or be a farmer like his father. It was a tragic story.

I came back and started work on a fund for mine victims, which through the courtesy of the Republican side is now known as the Leahy War Victims Fund, and it has had strong bipartisan support. But while that fund has helped many mine victims get artificial limbs and walk again, I soon realized that no matter how much money we spend we would never stem the loss of life from landmines that way.

Since I met that boy over a decade and a half ago, I have spoken on this floor about the dangers of landmines to innocent civilians and American soldiers so many times I have lost count. Perhaps I sound like a broken record, but I feel so passionately about this.

Years ago, I sponsored the first law anywhere in the world to stop the export of antipersonnel landmines. My distinguished friend from West Virginia and my distinguished friend from Michigan voted for it. The United States had the first law in the world stopping the export of antipersonnel landmines. That led to similar actions by other nations. In a short time, our allies took far bolder steps. Just 5 years later, a treaty banning antipersonnel mines was signed in Ottawa. I was there when it was signed. Today, over 150 nations have joined that treaty, including every NATO ally and every country in the Western Hemisphere, except two, the United States and Cuba.

It is interesting to recall the speech of former Foreign Minister Lloyd Axworthy, who laid down the challenge in Ottawa. Yet today, almost a decade later, in this hemisphere only two countries, the United States and Cuba remain the outcasts.

During the Clinton administration, I worked closely with the White House on this issue. I was disappointed that President Clinton did not join the Ottawa Treaty, even though he could have, but he pledged to work aggressively to find alternatives to landmines so the United States could join by 2006.

Until this morning, that pledge was United States policy and the Pentagon publicly embraced it.

I ask unanimous consent that a May 15, 1998, letter to me from the former National Security Advisor, Sandy Berger, which spells out that policy be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. LEAHY. The Pentagon said publicly that they would uphold the pledge of the President of the United States, but behind the scenes they worked assiduously to undermine the Clinton policy. Today, we see the result in an announcement that the White House and Pentagon carefully leaked to the press last night in an attempt to put a positive spin on what anyone who knows the issue can see is a step backward.

We see that the Bush administration has abandoned any pretext of joining other civilized nations to eliminate these outmoded, indiscriminate weapons.

Before I explain why the administration's policy is so deeply disappointing to those of us who have worked on this issue for years, I want to be clear of my respect for Secretary of State Powell, for Assistant Secretary Lincoln Bloomfield, and others in the State Department who administer our humanitarian demining programs. These programs save lives and limbs, and this administration's plan to increase funding for these programs by $20 million is constructive. It is far too little, especially for the wealthiest Nation on earth, but it is a positive step.

I also want to emphasize that, except for in Korea, the United States no longer uses the type of landmines which pose the gravest risk to innocent people, the way some nations and rebel forces do. Instead, we are helping countries clear their minefields. Just this week, the Vietnam Veterans of America Foundation, led so courageously by Bobby Muller, signed an agreement with the Vietnamese Ministry of Defense to conduct a countrywide survey of unexploded mines and other bombs, many of which were left by our soldiers, as well as by Vietnamese soldiers, and which continue to maim and kill innocent people. Once that survey is completed, we and other nations can help remove these explosives and end the deadly legacy of that war.

So the issue for the United States is not whether the U.S. is using mines that are causing civilian casualties. In fact, we have not used landmines since 1991 in the first Gulf war, and there is no evidence those mines had any effect whatsoever. In fact there is no evidence the Iraqis even knew they were there. The real issue, which the Pentagon and White House are either incapable of grasping or, more likely, want to ignore, is that as long as the United States, with by far the most powerful Armed Forces ever known in history, continues to insist on its right to use these indiscriminate weapons, other nations with armies far weaker than ours are going to insist on their right to use them also.

The victims are going to be innocent civilians and U.S. soldiers who, even today, are losing their lives and limbs from mines in Iraq.

Mr. President, over 2 years ago, the Bush administration announced it would review U.S. landmine policy. I welcomed that review. I told President Bush, the Secretary of State, and officials in the Pentagon that I wanted to find an approach with broad, bipartisan support, including from the Pentagon. Also, as much as I wanted us to be one of the overwhelming majority of nations that have joined the treaty, I knew the Bush administration was not likely to do that. I felt that working together we could move toward that goal by strengthening our own policy.

Today, over 2 years later, and after refusing to consult with me or other Members of Congress on either side, the White House announced its plans. We now see that we would have been far better off if the administration had not conducted its review in the first place. Except for a few positive aspects, the policy is a disappointing step backward.

What we see is another squandered opportunity for U.S. leadership on a crucial arms control and humanitarian issue. We see the United States saying we will continue to use landmines indefinitely.

Once again, we had the opportunity to join the civilized world in solving a global crisis, as all our NATO allies have. And once again, we have chosen unilateral arrogance over leadership and cooperation.

The administration's press office has done an impressive job portraying this policy as an important advance, but it is not.

They say they will eliminate persistent landmines by 2010. That is constructive. But in fact, except for Korea, the United States has not used these types of mines for decades.

Six years ago, the Clinton administration, including the Pentagon, pledged to ''search aggressively'' for alternatives to self-destructing anti-vehicle mine systems by 2006. The Bush administration abandons this pledge and will allow the use of these mines anywhere, indefinitely.

In 1998, the Clinton administration pledged that it would sign the Ottawa treaty banning anti-personnel mines by 2006, if suitable alternatives to these mines were fielded by then. The Bush administration abandons this pledge.

The Bush administration says it will seek a worldwide ban on the sale or export of persistent mines, but that we will keep our self-destruct mines indefinitely. Let's be honest. We tried that back in 1994, and the reason it failed was, not surprisingly, that other countries said ''if you, the world's strongest military power are unwilling to give up your landmines, why should we give up ours?''

Mr. President, I had hoped that the President would seize this opportunity to show real leadership. We can solve this problem if we set the example. It could be done so easily. Instead, the President has taken us backwards.

I will speak more about this in future weeks. I do appreciate the consideration of my colleagues in giving me this time.

I yield the floor.

EXHIBIT 1

THE WHITE HOUSE,
Washington, May 15, 1998.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: The President has asked me to confirm our understanding regarding the one-year statutory moratorium on the use of anti-personnel landmines (APLs) that is due to take effect next February. We very much appreciate your working so closely with us to define an approach that meets not only our solemn obligation to provide for the protection and safety of our Armed Forces in battle, but also our mutual goal of advancing our efforts to rid the world of APLs.

We are very gratified that you will not oppose adding flexibility to the 1996 moratorium legislation in the form of a Presidential waiver authority that would be attached to the pending FY 1999 defense authorization bill when it is considered by the Senate next week.

In this context, let me reiterate the following commitments on the part of the Administration:

The United States will destroy by 1999 all of its non-self-destructing APLs, except those needed for Korea.

The United States will end the use of all APLs outside Korea by 2003, including those that self-destruct.

The United States will aggressively pursue the objective of having APL alternatives ready for Korea by 2006, including those that self-destruct.

The United States will search aggressively for alternatives to our mixed anti-tank systems by (a) actively exploring the use of APL alternatives in place of the self-destructing anti-personnel submunitions currently used in our mixed systems and (b) exploring the development of other technologies and/or operational concepts that result in alternatives that would enable us to eliminate our mixed systems entirely.

Finally, the United States will sign the Ottawa Convention by 2006 if we succeed in identifying and fielding suitable alternatives to our anti-personnel landmines and mixed anti-tank systems by then.

Again, I thank you for your leadership on this issue.

Sincerely,

SAMUEL R. BERGER,
Assistant to the President for National Security Affairs.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I know under the order, Senator LEVIN is to have the floor. I ask unanimous consent that I be allowed to propound a unanimous consent request and that he have the floor following that.

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

Mr. REID. Mr. President, the Senator from Michigan says he will complete his statement in 10 minutes. The Senator from New Jersey has two amendments he wishes to offer, 10 minutes on each amendment, for a total of 20 minutes. I will propound a unanimous consent request in just a second, but I want everyone to know what is going on. That will take a half hour. Following that, I ask that there be a time to go to morning business. There will be no more amendments offered today, and we would go to morning business and Senator LEVIN's amendment would be the amendment that would recur following the two amendments of the Senator from New Jersey.

I will propound that in the form of a unanimous consent request unless someone at this stage believes there is anything inappropriate with it. I know Senator BYRD has been waiting. He asked yesterday to come and speak, but we didn't know it would take as long. I tell the Senator from West Virginia, it will be approximately a half hour before we get to morning business.

Mr. BYRD. Mr. President, will the distinguished Democratic whip yield?

Mr. REID. Yes.

Mr. BYRD. About what time would it be possible for me to get the floor?

Mr. REID. Mr. President, I tell the distinguished senior Senator from West Virginia, it would be a little bit after 1 o'clock, thereabouts. Then we have Senator CONRAD who wishes to speak for 45 minutes and Senator HARKIN who wishes to speak for a half hour. I am not going to set the order, but I ask that Senator BYRD be recognized initially in morning business.

Mr. BYRD. I thank the Chair.

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

Mr. REID. I will be happy to yield.

Mr. CRAIG. Mr. President, I do not believe I have any disagreement with that concept or the UC the Senator will propound, just as long as we have adequately served all Senators who want to offer amendments to S. 1805. It appears the numbers are here for that purpose.

Mr. REID. I say to my friend from Rhode Island, Senator REED, who is in the Chamber, we are still in the process of trying to work out definite times on Monday so that he, Senator FEINSTEIN, and those who are speaking in opposition—which will take a total of 3 to 4 hours—will have time on Monday.

Mr. President, I ask unanimous consent that Senator LEVIN be recognized for up to 10 minutes to complete debate on his amendment; following that, that his amendment be set aside temporarily and that Senator LAUTENBERG be recognized to offer two amendments and that Senator LAUTENBERG be able to speak for a total of 20 minutes on his two amendments; following that, the amendment of the Senator from Michigan would recur; and that following that, we go to a period for the transaction of morning business, and that Senator BYRD be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Chair and thank the Senator from Nevada.

I want to go back to the case of the two police officers who were shot with a gun that was sold under extremely suspicious circumstances by a gun dealer who was then sued by these two police officers.

The lawsuit alleged on the part of the defendants some very serious negligence, gross negligence, recklessness in terms of that sale. The person who purchased the gun bought 11 other guns at the same time, selected by somebody else. The person who filled out the purchase paperwork was not the person who actually bought the guns. They were picked out by a second person.

Like the New Jersey man who shot these two officers, the man who selected the guns was a convicted felon. The guns were paid for entirely in cash, several thousand dollars. The gun purchase was about the second in 3 weeks from the same two buyers from that dealer.

These were significant allegations that were brought by two police officers who were severely injured by that gun, claiming that the action on the part of the gun dealer was negligent and reckless behavior. There is a lot of evidence suggesting that it was.

A West Virginia judge refused to dismiss this case that these two police officers brought saying there was sufficient evidence to go to a jury; that is, evidence of recklessness or negligence on the part of the defendants. It was their recklessness, their negligence which was the proximate cause, allegedly, of the damage.

We have heard a lot about whether people should be held accountable for somebody else's illegal action. That is not what this amendment is about. That is not what this bill is about. What this bill is about is to immunize a certain industry from their own reckless and negligent behavior, not somebody else's, but from their own reckless and negligent behavior, unless the people who are injured can also show that they acted illegally.

This is special treatment for one particular industry.

We owe a great debt to these police officers who put their lives on the line, and it seems to me it is an insult for the response to their bravery to be: You cannot bring an action against a gun dealer who acted negligently or recklessly and whose negligence or recklessness was a proximate cause of your injury. Sorry, you have to prove that gun dealer acted illegally; that he acted reckless is not enough; that you were injured as a proximate result of that recklessness is not enough. We are going to immunize that particular gun dealer and anyone like him from their own reckless, negligent behavior unless you can carry an additional burden that they also acted illegally.

That is the response to officers who are gunned down and where their injuries were a proximate result of the recklessness and negligence of that gunshop.

Those are the allegations. Should they be allowed to prove them? The intention of the legislation in front of us is that they not be allowed to prove them unless they can also allege there was illegal action on the part of that gunshop. I think we can see why so many associations of police officers are very much opposed to this legislation and its purpose.

A number of law enforcement officers wrote Senators a letter opposing what this bill intends. In it they said police officers like Ken McGuire and David Lemongello put their lives on the line every day to protect the public. Instead of honoring them for their service, this bill would deprive them of their basic rights as American citizens to prove their case in a court of law.

Manufacturers and dealers of guns have a right to make and sell guns, but that right also is not unlimited because it comes with some responsibility. Like every other business in this country, people who are in the gun business have a responsibility to conduct that business with reasonable care. If a gun manufacturer or gun dealer fails to do so, and their negligence or recklessness leads to someone being killed or injured, they should not be immune from suit.

According to a recent report, 57 percent of crime guns in the United States could be traced back to 1 percent of the gun dealers in this country. We should not let that 1 percent off the hook. We should not single out one industry for these special protections.

Earlier this Congress, the Senate Judiciary Committee, considered an amendment to exempt class action lawsuits filed against the gun industry from the diversity and removal provisions of the class action bill. The committee rejected that amendment and in its report on the bill the majority put it this way:

> Simply put, there should not be one set of rules for one category of defendants and another for another group of defendants.

Well, if that holds true in the case of a class action bill, it should be true also relative to this legislation. This bill not only singles out one industry for special favored treatment, but in the process it undermines long-standing principles of tort law.

Traditionally, tort law has been left to the States to define, and if changes have been necessary Congress has usually deferred to State legislatures to make those changes. This bill seeks to impose a Federal tort regime that would virtually eliminate the ability of State courts to hear and decide cases involving even grossly negligent or reckless conduct by gun dealers and manufacturers, even where existing State law would permit such cases.

A Georgetown University Center law professor by the name of Heidi Feldman put it this way about this bill:

> . . . one of the most radical statutory revisions of the common law of torts that any legislature—Federal or State—has ever considered, let alone passed.

I have looked at a lot of Federal laws that affect the civil liability of various industries, and I, too, have seen nothing that comes close to what this bill would do.

Whatever we are going to do, it seems to me we ought to do it knowingly. We ought to understand what it is that we are being asked to do. What the bill says is, unless someone who is injured by somebody else's reckless or negligent conduct, unless that plaintiff can also show that the conduct was illegal, they will not be able to recover damages for their injuries. That is a radical departure from fairness, not just from the common law. That is a radical departure from protecting victims and trying to preserve their rights.

We should not take that step without at least understanding what we are doing. The purpose of my amendment is to make sure that we at least have an opportunity to vote on a central proposition: Whether or not when somebody is injured as a proximate result of somebody else's gross negligence or recklessness that that person who is injured should have an opportunity to recover damages, even if they are unable to show that the defendant's reckless or negligent conduct was also illegal.

That is the central issue this bill addresses. It is the central issue my amendment addresses. I think it is important that this Senate not only understand what the central issue is but have an opportunity to vote on that specific issue, and that is what my amendment is all about.

My amendment will give us the opportunity to vote on whether we intend to give immunity to persons who cause injuries to others through their own—and I emphasize ''their own''—reckless and grossly negligent behavior, where that behavior is a proximate cause of somebody else's injuries.

I hope the Senate will adopt my amendment. I hope we will modify the bill in front of us so that we can protect victims, and that is really what the amendment and the bill is all about.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 2632

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. Under the previous order, the pending amendment is set aside and the clerk will report the Lautenberg amendment.

The assistant legislative clerk read as follows:

> The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 2632.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require that certain notifications occur whenever a query to the National Instant Criminal Background Check System reveals that a person listed in the Violent Gang and Terrorist Organization File is attempting to purchase a firearm, and for other purposes)

At the appropriate place, insert the following:

SEC. —. AMENDMENTS TO BRADY HANDGUN VIOLENCE PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the ''Terrorist Apprehension Act''.

(b) AMENDMENTS.—Section 103 of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) is amended—

(1) in subsection (i), by striking ''No department'' and inserting ''Except as provided in subsection (j), no department'';

(2) by redesignating subsections (j) and (k) as subsections (k) and (*l*), respectively; and

(3) by inserting after subsection (i) the following:

''(j) TERRORIST APPREHENSION.—

''(1) INITIAL NOTIFICATION.—If the system established under this section determines that a prospective transferee is listed in the Violent Gang and Terrorist Organization file or a similar terrorist watch list, regardless of the eligibility of such person to purchase a firearm, the system shall provide this information to the employee at the Criminal Justice Information Services Division of the Federal Bureau of Investigation that is accessing the national instant criminal background check system (referred to in this subsection as the 'NICS operator').

''(2) NOTIFICATION OF LAW ENFORCEMENT.—Upon receiving information under paragraph (1), the NICS operator shall immediately provide the Federal Bureau of Investigation, the Department of Homeland Security, the terrorist task force, and State and local law enforcement in the jurisdiction in which the firearm purchase is being attempted with—

''(A) the name, date of birth, and any other identifying information reported by the prospective transferee;

''(B) the time and place of the attempted firearm purchase; and

''(C) the type of weapon, if known, that the prospective transferee attempted to purchase.

''(3) NOTIFICATION OF ORIGINATING AGENCY.—In addition to the notifications under paragraph (2), the NICS operator shall immediately provide the agency that placed the name of the suspected terrorist on the terrorist watch list with the information described in subparagraphs (A) through (C) of paragraph (2).''.

Mr. LAUTENBERG. Mr. President, this amendment would override what I see as a misguided Department of Justice policy that adds to the threats to our homeland security and leaves our country more vulnerable to terrorist attacks. This amendment is identical to bipartisan legislation I previously introduced. It was called the Terrorist Apprehension Act, and it was cosponsored by Senator DEWINE with me.

This amendment will direct the administration to do all it can to apprehend potential terrorists within our borders.

We found out if someone on the terrorist watch list, someone who is a potential threat to communities across the country, purchases a weapon, and that information is logged into the gun background check system, the Department of Justice has an order that prevents that background check information not to be put on an alert. They do not even share the critical information with law enforcement concerning the whereabouts of the terrorists.

It sounds kind of backwards to me. I find it very disturbing that we could have a nationwide lookout for known terrorists within our borders, and if he obtained a weapon the Justice Department's policy is to conceal that information from the FBI or other interested law enforcement personnel.

I know there are differences on gun policy that we may have within the Government, but I cannot believe there is anyone in this body who would not want to see us do whatever we can to alert the FBI or the appropriate parties to the fact that there is a terrorist lurking around trying to purchase a gun or who has purchased a gun.

I know many pro-gun groups have said terrorists are not likely to or would not buy a firearm on the legal market anyway, but the evidence we have discovered points otherwise.

An investigation by my staff revealed that a small sample of gun purchases reviewed by the Department of Justice showed that over a few months 13 people on the terrorist watch list successfully purchased a firearm at gunshops. The access that terrorists in our country have to guns is chilling, such as the .50 caliber assault weapon which could take down a helicopter, according to the Congressional Research Service. We learned also that that weapon can penetrate 6 inches of steel plating and has the range of a mile; that a target can be hit from a mile away, and it can also carry an incendiary bullet that would immediately cause the surroundings to burst into flames.

I know the Justice Department's position is at odds with the Department of Homeland Security, but again I cannot believe that either one of those Departments are not anxious to get as much information as they can about terrorist activity relating to guns.

During his confirmation earlier this year, Tom Ridge acknowledged to me the dangers of terrorist access to guns, and under oath at another hearing the General Counsel of the Department of Homeland Security told me it was his belief that someone on the terrorist watch list should not be at all permitted to purchase guns.

Unlike the Department of Homeland Security, the Department of Justice apparently sees things very differently. DOJ is not willing to give critical information to law enforcement sectors when someone on the terrorist watch list purchases a firearm. In fact, the Department of Justice requires the FBI to prove—believe this—that the terrorist should not be able to legally buy a gun and DOJ gives the FBI 3 days to come up with a reason. But if no reason is given in 3 days, then the gun is handed over to the terrorist.

It is quite an anomaly, that the Department of Justice requires the FBI to prove a terrorist should not be able to legally buy a gun. That doesn't make sense to me.

To make matters worse, the policy of the Department of Justice is not to tell law enforcement the details of the transaction, including where it took place and when it took place. So we could have a nationwide lookout for a terrorist and the Department of Justice, knowing that the terrorist just obtained a gun, will not tell the appropriate law enforcement people where the terrorist is.

This is a misguided policy of the Department of Justice. It has to change. My amendment would make that change. My amendment is simple and to the point. It says if a terrorist buys a gun, law enforcement must be notified promptly that this transaction has taken place. The FBI, local police, and the regional terrorist task force must be told the time and place of the purchase, without excuses. Every minute we allow the current Department of Justice policy to stand, we put our constituents at unnecessary risk.

I ask my colleagues to support this commonsense, bipartisan amendment. It is my hope that amendment will carry. We are all interested in reducing the threat of terrorism as much as we possibly can.

Mr. President, of course, we have to lay the first amendment aside before we can proceed to the second.

The PRESIDING OFFICER. Under the previous order, the first Lautenberg amendment is set aside.

Mr. LAUTENBERG. Mr. President, I neglected to use the graph I have to demonstrate what happens. The subject of a terrorist watch list purchases weapons, the NICS gun background check system is in place, it is entered in the NCIC crime database, and here there is a silent alarm. It doesn't really tell anything to the FBI terrorist task force. That is almost totally incomprehensible.

AMENDMENT NO. 2633

Mr. President, pursuant to the request I made that the other amendment be laid aside, I now send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 2633.

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

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

The amendment is as follows:

(Purpose: To exempt lawsuits involving injuries to children from the definition of qualified civil liability action)

On page 9, between lines 2 and 3 insert the following:

''(vi) any action involving injury to children.''.

Mr. LAUTENBERG. Mr. President, this amendment is designed to protect

the rights of our most vulnerable and most precious resource, our children. If this bill is enacted without this amendment to the pending bill, we will be passing legislation that protects the interests of the National Rifle Association and negligent gun dealers and manufacturers, errant manufacturers, at the expense of our kids.

It is really coldhearted, as we see if we examine this legislation. How distant do we want to make ourselves from a condition that is so tragic that even just hearing about it, if it is in your own household, sends chills up and down the spine? We have already rejected in this debate the rights of sniper victims and police officers. But are we now willing to go ahead and victimize our children? Children who are injured by a gun, the families of children killed by guns, do we want to shut down their rights? I am a proud grandfather of 10 wonderful grandchildren. It pains me to think that the Senate in which I serve is willing to expose them to greater danger. That process is pretty easy, if there is no punishment severe enough to curb either negligent or reckless behavior on the part of manufacturers, dealers, or distributors.

I think the biggest rogue of all that we all talk about is the shop that permitted Lee Malvo to get the gun he had, the Bull's Eye shop. They had guns all over the place on display and couldn't detect that 237 or so guns were unaccounted for. That suggests even greater danger. What I really hope we can do is not take away a tool that helped make this society safer for our kids.

How can we leave out the children, the children's families, when it comes to seeking redress if this kind of tragedy strikes that family? Every day we hear more about another child falling victim to gun violence. It is a national epidemic. In 2002 alone, the Centers for Disease Control and Prevention estimates there were 13,000 kids injured by a firearm. From 1996 to 2001, more than 1,500 children were killed in firearm accidents. The CDC also found the overall firearm-related death rate among United States children below the age of 15 was nearly 12 times higher than it is in 25 other industrialized countries combined. This horrible trend in our Nation must be stopped. We should be working to enhance the safety of our children and not reduce it.

Tennille Jefferson, the mother of a child victim, understands only too well what dangers can result from negligent gun dealers. On April 19, 1999, her son Nathan was shot and killed by a young boy who found the gun on the street, a gun belonging to a gun trafficker named Perry Bruce, who bought the gun from a disreputable gun dealer. The gun dealer sold Perry Bruce guns, despite many obvious signs that he was trafficking in guns. Bruce had shown a welfare card as his only form of identification. Yet somehow he was never questioned about how he managed to scrape up the thousands of dollars necessary to purchase 10 guns.

The gun trafficker, Mr. Bruce, admitted the gun dealer ''had to know what I was doing,'' and that he was high on marijuana each time he bought guns from this company. But the dealer acted recklessly. He had the information. Yet he sold the guns to Bruce. The result was the death of Nathan Jefferson. If this bill passes, families like the Jeffersons will not be able to hold the negligent, careless, irresponsible dealers and manufacturers who sell them to be liable for the murder of innocent children. This bill chooses special interests over the innocents. It is a sad commentary on this Senate. To be blunt, this immunity bill is a form of child abuse. We still have a chance to reverse the course and I hope we are going to do it. Meanwhile, I urge my colleagues to support this amendment and preserve the rights of America's children.

Mr. President, I yield the floor.

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

A BUDGET OF GIMMICKS, FALSE PROMISES, AND UNREALISTIC EXPECTATIONS

Mr. BYRD. Mr. President, with the release of the President's budget for the fiscal year 2005, and the upcoming markup of the fiscal year 2005 budget resolution, it is now clear the promises made by this administration during the 2000 election have not been kept. Contrary to the promise made 4 years ago to ensure the Social Security benefits promised to our Nation's workers, our retirement and disability system has become more vulnerable.

Contrary to the promise made 4 years ago to make health care more affordable, drug prices continue to rise and health insurance remains unobtainable for too many Americans.

Contrary to the promise made 4 years ago to protect our Nation's vital industry, this administration's tax and trade policies have been an unmitigated disaster with an alarming number of jobs being lost overseas.

Contrary to those assurances that it could be trusted to act as a prudent and responsible manager of our Nation's fiscal policies, the Bush administration has demonstrated neither prudence nor fiscal responsibility.

In his February 2001 address to a joint session of Congress, the President promised to pay down $2 trillion in debt during the next 10 years. He said that is ''more debt repaid more quickly than has ever been repaid by any nation at any time in history.''

The President has not kept that promise.

Since President Bush submitted his fiscal year 2002 budget, our gross national debt has increased from $5.6 trillion to $7 trillion, and deficits have risen to $521 billion in fiscal year 2004.

With the deficit projections mounting, the cries of alarm are growing steadily louder. The IMF—an international organization normally concerned with the debt problems of third world nations—has issued an alarming critique of the United States, pleading with the Bush administration to rein in its massive budget and trade deficits. Similar warnings have emanated from Federal Reserve Chairman Alan Greenspan, former Treasury Secretary Robert Rubin, and the U.S. Comptroller General, David Walker.

Even the administration's own political allies, ranging from the conservative Heritage Foundation to private sector economists who endorsed the President's tax cuts, have pleaded with this administration to get its fiscal act together. Yet these warnings fall on deaf ears in this administration.

After spending $1.7 billion to finance three enormous tax cuts in the last 3 years, the President's budget proposes an additional $1.24 trillion—in other words, that is one and a quarter trillion dollars—for more tax cuts.

President Bush's assertion that his budget will cut the deficit in half by 2009 is one more in a litany of promises that will go unfulfilled.

The Bush administration's own budget documents show that if none of its proposals were enacted into law, the deficit would still be cut in half.

The President's budget actually makes the deficit worse in 2009 than if the Congress took no action at all.

For the fiscal years 2001 through 2010, this administration's policies have transformed a 10-year, $5.6 trillion surplus into a $4 trillion deficit—and it just keeps getting worse.

The President's budget includes record deficit projections that will push our national debt to extreme limits never before seen in our Nation's history, or any other nation's history for that matter.

President Bush's budget is a wake-up call for working Americans. Under the guise of inviting middle class workers to sit at the table and share in the tax cut, this administration ran up a tab that won't be paid for by those with golden parachutes. It will be the working man—the man who works with his hands, in many instances, or most. It will be the working man who gets stuck with the bill—the working man, the forgotten man in this administration. In this administration's tenure, the working man is the forgotten man.

Instead of ensuring the Social Security benefits promised to workers—here me out there—the President's budget would spend the entire Social Security surplus over the next 5 years—all $1.1 trillion of it—to pay for the administration's tax cuts for the affluent and for the corporate elite. Not one thin dime would be allocated to save your Social Security.

I remember life in the coalfields life in southern West Virginia when there was no Social Security. We had the old Raleigh County poor farm. Raleigh County is in south-central West Virginia, a great coal-producing county over the years. I remember the old

county poor farm out at Shady Springs.

It used to be when folks became old—and there in those coalfields they became old early—when they became old, they could no longer get a job. A person who was 60 years old, I can remember when I was a boy, was an old man. Sixty years old, that was old. Fifty-five years of age or 60 years of age was considered old. There was no Social Security when they became old. Those men and women who had given their best years in the toil and labor had given their best years. And they could no longer get work. The only thing they could do would be to go to the gates of their children with their hats in their hand and hope their children could take them in. Many of them went to that old county poor farm. No Social Security.

Then like the rays of hope breaking away the shadows in those West Virginia mountains, a new President, a crippled President, Franklin D. Roosevelt, came to the helm of this shipless state. He and a Democratic Congress enacted a law bringing to the country and to the old folks Social Security. I remember when those first Social Security checks came. A check came to my house where my old coal miner father—he was not my father, he was my foster father—received a check. And my mom, who was my aunt, had taken me to raise when my mother died in the great influenza in 1918. So the Byrds took me in and raised me and they drew a Social Security check.

So I know what it meant for those who had to depend upon Social Security, and those out in the plains, mountains, the prairies, and the valleys of America, who still depend upon Social Security.

But even the enormous surpluses in the Social Security accounts cannot cover the colossal cost of the administration's tax cuts. President Bush's budget would also cut the funding for those Federal programs that most benefit working families: Federal student aid, unemployment and job training programs, health care initiative for veterans and the poor and the elderly by a whooping $50 billion to pay for the administration's tax cuts. Hear me, out there. And still it is not enough.

After Draconian spending cuts on the loss of the entire Social Security surplus, the President's budget proposes to borrow an additional $1.4 trillion. How long does it take to count $1 trillion? At the rate of $1 per second, how long would it take to count $1 trillion? A thousand years? Two thousand years? Thirty-six thousand years.

The President's budget proposes to borrow an additional $1.4 trillion, much of it from countries such as China and entities like OPEC, to pay for what? To pay for its tax cuts, tax cuts for the well-to-do, tax cuts for the wealthy. I say to the people from West Virginia who may be watching, there are not many of you included in that group.

When you look at the promises of this administration on the one hand versus the performance on the other hand and the massive increases in the national debt necessary to finance their ill-conceived fiscal policies, our Nation would be left with a Bush debt gap of $4.5 trillion.

The administration is forcing working class Americans not only to shoulder a massive debt burden but also to give up those Federal programs and services from which they most benefit. The President's tax cuts are squeezing State revenue, forcing increases in tuition rates. The cost of attendance at a 4-year public college or university has gone up 26 percent since Mr. Bush became President, from an average of $8,418 in the year 2000 to $10,636 in 2003. Let me say that again: The cost of attending a 4-year public college or university has gone up 26 percent since Mr. Bush became President, from an average of $8,418 in 2000 to $10,636 in 2003. Interest rates on student loans will increase, while Pell grant moneys and Federal student aid programs are rolled back.

Drug prices will continue to increase and veterans and senior citizens—the old folks; I can call them senior citizens; I can call them old folks because I am one of them, thank God—veterans and seniors will continue to see their savings depleted while cuts are made in those programs that help to provide them with basic health care.

Workers' pensions will remain underfunded and vulnerable while this administration stands passively mute. Social Security's financing problems will continue to worsen as money that should be saved to ensure the benefits promised to workers is wasted on an ideological fiscal policy that advocates tax cuts above all else.

The financial perils underlying the Social Security Program were brought to light this week when Federal Reserve Chairman Alan Greenspan forced the President to confront the fact that his administration has been for 3 years hiding from the facts. Namely, if we continue on the fiscal course set by this administration, we will lose the only opportunity that we will have left to save Social Security. Congress has a responsibility to better educate the public about their Social Security system.

The panic—have you ever heard panic in the voice of someone? The panic in the voices of my constituents as they called my office yesterday made it clear that more must be done to keep the public informed.

What is regrettable is that the real problems confronting future Social Security retirees have only recently surfaced in the Presidential debates—how about that—only recently surfaced in the Presidential debates.

What is unforgivable, however, is if it were not for Chairman Greenspan's comments, this administration may not have even raised it as an issue this year. The President's evasive remarks have been to assure the American people that he will not cut the benefits of retirees or those near retirement. But what does that mean for 59-year-olds? What does that mean for 60-year-olds? Oh, I wish I could say I was 60 again. Maybe not. Maybe not.

What does that mean for 59-year-olds or 60-year-olds? Will the President try to cut their Social Security benefits or not? To cut Social Security benefits, without first engaging the public about its intentions, should tell us a great deal about the fiscal priorities and methods of this administration.

In the face of this dismal reality, the administration does not offer solutions, it offers excuses—just excuses. This administration can only argue that their budgetary decisions are not their fault. The recession and out-of-control spending is to blame for massive deficits. Corporate accounting scandals are to blame for weak pension funds. The September 11 terrorists are to blame for the shoddy economy.

All of these arguments are belied by the facts.

Our investments in education, health care, transportation, and other domestic discretionary programs are not the source of this administration's deficit problems. Domestic discretionary comprises only 9 percent of the increase in spending over the last 3 years, and it represents only 17 percent of all Federal spending. President Bush's budget does not even look at mandatory expenditures for savings even though they comprise two-thirds of the Federal budget. While the President's proposed spending cuts would significantly undermine our education and health care investments, it would barely make a dent in the administration's deficit projections.

Meanwhile, the Defense Department is plagued with accounting problems so severe that the Secretary of Defense cannot account for billions of taxpayers' dollars. The General Accounting Office estimates that the very earliest that the Defense Department could possibly pass an audit would be the year 2007, and that is optimistic. The administration does not even know how much time and how much money it will take to fix the accounting problems.

It is absurd that the administration is proposing to cut vital domestic investments while billions and billions and billions of dollars are lost every year in the Pentagon's broken accounting system. The administration's deficits have exploded, and they have exploded in large measure because revenues as a percentage of our gross domestic product have declined to their lowest levels since 1950—1950. According to the House Budget Committee, the three Bush tax cuts have increased the deficit by nearly $2.6 trillion from 2001 to 2013.

The notion that the administration's deficits were created by a poor economy and increased spending is pure fantasy. It is made all the worse by this administration's efforts to hide these facts from the public—from you,

you. They say it is your money. The administration is touting the tough choices it is making to cut the deficit in half over 5 years. Yet its budget is full of ''magic asterisks'' that assume an initiative will be offset, such as the $65 billion health care tax credit but provides no information on from where that savings will come.

Contrary to the Bush administration's past budgets, with surplus projections extending out 10 years to justify their tax cuts, this year President Bush proposed a 5-year budget—a 5-year budget. It hides from the public the alarming long-term deficits projected by the Congressional Budget Office. It hides the real cost of the administration's proposals, such as the $1.1 trillion cost of extending the Bush tax cuts. Further, President Bush's budget includes no additional funds for Iraq, even though the administration reportedly will submit another supplemental request for Iraq—when? After the November elections.

Not many of you, perhaps, are old enough to remember the old vaudeville shows, where they would tell you, ''Watch this hand,'' while they were doing something they did not tell you about with the other hand, or, ''Now you see it; now you don't.''

So they do not tell us how much money they need for Iraq, but they reportedly will submit another supplemental for Iraq after the November elections.

Here, perhaps more than anywhere else, is where the budget deficit is the most deceptive.

To date, contrary to the modern tradition of an administration funding large-scale, ongoing wars, at least in part, through the regular appropriations process, the Bush administration has refused to request funds for the war in Iraq in its annual budget.

Why? They do not want you to know. They want the American people to be fooled. The administration waits until funds for the troops are almost exhausted before requesting additional funds through a supplemental—through a supplemental. The Bush administration's purpose is clear. What is it? To limit debate, to limit discussion, to limit having to explain to those people out there who are watching the Senate through those electronic lenses—to limit having to explain to the American people how much this war will cost. This unnecessary war, how much will it cost, this war which the American people should never have fought, never. They were fooled, then, into believing there were weapons of mass destruction all over Iraq and that we were in danger of seeing a mushroom cloud. But to date there have been none found. This administration, which will argue until they are blue in the face that black is white and white is black, will still say: Oh, there are still weapons of mass destruction there; we just have not found them yet. They are there. Well, who knows? Maybe they will be. But that is not the way it was when the administration proposed our invasion of Iraq early last year.

How much will it cost, to say nothing of how many lives will be lost before it is over? How many lives? On how many doors will that knock fall before the war ends?

See, we have two wars. We have the war in Afghanistan, which resulted from the attacks upon us on the Twin Towers, on the Pentagon—the attacks by al-Qaida, by the 19 hijackers, not one of whom was an Iraqi. Not one was from Iraq. That is the war that is still going on in Afghanistan. That is the war I support. That is the war I have supported from the beginning. But I have never supported the other war, the Bush war, the war still going on in Iraq, the war that comes under the rubric of the doctrine of preemptive strikes. That is another war. That is the Bush war in Iraq. That is the war in which the American people should never have had to spill a drop of blood. The American people should never have had to send one of their sons or daughters to fight. That is the Bush war, and nobody knows how many more lives will be lost before that war is over.

This year, the political posturing has gotten worse. Not only did the President not include any funds in his budget for the ongoing operations in Iraq, the administration has announced no supplemental will be sent to the Congress until after the November election, depriving the American voters of any opportunity to judge the President based on his promises about the cost of a war in Iraq. This is a budget of gimmicks, false promises, unrealistic expectations. It is a budget of misdirection, canards, speciousness, spuriousness, sophistry, equivocation, fallacies, prevarications, and flatout fantasy.

Worse, under the guise of reining in budget deficits, this administration is continuing its assault on the values of the working class. This is an administration of corporate CEOs and Texas oil men. The corporate elite of this administration did not grow up wondering if their parents could afford to send them to college. Their parents did not have to choose between paying for groceries and paying for health care. Their parents did not have to stay up late at night worried about whether they would lose their pension benefits or whether Social Security would be enough to provide for their retirement.

When the administration proposes to cut these programs or fails to provide adequate resources for them, it is because it has no personal understanding of the plight of American workers and how much the President's budget cuts affect middle-class Americans.

Only a President who never had to apply for unemployment benefits would oppose extending them when so many workers are without a job. Only a President who never needed overtime pay would advocate taking it away from those workers who rely on it to make ends meet. Only a President who never needed Federal aid to attend college would advocate cutting it back for those students who cannot attend college without it.

When this administration leaves office—and I hope it won't be long—its legacy will be an enormous debt, an enormous debt burden that will weigh heavily on the middle class. In the process, it will have severely weakened their safety net and will have left little means for fixing it. But it won't matter to this President. At that point, he will just move back to Texas, back to good old Crawford, TX, knowing that his pension and his health care benefits are secure, and that corporate CEOs and Texas oil men are wealthier and more comfortable than ever before. He will never have to rely on the safety net his administration has worked so hard to dismantle.

Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate is now in morning business.

The Senator from North Dakota is recognized.

THANKING SENATOR BYRD

Mr. CONRAD. Mr. President, I want to thank our very able senior Senator from West Virginia, former majority leader, ranking member on the Appropriations Committee, for his wisdom. Every time I have a chance to listen to Senator ROBERT BYRD, I treasure it. Senator BYRD has a mix of wisdom and experience that informs his remarks.

Mr. BYRD. If the Senator will yield, I apologize for interrupting his remarks. I thank the Senator for his words. I thank him, however, far more for his wisdom and for his courage, and for his insight, and for his constructive contributions that are made so often to the debates in the Senate. I marvel at his talent. He is not one who has hidden his talents. He is out front, outspoken, and I listen always with great admiration. May he long continue to serve the people of the United States in this Senate in the capacity which he now serves, in which capacity he would have no peer; I have not seen a peer yet. I thank him again.

PRESIDENT BUSH'S ECONOMIC POLICY

Mr. CONRAD. Mr. President, I want to talk for a few moments about many of the subjects Senator BYRD addressed. I think this week has been a wake-up call to the United States, for the Senate, for the House of Representatives, and I hope for the White House, because this week the chairman of the Federal Reserve, Chairman Greenspan, as the Washington Post headlined from the next morning indicates: ''Fed Chief Urges Cut in Social Security.'' The subhead says: ''Future Benefits Must Be Curtailed, Greenspan Warns.''

Chairman Greenspan is talking in this article about the overcommitment this country has. He said:

I am just basically saying we are overcommitted at this stage.

Chairman Greenspan went on to suggest that he favors making permanent the tax cuts the President has proposed. He also says he recommends we cut Social Security benefits as one way of beginning to deal with these long-term imbalances.

Not so long ago, the President, in his FY2002 budget, ''A Blueprint for New Beginnings'' said:

None of the Social Security surplus will be used to fund other spending initiatives or tax relief.

None. Oh, how wrong the President was in that assertion because when we look at his budget what we find is he is going to borrow from Social Security $2.4 trillion over the next 10 years—$2.4 trillion—and he has no plan to pay it back.

It is very interesting to look at the relationship between the money the President is taking from the Social Security surplus over the next 10 years to float this boat, nearly $2.4 trillion, and to compare it to his tax cuts during this same period.

Notice how similar the figures are. They are almost identical. The amount being borrowed from the Social Security trust fund is almost identical to the money going out in the tax cuts, primarily income tax cuts, that go overwhelmingly to the wealthiest among us, as this chart shows.

This chart shows the benefits of the Bush income tax cuts. What it demonstrates is the top 1 percent, those with incomes of over $337,000 a year, get 33 percent of the tax cuts. That is pretty stunning. Let me repeat it. Those who are in the top 1 percent, earning over $337,000 a year, got 33 percent of the benefits of the income tax cuts. And now we find out it is being financed by taking Social Security money funded by the payroll taxes overwhelmingly paid by middle-income Americans.

This is an enormous wealth transfer from the many to the few. This is class warfare writ large. Take from the many, give to the few, and then have us head in a fiscal direction that leads the Chairman of the Federal Reserve to say, at the end of the day, cut the Social Security benefits that were supposed to have been financed by the payroll taxes of the people who paid them.

It is very interesting to see the effect of Social Security on this society. Two-thirds of retirees rely on Social Security for more than half of their income; 31 percent of Social Security beneficiaries get at least 90 percent of their income from Social Security; 33 percent get 50 to 89 percent of their income from Social Security.

If you put those two together, nearly two-thirds of retirees rely on Social Security for more than half of their income. We know Social Security has been the engine driving people who are Social Security beneficiaries out of poverty.

This chart shows without Social Security, 48 percent of our Nation's seniors would be in poverty. With Social Security, only 9 percent are. Is anybody paying attention here? We talk about connecting the dots. We talk about what has happened with the fiscal policy this President has constructed, a fiscal policy that has led to the largest deficits in the history of our country, budget deficits that have no end in sight, that have led the Chairman of the Federal Reserve to say: Cut Social Security benefits but make the tax cuts permanent, and the tax cuts have about the same cost over the 10-year period as the amount of money that is being taken from the Social Security trust fund surpluses over that same period. If we connect the dots, it becomes very clear.

Middle-class people are paying heavily into Social Security with payroll taxes on the promise they will get Social Security benefits, but the money is being taken and instead of being used to prepay the liability or to pay down the debt to prepare for their retirement, the money is being used to finance income tax cuts for the wealthiest among us.

I showed a chart that demonstrated the top 1 percent, those earning over $337,000 a year, get a third of the tax benefits. But it is even much more dramatic than that. If you are earning over $1 million a year, those who in this country are fortunate enough to earn over $1 million a year will get a tax cut this year of over $100,000.

Those earning over $1 million a year will get an average income tax cut of over $100,000, and yet we are running deficits that are the biggest in the history of the country with no end in sight, so serious that the Chairman of the Federal Reserve board says: Cut Social Security benefits.

This is all about choices. This chart shows the cost of the President's tax cuts over a 75-year period, $12 trillion. The Social Security shortfall over that same period is just under $4 trillion. It is a 3-to-1 ratio. The difference between the cost of the President's tax cuts over a 75-year period and the Social Security shortfall. The Chairman of the Federal Reserve looks at that shortfall and says: Cut benefits, but make the tax cuts permanent. That is the logic of where the President's budgets are leading, and nobody should be under any illusion that is where this is all headed because here is what is about to happen.

This chart is the number of Social Security beneficiaries whose numbers will explode with the retirement of the baby boom generation. We are going to go from about 40 million in 2005, look at 2045, there will be 82 million people receiving Social Security. This isn't a projection. These people are alive. They have been born, and they are going to be eligible, and the President has no plan, none, to deal with it.

Under the President's budget, we are spending $991,000 a minute more than we are taking in—$991,000 a minute. If we look at budget deficits and the relationship over a long period of time, from 1969 to this year, we can see the deficits in dollar terms are at an all-time high, by far the biggest budget deficit we have ever had—$100 billion more than last year, and last year was a record.

Some try to minimize it, saying: As a percentage of our gross domestic product, these deficits are not so large. Wait just a minute, these deficits are huge by any measure. If you look as a percentage of gross domestic product on an operating basis, protecting Social Security as it was intended to be, what one sees is this deficit is only exceeded once since World War II as a percentage of gross domestic product, only exceeded by a deficit of 6 percent of GDP back in 1983.

The big problem with the President's plan is he is hiding from the American people the true effect of his policies. I do not make that charge lightly. The President is hiding from the American people the full effect of his policies. Here is just one way. Here is what happens to his tax cut proposal just beyond the budget window. This dotted line is the end of the 5-year period.

Here is what happens to the cost of the President's tax cut once you get beyond the 5-year window. It absolutely explodes. But it is not just his tax cut that explodes just beyond the budget window. So does the cost of fixing the alternative minimum tax, the old millionaires' tax, designed to make certain that people with high incomes paid some taxes. And yet that old millionaires' tax is rapidly becoming a middle-class tax because, as we know, there will be 3 million people affected by it now, and at the end of the 10-year period there will be 40 million Americans affected by the alternative minimum tax.

The President does something about it for 1 year. He does nothing about it for all of the future years.

This is the pattern of the cost increases to deal with the alternative minimum tax, which everybody knows has to be dealt with. The President has no plan to do anything about it. It is not just in terms of paying the $2.4 trillion he is borrowing from back Social Security. He has no plan there. He has no plan to deal with the exploding cost of the alternative minimum tax. He has no plan to pay the war cost, the war on terror.

He says we are going to fight a robust battle against terror, but he is not going to fund it because he has zero in his budget past September 30 of this year. Does anybody believe the war on terror, the war in Iraq, the war in Afghanistan, is going to neatly end at the end of the fiscal year? Does anybody seriously believe that? That is what the President says is going to happen. He says there is going to be no cost

past September 30, no cost for Afghanistan, no cost for the war on terror, no cost for the war in Iraq, none.

When we ask him how can that be, his response is, gee, I really do not know what the cost is going to be. Well, the right answer is not zero. The right answer is not no cost.

The Congressional Budget Office tells us the cost is going to be $280 billion, but the President does not acknowledge that cost. It is no wonder that he is able to say he is going to cut the deficit in half in 5 years. He just does not count things. He does not count the war cost. He does not count dealing with the alternative minimum tax crisis. He does not count paying back the $2.4 trillion he is taking from Social Security, every penny of which he has to pay back but none of which he has a plan to do.

The President says he is going to cut the deficit in half in the next 5 years. We have gone back and included the cost of his war policies, his tax cut proposals, and the alternative minimum tax, just those three areas. What emerges is a more realistic view of where the deficit is headed. As we can see, there is no cutting the deficit in half.

In fact, we do not see the deficit ever getting below about $600 billion. That is a realistic expectation, instead of what the President is telling the American people.

Here is what is happening to the debt: The gross debt of the United States is absolutely exploding, at the very time the President promised us he would have maximum paydown of the debt. Remember 2001, that is what he told us, that he would have maximum paydown of the debt. Instead, the debt is exploding from some $6 trillion in 2001 to $15 trillion by 2014.

This chart is one of the most sobering of all. The green bars show the Social Security trust fund, the blue bars the Medicare trust fund, and the red bars show the tax cuts already enacted and those proposed by the President. What this shows is right now we are being buffered from the full effect of what the President has proposed by the surpluses in the trust funds.

Look what happens when those trust funds go cash negative out in 2016. At that very time the cost of the President's tax cut proposals explode, driving us right over the cliff into deficits and debt never before seen in this country. Do not take my word for it. Here is the Congressional Budget Office report on the long-term budget outlook showing the President's tax cuts exploding the deficit at the very time the baby-boomers retire. This is not just reckless and irresponsible. It is wildly reckless and irresponsible.

This is what happens under the President's scenario. Where is the money coming from? Well, he is going to borrow $2.4 trillion from Social Security with no plan to pay it back, but that is not the only place he is borrowing. Now he is borrowing from countries all over the world. We are into Japan for over $500 billion and this is from 2003. We know this is a much higher number now because Japan is buying dollars at a furious pace. So is China. We are into them for over $140 billion, and that number would be much higher if we had a current number. We borrowed $62 billion from Caribbean banking centers. We are in hock to Hong Kong for $56 billion, to Taiwan for $46 billion, but we have even borrowed $43 billion from South Korea.

When I was growing up, if anybody had told me America would be having to borrow money from South Korea, that we would be having to be borrowing money from Japan and China, why nobody would have believed it. But that is what is happening.

This was the President's statement just the other day in Louisville, KY:

> We've got plenty of money in Washington, DC, by the way.

This is not the statement of a serious person, ''We've got plenty of money in Washington, DC, by the way.'' That is not the statement of a serious person when he is running the biggest deficit in the history of the United States of America, with no end in sight, and his proposal is to dig the hole deeper, to have no more spending and cut the revenue even more when we already are running record deficits, right on the eve of the retirement of the baby boom generation.

This President tells the American people that we have plenty of money? The only reason there is plenty of money is because he is borrowing it from every place that he can find somebody who will loan it to him.

There is $2.4 trillion being borrowed from the Social Security trust fund with no plan to pay it back, and now Chairman Greenspan warns that the over commitments are so large that Social Security benefits ought to start being cut.

That is the logic of the President's course, and it is a disastrous course. It is one that risks the economic security of this country. It is one that risks putting upward pressure on interest rates that will choke off economic growth, that will cost this Nation even more jobs, and force this Congress and a future President into the most excruciating of choices.

This is a reckless course. This is not conservative. This is radical. It is reckless and it has to be stopped.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

Mr. HARKIN. Mr. President, parliamentary inquiry: Are Senators allotted a certain amount of time?

The PRESIDING OFFICER. The Senate is in morning business. Under the previous order, there is no time limit.

Mr. HARKIN. I thank the Presiding Officer.

HAITI

Mr. HARKIN. Mr. President, today things are peaceful in Washington, DC, and around the United States. We are all enjoying our time at home with our families knowing that we can walk outside and go to our local grocery store or to a shopping or a local theater, and knowing that we are reasonably assured we can do so with the assurance that we will not be subjected to being killed or be subjected to a violent activity.

But today, as we are here, a reign of terror has descended upon a small and impoverished country a few hundred miles off our coast, the poorest country in this hemisphere, Haiti. A reign of terror has descended upon Haiti. It is a crisis of immense human proportions.

As I take the floor today, the people of Haiti are living under the threat of anarchy—under the threat that a few well-armed thugs and killers who are well known to them because of their past involvement in plotting coup d'etat in Haiti because in the previous years they have been convicted by the courts in Haiti of murder. These same individuals now have guns, modern weapons, flak jackets, helmets, and communication gear. They are threatening to take over the democratically elected Government of Haiti, and they are going to do it by killing thousands of people.

Today, stores and shops are closed in Port-au-Prince. The situation is deteriorating by the hour. Commercial airlines have cancelled all flights in and out of Haiti. Private charter flights have been halted. Parts of the main port are reportedly on fire. U.S. diplomatic representatives are hunkered down in the embassy compound guarded by some Marines. France, Canada, Brazil, and the Dominican Republic have withdrawn their personnel.

What is our response? Silence, nothing. We are a pitiful, helpless giant when it comes to averting a humanitarian crisis in a small impoverished country in our hemisphere a few hundred miles from our shores.

We can send $160 billion to Iraq. We can send our young men and women to Iraq to die. We can send billions of taxpayer dollars to Iraq to build their infrastructure. But we can do nothing to stop the bloodshed and the anarchy descending upon Haiti today.

I find this inexcusable. We have a moral obligation, a moral imperative because of our past relationships with Haiti, because it is a neighbor of ours, because it is in our hemisphere, because we are the most powerful country in this hemisphere, let alone the world, and because we believe in democracy, we believe in the rule of law, we believe in human rights and human dignity.

Do we only believe in it for Iraq? Do we only believe in it when it suits our

convenience? Do we only believe in these principles when the country has a lot of oil, for example? Are these just so many words we utter about human rights, democracy, and rule of law? When it comes to a small, black, impoverished nation where people are poorer than dirt, where they have been subject to centuries of dictatorial rule, where they have been ignored by their neighbors and by us for centuries, where they have been ground down for a couple of hundred years, I guess when it comes to a country like that, like Haiti, democracy, human rights, rule of law does not mean much. I guess it just means we can turn a deaf ear and a blind eye to what is happening.

The situation in Haiti cries out for us to do something. The poorest people in this hemisphere are crying out to us to help them. Somehow, we are saying we cannot do anything. Talk about a lack of moral spine. Where is the moral spine of this administration when it comes to Haiti, when it comes to a poor, black, impoverished country like that? What is our response to the situation?

I read in the newspaper this morning that Powell puts pressure on Haitian leader to resign, that Secretary Powell is questioning whether he should stay in office, and as Secretary Powell even said:

> He is the democratically elected president, but he has had difficulties in his presidency.

United States officials, speaking on condition of anonymity, said a resignation would be in order, that Aristide should resign.

He has been democratically elected. He has had some difficulties, and therefore he should resign.

Let us take a look at that record, because I find this totally unacceptable and the American people ought to find this unacceptable. These statements, combined with our inaction, have encouraged and emboldened a lawless insurrection by armed thugs and murderers. This is no legitimate uprising indigenous to the people of Haiti. These are a few killers and thugs who got their hands on guns, who were in the old army Aristide disbanded, and now they want to come back and take over Haiti again. Guess what. We are helping them by our inaction.

Human Rights Watch has said these insurrections are by the very same people who are responsible for widespread killings and abuses that occurred during the military rule in the early 1990s.

Who are these people? We see them in the Post. They get pictures taken. They give interviews. Guy Philippe is quoted all the time. Kind of a handsome-looking guy. Guy Philippe has given all these interviews. He said in the paper he is going to get Aristide. We are going to get him. He said, No way, Jose, will he be allowed to stay in office. This Guy Philippe knows how to use colloquial English.

Who is Guy Philippe? Who is this individual who now says he wants to run the country, that he wants to take it over, who has the guns and the arms? Well, not a very savory character. Guy Philippe was convicted of drug trafficking in Panama. He was extradited to the Dominican Republic, put in jail in the Dominican Republic. Somehow—we do not know how—somehow he got out of jail last year and, lo and behold, now he is in Haiti with guns and with his old thugs from the military.

Louis Jodel Chamblain, one of the main leaders of this FRAPH, the Revolution Front for Haitian Advancement Progress. It means ''hit'' in Creole. Again, where does he come from? Well, you do not have to go very far back. In the early 1990s during the military government this guy was very active—in killing people. In fact, he was convicted in absentia in September of 1995 and sentenced to life imprisonment for the murder of Antoine Izmery, a well-known prodemocracy activist. Chamblain has been notorious for killing people in the past. Yet he is in Haiti right now, one of the guys who is going to liberate Haiti. And you have Jean Tatoune, Jean-Pierre Baptiste, also a FRAPH leader, also in Haiti, one of those responsible for the massacre in Raboteau in 1994. Again, he was convicted in absentia and sentenced to life imprisonment.

He is back again. He will liberate Haiti. These three individuals—and there are only three I mentioned; there are more who used to be in the military—want to take Haiti back. They do not want democratic government. They do not want to run for office.

Again, a little history is in order. We all know Haiti was one of the first countries where there was a slave uprising in 1804 and they threw off the French rule and defeated Napoleon, defeated Napoleon's forces and became a free country. It was kind of unsettling because we still had slavery in America and a lot of Senators and Congressmen at that time in the Congress of the United States were very upset about this slave revolt in Haiti. We had to be very careful it did not reach our shores.

After that, Haiti devolved into one dictatorship after another. For the better part of the last century, most of the dictators were supported by us, the Duvalier regime being the most infamous of them all.

Finally, after the Haitian people had been tortured and enough people killed, they rose up in the 1980s and they got rid of not only Papa ''Doc'' Duvalier, who died, but also his son, Baby ''Doc,'' and ran him out of the country. They had an electoral process and had an election in 1990 everyone said was fair, and a guy by the name of John Bertrand Aristide won the Presidency in 1990. He was inaugurated, if I am not mistaken, in January of 1991.

How long was he President? Eight months. In 8 months the military came in and threw him out. There was a coup d'etat and they threw him out of the country. And thus began a ruthless killing field in Haiti. Of all those people who had supported Aristide, the military went out and killed them. Some of these guys like Chamblain and Tatoune were involved in this.

The international community came down pretty hard on Haiti at that time. Under President Clinton, we sent about 20,000 troops to Haiti to restore order and to bring Aristide back as the elected President, which was accomplished.

It took 3 years, but we accomplished it. He came back, if I am not mistaken, in late 1994 or early 1995.

One of the things that was agreed upon with Aristide is that the 3 years he was out of the country would count as part of his presidency. For the good of Haiti, and to move democracy along, President Aristide agreed to that. Though he only served 8 months as President, he agreed they would count all the time he was out of the country as part of his presidency.

He came back, and he had about a year in office before he had to leave, on a 5-year term. Before he left office, though, he did one thing: President Aristide, in 1995, disbanded the military. He said: Haiti does not need a military. No one is going to invade us. It uses up a lot of the money that should go for hospitals and education and things like that, paying all these soldiers. We do not need soldiers.

He was right. Haiti did not need a military. So he disbanded the military. Since that time, there has not been a military in Haiti.

A lot of these military people left the country, Guy Philippe being one of them, who went to Panama and got involved in drug trafficking and got caught. He got put, as I said, in prison in the Dominican Republic. Now he is out. Now he is back with a gun.

A little history is important to see what happened.

Aristide was out for 5 years because he also agreed he would abide by the Constitution and he would not seek a consecutive reelection. The Constitution of Haiti says for a 5-year presidential term, you cannot have two consecutive terms. You can come back and run later on, but you cannot have two consecutive terms. President Aristide agreed to that.

From 1995 until 2000, there was another President in there named Preval. I will not go into that. Aristide basically was not heard of much during that period of time. He formed a new political party. He ran again in 2000 and was reelected in what was deemed a fair election. Some people say only 5 percent of the people turned out, but there are other accounts that as many as 60 percent of the people turned out to vote in that election. But the opposition wanted to boycott it, would not participate.

Aristide was reelected for another term. Since that time, the Bush administration has put an embargo on financial aid and assistance to Haiti. So when Secretary Powell says he has had difficulties in his presidency, sure, when we pull the rug out from underneath him, and we cut down aid and

support to a democratically elected government, of course they are going to have difficulties.

This is a poor country. This is a country where the military wants to take over again. This is a country that for 200 years had no democracy whatsoever and is still struggling to try to figure out how to make democracy work there. Of course there are difficulties. So I question Secretary Powell's and our administration's insistence somehow that Aristide has to go.

One other thing is important. Recently the CARICOM nations—this is the Caribbean community of nations—met in Jamaica to come up with a proposal to help try to solve the impasse in Haiti, the political stalemate in Haiti. They met. They invited the opposition to come. They invited Aristide to come. Aristide went to Kingston, Jamaica. The opposition boycotted it.

The CARICOM nations decided on a plan they promoted for a political settlement in Haiti. Guess who backed that plan. Our State Department, I assume speaking for the President. Our Secretary of State, the same Secretary Colin Powell, supported the CARICOM proposal, which was a power-sharing arrangement Aristide would have to give to the opposition. For the benefit of Haiti, to promote, again, democratic principles, Aristide agreed to that. He did not have to, but he agreed to it. Guess who did not agree to the CARICOM proposal. The opposition.

Let's get this straight. The Caribbean community comes up with a proposal for political settlement. Aristide agrees to it; the opposition does not. Our own Secretary of State promoted the CARICOM proposal, the settlement, and now our Secretary of State is saying it is Aristide who has to go. Wait a minute. He was the one who agreed to the proposal. It was the opposition who did not agree.

What is going on here? One has to ask, what is going on? I see this, and I say, there is a disconnect here. There is something wrong here. There is something wrong here when all of the focus is being put on Aristide to leave the country. When you have murderers and thugs, ex-military people convicted in absentia of vicious killings and murders in Haiti, who left the country, who are now coming back in with guns, modern weaponry, one has to ask, where did they get them?

This is a country of 8 million people. How many people are we talking about in Gonaives or in Cap-Haitien or places like that? The best estimates are maybe a couple hundred. One town got overrun with 40 people. Forty people with guns came in, shot the police chief, killed him, burned the police station down, and left the town. Out of 8 million people, you have 200 or 300 people who have these guns causing this trouble.

That is a popular uprising? You might say, well, why don't the Haitian people, then, confront these people? Because the Haitian people do not have an army because Aristide disbanded the army. The police forces he set up are ill-trained, ill-equipped to deal with it because we did not come in to help them set up a professional police force in Haiti.

So when you come in with guns blazing, and you have the guns, who is going to stand up to you? That is why I opened my comments by saying, the people in Haiti are in a reign of terror right now. And make no mistake about it, if Guy Philippe and Chamblain and those armed thugs are able to take over Port-au-Prince and either kill President Aristide or somehow run him out of the country, there will be a killing field in Haiti. Thousands of people will lose their lives because this army, vicious as it was in the 1990s, will be even more vicious now in seeking retribution against those who supported Aristide in disbanding the Haitian military.

It is devolving into anarchy in Port-au-Prince and the rest of Haiti. People are fearful. They are fearful for their children, for their families. Businesses are closed. Food aid. We were feeding 300,000 people a day—malnourished, starving people. That now is not happening. Think about the implications of that. Think about it. Don't we have a moral obligation here? The Bush administration, justifying inaction, says it does not want to choose sides. I am not asking anyone to choose a side. What we are asking the administration to do is to—right now, this weekend, tomorrow—join with the OAS and send in a peacekeeping force to bring some order to let people know they cannot run roughshod, they cannot come in and shoot police stations up and burn buildings down, to help create some stability.

The side we should choose is the side of democracy. That is the side we should choose. These armed thugs were not elected. President Aristide was elected, not the armed thugs. It is clear that the administration's unwillingness to get involved is paving the way for the destruction of Haiti's fledgling democracy.

What about all this talk of spreading democracy? What about the forward strategy for freedom? Can you imagine how this must sound to Haitians as we embolden and encourage the gunmen, criminals, and thugs who are now trying to overthrow the democratically elected Government of Haiti? The administration speaks about democracy halfway around the world. What about democracy 600 miles off our shores?

To be sure, the fledgling democracy in Haiti is imperfect. I am the first to admit that. But it would be a profound mistake of historic proportions that I believe would have deep moral implications for our country if we abandon this fledgling democracy to the likes of these gunmen.

Well, maybe the administration says this is an easy way out. We don't do anything, we just let it go. Talk about an abdication of our position in this hemisphere. We have a responsibility in Haiti—a responsibility based on our democratic values, a responsibility based on humanitarianism.

Mr. President, there is one other thing. There are now 20,000 U.S. citizens in Haiti. We have a responsibility to protect them also. What about those 20,000 American citizens in Haiti? Why are we not protecting them? I ask that question. Why are we not protecting the 20,000 U.S. citizens living in Haiti? Maybe you can draw your own conclusions. I don't know.

Well, what needs to be done? Right now, there is a debate on how we got there. Who is right? Who is wrong? Did Aristide do this, or did he not do that? Did he keep out the opposition? There is all this talk about how we got here. When your house is on fire, you put out the fire first. You don't go around saying, How did it start? Get the fire out, then we can have the debate about how we got there.

Haiti is on fire. It is burning right now. Innocent men, women, and children are being killed right now. We can stop it. We have the power to stop it—with very little involvement on our part. We have the power to stop it.

Tomorrow, the United States should deploy a stabilization force in Haiti along with the Organization of American States. The Organization of American States has a history in this, by the way. They have sent peacekeeping operations to places like Yugoslavia. The Caribbean countries are one-third of the OAS. They have sent people, too, as peacekeepers. They have experience in this. They can be involved with us in setting up a stabilizing force this weekend in Haiti. If we were to send that signal now, that would stop these thugs and gunmen and murderers in their tracks. But I can tell you, from conversations I have had on the phone with people in Haiti today, that the people in Haiti are thinking that we are on the side of the thugs and the killers. Why? Because we are not doing anything and they have the guns. If we were to send in a stabilization force, the people of Haiti would know we are on their side. That would give them courage. But right now, the poor people of Haiti believe that they are alone—alone, forgotten, abandoned, as they have tried to implement a democratic form of government in their country.

The administration says they don't want to act until there is a political settlement. Mr. President, you cannot have a political settlement until you have some stability. You cannot have a political settlement when people are being gunned down in the streets, when armed thugs are burning down police stations. Think about that.

The people who want to ''liberate'' Haiti are the people with guns. What are they doing? They are burning down police stations. Does that give you an idea of what they want to do after they take over?

The administration says they are reluctant to act without a political settlement. You cannot have a political

settlement without stability. Stability first. That is why I say this administration, tomorrow, needs to send in a peacekeeping force to Haiti, along with the Organization of American States. It can be done in less than 24 hours. It would stop the bloodshed immediately. Then we can work on the CARICOM proposal or other proposals for a political settlement.

How are you going to have a political dialog, a political settlement in this environment right now? Our own embassy staff cannot even leave the compound or move around. How can we work on dialog and a resolution? You have to have a secure environment in order for a productive dialog to take place. Is it this administration's intent to totally destabilize the Aristide government, the democratically elected government of Haiti, and let the gunmen take over and hope somehow we can deal with them later? Is that their intent? Because that is who is going to take over. It will not be the political opposition. It will be the people with the guns. The most lethal element in Haiti will be the ones who will take over. Don't take my word for it. Read the paper. What are Guy Phillipe and Jodel Chamblain and others saying to the press? They are going to run things, not some civilian opposition.

After we would send in a stabilizing force this weekend, we would work with OAS, the CARICOM, to mediate a political solution, one that respects and preserves Haiti's emerging democracy. On February 20, I joined with a number of my colleagues in sending a letter to Secretary Powell saying the CARICOM initiative offers the best vehicle for a peaceful resolution of this critical situation. If we fail to act, there will be real consequences.

Consider what happened in 1993 and 1994 when we didn't act at that time. Thousands of Haitians were killed, torture chambers were set up. There was raping and pillaging and looting. Many more fled to the U.S. and other neighboring countries. That was in 1993. That is when we had a military dictatorship in Haiti. The same people are now trying to overthrow the Aristide government.

But today we are on the brink of even a bigger catastrophe. The World Food Program, which I have mentioned, is feeding about 300,000 Haitians a day. This distribution, for all intents and purposes, is stopping. A humanitarian crisis of immense proportions is happening on our own doorstep, and we do nothing.

What kind of signal do we send to the children of Haiti? Is it our signal that the only way to get anything done is to pick up a gun, to kill, to intimidate?

The issue is not about partisanship. The issue is about a humanitarian crisis. This small impoverished country, the poorest in our hemisphere, a nation with this long history of dictatorial regimes supported a lot by us is crying out for help.

We have a small, diminutive man, a former Catholic priest, Jean-Bertrand Aristide, a hero to his people, elected freely twice, overthrown once by a murderous coup in the nineties who has come back fearlessly to try to engender a political democratic solution to the problems in Haiti, this very small diminutive man who disbanded the military in Haiti is asking for our help to save the democratic system.

Every time we have called upon President Aristide to take a step back to do something for the democratic process in Haiti, he has done so. As I said, when he was in exile in the nineties, in our dealing with the military in Haiti, we made Aristide agree that the 3 years he was in exile would be counted as part of his Presidency, even though he was not there, even though he served only 8 months as President. For the good of democracy and his constitution, he agreed to those requests. Even though he would have been reelected in a landslide in 1995, he abided by the constitution and did not seek reelection, as the constitution provides.

So this little man without an army, without any oil, without some strategic importance in the world community, this little diminutive man, Jean-Bertrand Aristide, a former Catholic priest, who, back when he first started in the eighties, only wanted to increase the educational level, the health level, the living standards of the poorest people in Haiti—it has been his life's work—is crying out for our help to save democracy.

What are we saying to him? Leave the country. You leave the country and turn it over to the gunmen. That is not saving democracy. That is destroying it. That is killing the fledgling democracy in Haiti.

President Aristide said he would serve until his term is up, I believe it is February of 2006, but when Secretary Powell and the CARICOM nations went to Aristide and said, Look, to save your fledgling democracy, you have to agree upon powersharing, upon this, all the elements they put into that package, what did Aristide say? OK, to save democracy in Haiti, he would do it. The opposition, to save democracy, would they come halfway and meet him? They said, no, they would not agree to that. The only thing they would agree to is Aristide going completely out of the country and them taking over.

One has to wonder what is going on. This is a seminal moment, I believe, in the history of our country and in our relationship to the rest of this hemisphere because what we do or do not do in Haiti this weekend and immediately speaks to what the American character is, what we really stand for. The moment is now.

Haiti could descend into anarchy at any moment. On the radios in Port-au-Prince, opposition people are getting on the air saying Aristide is fleeing the country; right now he is fleeing the country. The poor people who were counting on Aristide to protect them now are frightened, and it emboldens the gunmen and the thugs to take over because they do not see us anywhere, and not seeing us anywhere must mean we are on the gunmen's side because they have the guns.

Now they are trying to say this is some kind of a popular uprising. These gunmen, these murderers, these ex-military people were not even in Haiti. They had been convicted by the courts in Haiti of murder, sentenced to life in prison in absentia. There is no popular uprising. These are armed thugs coming across the border from the Dominican Republic taking arms, communications equipment, and everything with them and terrorizing people, killing policemen, and burning down police stations.

They are well equipped. They have big weapons. They move at night. They know how to communicate. This is an uprising of Haitian people? Not a bit.

The people of Haiti are crying out to us. It speaks to our moral values. Are we going to pay attention to the poorest country in this hemisphere, one of the poorest in the world, almost an entirely black country where they have been beaten and trod upon for so long and where they saw a little bit of hope and finally getting out from under military rule, under dictatorial regimes, such as the Duvaliers, being able to have some power to vote for who they wanted to see in office, not who we wanted to see in office? Are we just now going to turn our backs on them?

I hope not. I hope that somewhere in this State Department, somewhere in this administration there is a spark of conscience that says we cannot stand by, that we must send a peacekeeping force to Haiti immediately, and we have to work upon a political settlement rather than a settlement at the end of a gun barrel held by thugs and murderers.

I hope there is a spark of conscience someplace because if there is not, a lot of people are going to die, a lot of innocent people, poor people, people who do not have much to begin with. They are going to get in their boats. They are going to want to flee the country. What did our President say? If they come out, we will pick them up and send them right back. Think about that. Poor people trying to flee the killing fields, and we are telling them if they get in a boat and try to go someplace, we will send them back.

Is this America? Is this the country my mother came to as an immigrant? There is a lot to ponder in our relationship with Haiti at this point in time. It is a seminal moment. I believe what happens within the next 24 to 48 hours will determine the fate of democracy in Haiti. It will determine the fate of thousands of innocent Haitian people and it will determine our moral standing, not only in this hemisphere but in the world.

I hope that spark of conscience happens very soon somewhere in this administration, because anarchy, murder,

and killings are going to happen very soon unless that spark of conscience happens somewhere in this administration.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

Mr. FRIST. Mr. President, we are still in some negotiations and will be in for a bit longer. But I will speak for a few moments on several issues while those negotiations continue.

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

COMMEMORATING BORIS TRAJKOVSKI, PRESIDENT OF MACEDONIA

Mr. FRIST. At this juncture, Mr. President, I rise with heavy heart in that Thursday morning, Boris Trajkovski, the President of Macedonia, perished in a plane crash in the mountains of Bosnia. He was a good man, a man I had met, a man with whom I had extensive discussions, a man who was a great leader. Indeed, the people of Macedonia have lost a true hero and, indeed, America has lost a great friend.

Elected to his country's highest post in 1999, President Trajkovski held his country together through terrible crises and conflicts. He kept the struggling new Republic from descending into anarchy and civil war and, in doing so, set an example for the entire region.

President Trajkovski was one of our first allies to publicly support Operation Iraqi Freedom and to commit troops to the liberation. The Iraqi people owe President Trajkovski and the Macedonian people a debt of gratitude for his belief in them.

He was a sincere champion of freedom. Only 47 years old, Boris Trajkovski was a President, a minister, an attorney, a father, and a husband. Our prayers go out to his family and the families of all who were lost on that fateful plane.

It is my hope that the people of Macedonia will honor him by carrying on his work of cultivating and nurturing their newfound freedom.

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

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

The senior journal clerk proceeded to call the roll.

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

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

ASBESTOS LITIGATION

Mr. FRIST. Mr. President, I rise this afternoon to discuss the progress that has been made to date in my efforts to resolve a critically important issue; that is, the issue of asbestos litigation—a crisis that is currently playing out and has been playing out over the last several years, an issue I have addressed on the floor of the Senate. I wanted to give an update of where we are, a little bit about where we have been, but also what my expectations will be as we look to the future.

First and foremost, we have made good progress toward enacting Chairman HATCH's FAIR Act, which is the Fairness In Asbestos Injury Resolution Act. I have made this a personal priority in that the Senate must resolve this issue.

First of all, the crisis itself, the asbestos crisis. As I mentioned on the floor last fall, the magnitude of the asbestos crisis is truly overwhelming. The torrent of litigation has wreaked havoc on victims, on American jobs, and on the economy. The 600,000 claims that have been filed have already cost $54 billion in settlements, in judgments, and in litigation costs.

Even with those billions being spent, the current asbestos tort system has today become nothing more than a litigation lottery. A few victims receive adequate compensation, and far more suffer long delays for unpredictable and inequitable awards, if they receive anything at all. Today, it is a system with only one real winner; that is, the plaintiffs' trial lawyers. They are taking half of every dollar that is awarded to victims. One-half of every dollar that is awarded to victims ends up going to plaintiffs' trial lawyers.

The future prospect for people who have been victimized even gets worse. But let me say it is not only the victims who suffer—that is clear—but workers lose their jobs. Asbestos-related bankruptcies spell doom for workers' jobs, for their incomes and, of course, for their retirement savings. It has already cost more than 60,000 Americans their jobs. For those who lose their jobs, the average personal loss in wages over a career is as much as $50,000. That $50,000 does not include lost retirement and lost health benefits.

Workers at asbestos-related bankrupt firms with 401(k) plans lost about 25 percent of the value of their 401(k) plans. The victims; yes. They have been hurt by the current system but, indeed, with the bankruptcy of these companies, employees are hurt all around the country.

The problem is there. It is a crisis. It is a crisis that is getting worse. It is not getting better. Thus, it is incumbent upon us to act.

I asked a simple question during my remarks last year. That question was, Can we create a system that is better than the status quo? The answer is, of course, yes. But time is running short. That is what brings me to the floor today.

First of all, progress to date: The crisis is there, it is getting worse, and it demands a response from us. As an update on what we have accomplished to date, the FAIR Act—Fairness In Asbestos Injury Resolution Act—has already made significant headway. Under the leadership of Chairman HATCH, it was passed by the Senate Judiciary Committee last July, and there have been ongoing discussions and negotiations ever since.

I commend Senator HATCH and the ranking minority member, Senator LEAHY, for their tremendous hard work on this bill.

I also want to recognize my colleague from Pennsylvania, Senator SPECTER, who has done hard work in conjunction with Judge Becker on this particular issue.

A strong bill, steady progress, and constant discussion.

I want to note that my Democratic colleagues as well as organized labor and other stakeholders have been deeply involved throughout the process.

Led by Senator HATCH, bipartisan breakthroughs were made on issues that previously have proved irreconcilable. These included a whole range of issues but included the linchpin issue of medical criteria that has proven historically to be so difficult and controversial.

In addition, much work was done over the winter recess to resolve outstanding issues regarding the appropriate administrative structures of the system for resolving current and future asbestos claims.

What has emerged under S. 1125 and the current negotiations is a streamlined national trust fund for paying asbestos claimants quickly, fairly, and efficiently. The new system will provide more certainty and efficiency for claimants, and more certainty and predictability for businesses.

Passing this bill will create enormous economic benefits. Certainty that flows from a bill will stimulate capital investment, preserving existing jobs and creating new ones. I had hoped to bring this bill to a floor vote before the end of last session, but we were simply unable to achieve that goal.

Chairman HATCH and Senator LEAHY worked hard to resolve many difficult issues at the committee level. Senator DASCHLE and I, along with our staffs, have continued to work with stakeholders to put more issues behind us over the past months. In fact, there have been more than 20 meetings starting last July at which my staff, Senator HATCH's staff, Senator SPECTER's staff, and staff representing the minority have negotiated these issues.

While there are many issues which remain outstanding, the core principles of an effective bill are now clear. The crisis is there, the crisis is getting worse, the bill has been delivered, continued progress, continued discussions with improvement of the bill.

Then the question is, Where do we go from here?

If we intend to make good on our collective hope to pass legislation, at some point the ongoing discussions and negotiations must end and a bill must be brought to the floor.

In addition to the months of work that have been put in by my staff and others on these discussions last year, we had an additional 90 days since the winter recess, and I am prepared to have talks go on for another 30 days through the end of March. But at some point, talking must end. As I made clear last fall, I am committed to bringing a bill to the floor by the end of March.

Victims are still going uncompensated. Companies are still going bankrupt, and the economy is still being unnecessarily burdened.

The minority leader, as well as Senator LEAHY, Senator DODD and other Democratic Members have made clear to me their interest in working toward consensus legislation.

I ask all participants in the process to work during these remaining days to bring these discussions to a close and to reach consensus on the remaining outstanding issues.

I am not interested in forcing a vote on this bill. But the victims and the workers who are being hurt by these delays deserve closure. They deserve a bill that puts an end to this ongoing crisis. I will begin floor action on an asbestos bill either the last week of March or the first week in April. Again, I will begin floor action on an asbestos bill either the last week of March or the first week in April.

There is no perfect solution to the current asbestos litigation crisis. But it is clear that maintaining the status quo is simply unacceptable. We must not let this historic opportunity to enact fair and meaningful reform pass in order to pursue a perfect solution that is unachievable. The time has come for the Senate to fashion the right solution for one of the most pressing issues facing us, facing our economy, and facing this Nation today.

BLACK HISTORY MONTH

Mr. FRIST. Mr. President, I will make a few comments in respect to the closing days of Black History Month, the month of February.

Two weeks ago, I had the opportunity to take a truly extraordinary journey with Members of the Senate and House Members. I use the word ''journey'' because this trip was not only to a geographic destination, not only a place to which we traveled but, indeed, was in many ways an emotional and a spiritual voyage that touched—I know me and, in talking to my colleagues, them—in very deep and meaningful ways.

It was 2 weeks ago Friday that we departed from Washington. This journey was one I had the honor of leading. It was a bipartisan delegation. Ten Senators participated at some time over the course of those 3 days on this civil rights pilgrimage to Alabama and to Tennessee. It was a real privilege to travel not just with my colleagues in this body and the House of Representatives, but also traveling with us were some of the loftiest figures of the civil rights movement.

These included our colleague, Congressman JOHN LEWIS, who, by the way, graciously organizes this trip each year for his colleagues. This is the first time he specifically put it together for the Senate, but also traveling with us or speaking to us as we were in Alabama and Tennessee were the real civil rights giants, people such as Dorothy Cotton; Bernard LaFayette, who I had the opportunity to get to know over the years, he is a close friend of a physician friend, Dr. Karl VanDevender from Nashville; Diane Nash, who played a prominent role in the nonviolence movement, much of which originated in Tennessee; Johnnie Carr; Attorney Chestnut, whose vivid words are starkly ringing in my mind even as I stand here; Bob Mants, and the list goes on—people who were there, people who participated through the late 1950s and early 1960s in the civil rights and nonviolence movement.

I say to them and take this opportunity, something I have told each one personally, to publicly thank them for their service to our country, for their willingness to face violence and intimidation directly, to face injustice and to face oppression, and to face all of this with bravery and to face it with love and caring and compassion. It was this juxtaposition of one facing the other that ultimately had the impact of transforming America. Indeed, it led to a great awakening that continues to reverberate through history.

I also thank these remarkable individuals for sharing their hearts over this 3-day period, of sharing their faith, sharing their spirituality, and sharing their stories with us for these intense sessions over Friday, Saturday, and Sunday. I speak for my colleagues. Again, 10 Senators is 10 percent of the Senators in this body participating in this pilgrimage in some shape or form. I speak for all of them when I say that we thank the participants from the civil rights movement who spoke to us, who spent time with us, and left us profoundly inspired.

We began our trip in Montgomery, AL, visiting the Montgomery bus stop where Rosa Parks said no to moving to the back of the bus. We marched over the Edmund Pettus Bridge where—you read about it and you study it and you hear where, as they marched over the bridge they were trampled by horses and were beaten with billy clubs and were sprayed with tear gas just for the audacity of seeking their constitutional right to vote. You read about it and you hear about it and you see it in some little clips, but actually being there, that physical presence, that physical sense of time and space that we were given 2 weeks ago, really captures the full picture as much as one can. Again, to those participants, I say thank you.

We met with people throughout who were present and who described the crushing of bones as those billy clubs came down; people who, in the first person, described in such vivid detail, that had such a tremendous impact when you hear it. It is difficult for me to find just the right words to express the power of standing shoulder to shoulder with people who actually crossed the bridge at the time, that bridge that almost 40 years ago was faced with the threatening opposition standing before them.

We later visited the Birmingham Sixteenth Street Baptist Church where four young girls perished on that vicious Sunday morning bomb attack—again, talking to other people who were in the church that morning when that bomb went off, taking the lives of those four young girls.

We walked through Kelly Ingram Park where Bull Connor unleashed dogs and fire hoses on schoolchildren. And on Sunday we entered the Nashville First Baptist Church where the nonviolence movement's young heroes studied and learned and where we heard accurately described the role-playing of nonviolence which ultimately played out just a few weeks and a few months later in the historic lunch counter sit-ins in Nashville. The role-playing, the studying, the curriculum, the discipline, was all around a movement of nonviolence which characterized so much of the subsequent Civil Rights Act in the late 1950s and early 1960s. We met many of the participants who were at the historic lunch counter sit-ins in Nashville, sit-ins that peacefully transformed Nashville, TN, over a period of weeks and then months, sit-ins that started at the lunch counters and subsequently a few months later moved to the movie theaters.

We walked in the footsteps of giants, and we came closer thereby to knowing them as men and women.

I relate all this because it is also clear to me that the movement is not over. So much has changed. We heard it again and again, so much has changed in a very short period of time, but the great hope of that movement has yet to be realized; that is, full equality not only before the law but in the lives of every single citizen.

Immediately you relate it to the sort of things we do in the Senate, to create an environment that equality is not just before the law but in the lives of every citizen. That means equal education. It means no child left behind. It means equal opportunity to live the American dream. It means equal treatment at the doctor's office. It means equal consideration by the mortgage lender. It means equal opportunities to climb that economic ladder and to open the doors to higher learning.

As we celebrate Black History Month, as we look forward to the 50th anniversary of Brown v. Board of Education, we must remember that, yes,

yes, we have come a long, long way, but there are still many miles to go.

In his historic speech following the march to Selma, the great Dr. King told his fellow freedom marchers and, I should add, generations to follow:

We must come to see that the end we seek is a society at peace with itself, a society that can live with its conscience. And that will be a day not of the white man, not of the black man. That will be the day of man as man.

I would like to close with a wonderful account that I think does underscore the universality and great achievement of the civil rights movement. It also underscores the truth that all it takes is one person and one act of courage to inspire millions.

The following is an account by the historian Douglas Brinkley. The year is 1990. Nelson Mandela is arriving in Detroit, MI, where Rosa Parks awaits on the tarmac. The passage reads:

''He won't know me,'' Parks kept repeating, embarrassed that she had come.

Moments later the airplane's door opened and Nelson Mandela accompanied by his then-wife Winnie appeared to the enthusiastic crowd, shouting ''Viva Nelson!'' and ''Amandala!'' the Swahili word for power. Slowly he made his way down the steps and toward the receiving line. Suddenly he froze, staring openmouthed in wonder. Tears filled his eyes as he walked up to the small old woman with her hair in two silver braids crossed atop her head.

And in a low, melodious tone, Nelson Mandela began to chant, ''Ro-sa Parks. Rosa Parks. Ro-sa Parks,'' until his voice crescendoed into a rapturous shout, ''Ro-sa Parks!''

Then the two brave old souls, their lives so distant yet their dreams so close, fell into each other's arms, rocking back and forth in a long, joyful embrace. And in that poignant, redemptive moment, the enduring dignity of the undaunted afforded mankind rare proof of its own progress.

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

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

The assistant journal clerk proceeded to call the roll.

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

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

THE HIGHWAY BILL AND 9/11 COMMISSION EXTENSION

Mr. MCCAIN. Mr. President, in regards to the issue which has been holding up the proceedings of the Senate, that is the extension of the highway bill and the issue tied to it, which is the charter of the 9/11 Commission chaired by Governor Keane and former Congressman Lee Hamilton, we have been in extensive discussions all day long. I would like to begin by thanking the majority leader as well as the Senator from Nevada for their patience, but also their involvement in trying to help bring about a resolution to this issue. They have certainly done everything in their power.

The upshot of it is that the Senator from Connecticut and I have been in conversations with former Congressman Hamilton and Governor Keane. As we understand from our conversations with them, they are scheduled to meet with the Speaker on Tuesday, this coming Tuesday, and that their chief of staff, the general counsel of the Commission, has been assured by the chief of staff of the Speaker that at that time the Speaker will agree to an additional 30 days in addition to the 60 days that the Commission will need to operate, and will be then given an additional 30 days in which to wrap up their report. That is satisfactory to Congressman Hamilton and Governor Keane. Both of them have personally assured me that is satisfactory to them. They will be proceeding on the assumption that they will receive an additional 30 days, as well as the 60-day extension.

I hope, as a result of this, that the House will take up and pass the bill reported out of the Senate Intelligence Committee which the Senate majority leader had approved by a voice vote earlier today. It seems to me that is the most reasonable resolution.

I thank the majority leader again for his patience and hard work in this effort, including visits over on the other side of the Capitol. He certainly performed above and beyond.

May I finally say I believe that the Commission will now receive an additional 60 days of work plus 30 days to wrap up, and hopefully this issue will be resolved.

I thank my friend from Connecticut who has always done such great work.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, very briefly, let me join the Senator from Arizona in thanking the majority leader, the Senator from Nevada, and our colleagues for working together. We have, in fact, in the words of Scripture, ''reasoned together,'' have we not? It may have taken longer than it should have, which is not unusual for the Congress, but we have reached a just result. I am grateful to the Speaker for having agreed to the extension of the deadline during which the Commission investigating September 11 will have to report by the 2 months that the Commission itself, the bipartisan Commission, requested and now having apparently indicated to at least staff of the Commission that he is prepared, in addition to the 2-month extension for the report to be completed, to have an additional 30 days for a winddown period. But this will be worked out in detail.

As Senator MCCAIN said, the easiest way to do this is the way we all started today, which was with the Senate bill adopted that, in fact, does this 2-month extension for the report, 30 days for winding down of the Commission.

The basic principle is the enormity of what happened, the horror of what happened on September 11, 2001, that none of us want to ever happen again. That is what this Commission was created to investigate, and then advise us how to avoid.

There never should have been on the question of the search for truth about September 11 a time deadline which the Commission itself believed was too short to complete their work. I think we have now opened a path—a door—to give it the time it needs to complete its work, which is going to be critical to us as we continue to protect the security of the American people at home.

Again, I thank everybody for being part of it.

Once again, it reminds me of the truth of what I said a short while ago. It is good to be back in the Senate where sometimes it takes a little longer but good things actually get done. This is one of them.

I thank my colleagues, and I thank my friend from Arizona. He is a great and principled fighter for what is right.

The majority leader is bipartisan.

I thank the Chair.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, I want to say on behalf of the minority leader that we certainly thank Senator MCCAIN and Senator LIEBERMAN for their persistence in accomplishing something that is important.

I extend my appreciation to the majority leader for his patience. His job is a difficult job. He has 99 of us to put up with. Even though we are the most reasonable people in the world most of the time, once in a while it happens that we are not, and that makes his life more difficult. Having been involved in working with leaders for a while now, I appreciate his patience. It is an admirable quality.

Having worked with the very patient Senator LIEBERMAN since he came to the Senate, I have such great admiration for him. I am personally disappointed that it didn't work out better for him on the campaign trail. But we are really happy to have him back. He is such a great addition to the Senate.

My friend from Arizona is one peg ahead of me in seniority. I am No. 1778 and he is No. 1777 as far as the number of Senators coming here. Senator MCCAIN is a unique individual. Every day, serving with him is an experience. The vast majority of those experiences are extremely good.

(Laughter.)

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. FRIST. It is an experience, Mr. President.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

TECHNICAL CORRECTION TO PUBLIC LAW 108–199

Mr. STEVENS. Mr. President, I and my colleagues would like to engage my friend, the majority leader, in a colloquy regarding a necessary change

that must be made to the Transportation, Treasury, and Independent Agencies Appropriations Act for Fiscal Year 2004. This change pertains to the administration of the Federal Aid Highway Program and corrects a technical drafting error in the original bill. This technical correction must be enacted soon so as not to create unnecessary confusion as to how the program is to be administered.

It was my expectation and that of several of my colleagues that this technical correction would be included as part of the temporary extension bill that was to be adopted today to extend the Federal Aid Highway Program for an additional 2 months. However, since it is the desire of the majority leader to have the Senate pass the House-passed bill that was adopted last evening, we are not in a position to have the technical correction included in the bill at this time. It is essential that this correction be enacted into law at the earliest possible date. It must be enacted into law during the next few weeks so that the intent of the appropriations act can be carried out as intended.

Mr. BYRD. I share the concern of my chairman, Senator STEVENS, on this matter and join with him in insisting that the Senate attend to this matter on a legislative vehicle that will be enacted into law very soon. This matter is of the utmost urgency, if we are not to create confusion at the Federal Highway Administration as to how this program is to be implemented.

Mr. SHELBY. As the chairman of the Transportation, Treasury and General Government Appropriations Subcommittee, I, too, wish to echo the adamant view of Chairman STEVENS that this provision must be enacted into law in the next few weeks.

Mrs. MURRAY. As the ranking member of the Appropriations Subcommittee on Transportation, Treasury and General Government, I also must insist that this technical correction be adopted immediately. The provision in question simply ensures that the program will be administered in the same manner as it has been in previous years. It must be enacted into law at the earliest possible date.

Mr. FRIST. I thank my colleagues for bringing this matter to my attention. As the bipartisan leaders of the full Appropriations Committee and its Transportation Subcommittee, they have all been unified and consistent in their view as to the legislative intent of the 2004 appropriations act. They have been equally unified in their insistence that this matter be fixed as quickly as possible.

Given the fact that the other body has now adjourned, we are required to pass a bill without this technical correction in order to keep the highway program operating beyond its expiration date of this Sunday, February 29. I give my personal assurance to my colleagues that, in the coming few weeks, I will work with my Senate colleagues as well as with the House leadership to ensure that the necessary technical correction is incorporated in a legislative vehicle that the President will sign in the very near future. I share their hope that this can be accomplished prior to the expiration of the short term highway extension bill that we will be adopting today.

Mr. BOND. Mr. President, I have the pleasure of serving both as chairman of the Transportation and Infrastructure Subcommittee of the Environment and Public Works Committee and a member of the Transportation/Treasury Appropriations Committee. I want to join with my colleagues on the Appropriations Committee in emphasizing the urgency of adopting this technical correction as soon as possible. I also want to join with the majority leader and commit myself to seeing to it that this correction is enacted into law in the next few weeks.

Mr. REID. I serve as the ranking member of Transportation and Infrastructure Subcommittee and I, like Chairman BOND, also serve on the Transportation/Treasury Appropriations Subcommittee. In both of those capacities, I want to commit myself to getting this important technical correction enacted into law at the earliest possible date.

SURFACE TRANSPORTATION EXTENSION ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 3850, the highway program extension bill, which is at the desk. I further ask unanimous consent that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The bill (H.R. 3850) was read a third time and passed.

Mr. FRIST. Mr. President, before making further remarks, I wanted to make sure that was done.

As we started about 7 hours ago, we had two issues. One was the extension which we passed.

There have been a lot of people over the course of the day who have wondered whether they were going to get paychecks on Monday and whether they would show up for work on Monday. After all of this, we have settled pretty much both issues in terms of moving forward. The highway extension has just been passed. So for those people who were on furlough and wondering what was going on today, they are going to be OK on Monday.

BLACK HISTORY MONTH

Mr. REID. Mr. President, in 1926, historian Carter G. Woodson designated the second week of February as ''Negro History Week,'' an opportunity for America to recognize the achievements and contributions made by African Americans.

As a result of promoting our Nation's history of diversity, and advancing tolerance and civil rights, this week was extended into a month in 1976.

Today, Black History Month serves as more than just a reminder of African American culture. It serves as a reminder of how far America has come in the areas of tolerance, civil rights, and diversity and far we have yet to go.

Black History Month conjures up familiar heroes for all of us: Rosa Parks and her legendary defiance; Dr. Martin Luther King, Jr. and his historic leadership; Supreme Court Justice Thurgood Marshall and his equitable judgment.

There are also inventors and physicians who may be less familiar to some of us: Granville Woods, who was granted more than 60 patents for inventions including steam-driven engines and a telephone transmitter; and Dr. Charles Drew, a medical professor at Howard University who, among other things, developed a way to extend the storage life of blood from two days to 1 week.

Interestingly, Elijah McCoy, the developer of the locomotive lubricator, is responsible for one of the most familiar expressions in the English language. Mr. McCoy, in an attempt to promote his product, coined a catchy slogan to remind railroad engineers that his original invention was the best: ''The Real McCoy.''

These are just some of our national heroes and heroines who achieved social, political, economic, and scientific goals. By reaching their own goals, they also contributed their strength and innovation to the collective American thought.

While the southern United States is the birthplace of many significant achievements in African American history, there are also accomplishments of note in western States, including my native Nevada.

Among the African American men and women who hailed from or made significant contributions to Nevada, there are a few pioneers I want to introduce to you.

At a time when black people were not invited to participate in the political process or the business world, there was a group of ranchers in Nevada who thought differently.

Ben Palmer, who was noted as ''one of the heaviest taxpayers in Douglas County,'' was a hugely successful rancher and businessman.

This may seem commonplace today. But at the time when he was prospering, blacks couldn't even vote, serve on a jury, testify against whites, send their children to public school, or marry whites.

Mr. Palmer lived in Carson Valley, NE, which is not only one of the most beautiful parts of the State, but also served as an early route for the migration to California.

It didn't take long for him and his sister to deduce that, by establishing

ranches, they could turn a profit by providing care for weary travelers and their livestock.

Since there was no Federal authority over much of the land at that time, ranchers used to just claim a spot of land and water rights; then they would start to sell grazing rights to emigrants and cut grass to provide feed during the winter.

By the 1870's, Palmer had established himself as a prosperous cattleman. It was reported in the Carson Valley News that he had driven 1,500 head of cattle from Seattle to Carson Valley to replenish his herd. He also introduced fine horses into the Valley, pioneering locally with the Bonner breed.

Despite the legal restrictions facing African Americans during this time, Palmer was so highly regarded that he was invited to register to vote in the Mottsville precinct before the 15th Amendment to the Constitution was passed.

It is recorded that in 1876 and 1878, he was selected to be a member of a Douglas County grand jury, and was named to the panel of trial jurors for that year's term of the District Court.

When the residents of Carson Valley launched a short-lived political organization, the National Greenback and Workingmen's Party, a county central committee was selected and Ben Palmer was one of the committee members representing the Mottsville precinct.

He couldn't read or write, but that didn't stop him; he wasn't supposed to vote or serve on a jury, but he did anyway; the color of his skin was supposed to prevent him from participating in the political process, but he pressed ahead.

It is no wonder that his obituary in the Record-Courier said that, ''He met success in every meaning of the word and leaves one of the finest farms in Carson Valley as a monument. He bore a man's part in the battle of life, bore it bravely, gently and without ostentation. He believed in the right and practiced the right always.''

Treasure Hill and Virginia City are two other areas of Nevada where African Americans overcame restrictions to find success.

The mining prospects in Nevada and other parts of the West attracted people from all races and walks of life in search of gold.

Black people came to Nevada in hopes of securing mining jobs and finding prosperity for themselves. Unfortunately, most mines would not hire blacks, as some whites quipped that they would be too ignorant to tell one rock from another.

This discriminatory perspective may explain why there were only six black people recorded as official miners in Nevada in 1870. Another reason for their widespread absence from the mining industry may be their exclusion from unions.

Despite these obstacles, African Americans had considerable success mining in Treasure Hill in eastern Nevada from 1868 to 1870, noted as ''probably the shortest, most intense mining rush in the history of the West.''

In April 1869, a group of black miners, headed by William Hall and J.C. Mortimer, announced their discovery of a rich mining ledge in Treasure Hill and vowed that they would ''supply (their) colored brethren of the low countries with mines as good as any a white man dare own.''

Messrs. Hall and Mortimer incorporated the Elevator Mining Company of Treasure Hill, White Pine, and planned to issue 6,000 shares of stock at $100 each.

Treasure Hill was an economic advance for blacks and the area was home to several wealthy families: Samuel Wilcox, Daniel W. Cherry, John Maxwell, Sanford Venery, and Joseph Anderson.

After fires and poor prospects drove many residents out, Treasure Hill was left with only one black resident and only eight black residents in White Pine County.

Another mining district, the Comstock Mining District, was founded in 1859 and was once considered to be one of the richest gold and silver discoveries in history.

Blacks who had come to Virginia City in hopes of securing jobs in the industry would face discrimination; however, when their mettle was tested, most were resolute to become business owners. Although there is no documentation of a particular neighborhood or area where they lived, there is a scant record of the number of businesses they owned and operated.

One of the most successful businesses in Virginia City was the Boston Saloon. In 1864, William A.G. Brown founded the Boston Saloon only a year after arriving from Massachusetts and initially working as a bootblack and street polisher.

The Boston Saloon catered to the Comstock black population and served as a place to socialize and exchange information about business opportunities.

Archeologists and historians discovered the site of the Boston Saloon in 1997 and quickly determined that uncovering the history behind the specific characteristics of the saloon and its patrons would help reveal an important chapter of African American history in the early west.

Ranchers, frontiersmen, miners, business owners—all success stories during a time when success was discouraged or denied by ignorance and discrimination.

These are just a handful of the African Americans who made important contributions toward the early establishment of Nevada and the early West. Countless others have gone unnoticed or uncelebrated.

I commend Dr. Elmer Rusco of Reno for his tireless leadership in attempting to chronicle the contributions of African Americans in Nevada. It is due to his scholarship that much of Nevada's black history is preserved and presented.

I am honored to share these nuggets of Nevada history on behalf of the African Americans who helped establish the great Silver State, and in honor of Black History Month.

Mr. LAUTENBERG. Mr. President, for the past month, we have been celebrating Black History Month.

I believe that Black History Month is not only a time to recognize the contributions and achievements of African Americans to this Nation, but it is also a time to acknowledge both progress African Americans have made and the continued racial disparities in this Nation.

We usually celebrate African-American athletes, musicians, and actors. While their successes have been significant, I feel it is important that we acknowledge some of the great thinkers, inventors, and discoverers who were African American.

Some of the great pioneers include Dr. Charles Drew, who discovered the process for storing blood plasma; Garrett Morgan, who was the first to patent the traffic light and the gas mask; Granville T. Woods, who invented a train-to-station communication system; Astronaut Mae Jamison, the first African-American woman to enter space; Dr. Benjamin Carson, who successfully separated Siamese twins joined at the head; and Otis Boykin who invented the electronic control devise for guided missiles, IBM computers, and the pacemaker.

These great innovators and pioneers not only blazed the trail for other young African Americans to follow, but they also inspired and contributed to American development and progress. Therefore, these pioneers were not only great African Americans, they were quintessentially American.

During this time when our Nation's military is engaged in conflicts throughout the world, I would like to acknowledge the contributions that African Americans have made to every war in American history. Today, African Americans serve a vital part of the troops deployed throughout the world, including Afghanistan and Iraq. Almost 22 percent of the members of our enlisted armed services are African-American.

Despite all of these important accomplishments, African Americans have yet to enjoy true racial equality in this Nation. And, in the absence of real equality, African Americans are being denied the essence of what it means to be a first-class American.

Statistics are the clearest barometer for determining and measuring the quality of life in American society and far too many of them reveal that African Americans continue to lag behind whites in important ways.

In January 2004, the national unemployment rate was 5.6 percent overall but just 4.9 percent for white Americans while it was 10.5 percent—more than twice as high—for African Americans.

The national poverty rate rose, for the second straight year, to 12.1 percent in 2002, from 11.7 percent the year before. In 2002, the national poverty rate for African Americans was 22.7 percent.

In 1999, median income for African Americans was $31,778, compared to $51,244, for the median income of white families. According to one report, in 1995, average white households had $18,000 in financial wealth, while African-American households possessed a total of only $200.

These statistics show the depth of racial inequality in America. In addition to economic disparities, the incarceration rate of African Americans, especially African-American males, is deeply disturbing.

Today, black men make up 41 percent of the inmates in Federal, State, and local prisons, but black men are only 4 percent of all students in American institutions of higher education, according to the Journal of Blacks in Higher Education, autumn 2003.

According to a recent study, while African Americans are 13 percent of the population of my home State of New Jersey, they represent a staggering 63 percent of New Jersey's 27,891 State prisoners in 2002.

About 10 percent of all black men between 25 and 29 were incarcerated in 2002, compared with 1.2 percent of white men and 2.4 percent of Hispanic men

Not only are African Americans imprisoned in disproportionately high numbers, they are disproportionately the victims of crimes, as well. In New Jersey, out of 341 total homicides by guns in 2002, 138 of those victims were African American. In 2000, more than 6,200 African Americans were killed by guns. In the 15 to 24 age group, firearm homicides were responsible for more than 86 percent of homicides suffered by African Americans. In the next age group up, 25 to 34, firearm homicides were more than 81 percent of homicides. In both cases firearm homicides were the number one cause of death for African Americans. The homicide victim rate for African Americans, 20.5 per 100,000 persons, is over six times that of whites, 3.3 per 100,000 persons.

I highlight these statistics about our Nation and my home State because the problems confronting the African-American community are in New Jersey, and they are in every State. We all bear responsibility to acknowledge them, to confront them, to help remedy them.

There are no easy answers to the problems African Americans face, but as Theodore Roosevelt put it a century ago, ''This country will not be a really good place for any of us to live in if it is not a really good place for all of us to live in.'' So while we take this opportunity to celebrate the wonderful accomplishments of African Americans through the ages, we should also rededicate ourselves to making America a really good place for all of us to live in.

Mr. LEVIN. Mr. President, every February nationwide we celebrate the diverse and monumental contributions African Americans have made not only for the advancement of African Americans but for all people of our Nation.

This celebratory month was made possible by Dr. Carter G. Woodson, an African-American studies scholar, who proposed such a recognition as a way of preserving African-American history. In keeping with the spirit and vision of Dr. Carter G. Woodson, I would like to pay tribute to one courageous woman, Sojourner Truth, who lived and died in Battle Creek, MI, and who played a significant role in addressing injustice and inequality in America. Sojourner Truth was a leader in the abolitionist movement and a powerful voice in the women's suffrage movement, playing a pivotal role in ensuring the right of all women to vote. Sojourner Truth changed the course of history.

Sojourner Truth was unable to read or write, but she mesmerized others by her speeches addressing the inhumanity and immorality of slavery. In 1851, Sojourner delivered her famous ''Ain't I a Woman?'' speech at the Women's Convention in Akron, OH. She spoke from her heart about the most troubling issues of her time. Her words on that day in Ohio are a testament to Sojourner Truth's convictions and are a part of the great legacy she left for us all.

I am proud and the people of my State are proud to claim this legendary leader as our own. In September 1999, we honored Sojourner Truth with the dedication of the Sojourner Truth Memorial Monument, which was unveiled in Battle Creek, MI.

Sojourner Truth was a political and social activist who personally conversed with President Abraham Lincoln on behalf of freed, unemployed slaves, and campaigned for Ulysses S. Grant in the Presidential election in 1868. Sojourner was a woman of great passion and determination who was spiritually motivated to preach and teach in ways that have had a profound and lasting imprint on American history.

Sojourner Truth was born Isabella Baumfree in 1797 in Ulster County, NY, and served as a slave under several different masters. She bore four children who survived infancy, and all except one daughter were sold into slavery. Baumfree became a freed slave in 1828 when New York State outlawed slavery. She remained in New York and instituted successful legal proceedings to secure the return of her son, Peter, who had been illegally sold to a slave-owner from Alabama.

In 1843, Baumfree changed her name to Sojourner Truth and dedicated her life to traveling and lecturing. She began her migration west in 1850, where she shared the stage with other abolitionist leaders such as Frederick Douglass. In October 1856, Truth came to Battle Creek, MI, with Quaker leader Henry Willis to speak at a Friends of Human Progress meeting. She eventually bought a house and settled in the area. Her antislavery, women's rights, and temperance arguments brought Battle Creek both regional and national recognition. Sojourner Truth died at her home in Battle Creek, November 26, 1883, having lived quite an extraordinary life.

I ask unanimous consent that the text of the Sojourner Truth ''Ain't I a Woman'' speech be printed in the RECORD.

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

AIN'T I A WOMAN?

(By Sojourner Truth)

Well, children, where there is so much racket there must be something out of kilter. I think that 'twixt the negroes of the South and the women at the North, all talking about rights, the white men will be in a fix pretty soon. But what's all this here talking about?

That man over there says women need to be helped into carriages, and lifted over ditches and to have the best place everywhere. Nobody ever helps me into carriages, or over mud puddles, or gets me any best place!

And Ain't I a Woman?

Look at me! Look at my arm! I have ploughed, and planted, and gathered into barns, and no man could head me!

And Ain't I a Woman?

I could work as much and eat as much as a man—when I could get it—and bear the lash as well!

And Ain't I a Woman?

I have borne five children and seen most all sold off to slavery, and when I cried out with a mother's grief, none but Jesus heard me.

And Ain't I a Woman?

Then they talk about this thing in the head; what's this they call it? (member of the audience whispers 'intellect') That's it, honey.

What's that got to do with women's right or negroes' rights? If my cup won't hold but a pint, and your holds a quart, wouldn't you be mean not to let me have my little half measure full?

Then that little man in black there, he says women can't have as much rights as men, cause Christ wasn't a women?

Where did your Christ come from? Where did your Christ come from? From God and a woman! Man had nothing to do with Him.

If the first woman God ever made was strong enough to turn the world upside down all alone, these women together ought to be able to turn it back, and get it right side up again! And now they is asking to do it, the men better let them.

Obliged to you for hearing me, and now old Sojourner ain't got nothing more to say.

FIRST ANNIVERSARY OF THE DEPARTMENT OF HOMELAND SECURITY

Ms. COLLINS. Mr. President, it has been nearly 2½ years since a monstrous act of war was committed against the United States. The American people responded to the attacks of September 11 with courage—courage that was evident that horrible day in the heroic actions of the passengers on Flight 93, in the firefighters and police officers at Ground Zero, and in the Pentagon employees who led their co-workers to safety through fire, smoke, and rubble.

That courage is evident today in the men and women of our Armed Forces on the front lines in the war on terrorism and in the ordinary Americans

across the country who carry on normal, productive lives, refusing to be terrorized by terrorism.

President Bush and Congress responded by recognizing that this was a different kind of war with a different kind of enemy. Together we saw that this enemy used as a weapon the freedom and openness that Americans cherish but that it despises. We realized that our efforts to defend our Nation against this unconventional and unprincipled enemy were hampered by the lack of a unified strategy. To revisit a phrase used so often in the aftermath of September 11, we were not connecting the dots. We knew that turf battles, communication gaps, and interagency rivalries could no longer be tolerated. The stakes were too high.

The Department of Homeland Security is perhaps the most significant manifestation of the efforts undertaken by the President and Congress to create that unified strategy, to connect those dots, to coordinate this urgent new mission. The Senate Committee on Governmental Affairs, which I chair, played a key role in creating the department and is helping it to succeed.

My committee swiftly confirmed eight talented and dedicated individuals to lead the department, including Secretary Ridge himself. We have held hearings and investigations on a wide range of homeland security issues, from the President's plan to better coordinate intelligence analysis and sharing, to unraveling the tangled web of international terrorism financing, to protecting American agriculture from sabotage, to securing our seaports. We have approved bills to reform the department's multi-billion dollar State grant program, to provide cutting edge technology to first responders, to help the department attract talented individuals with sought-after skills, and to ensure accountability within DHS's financial system.

Now the department is 1 year old. And in the span of just 1 year, the Department of Homeland Security, under the leadership of Secretary Tom Ridge, has made significant, even remarkable, progress.

The melding of 22 Federal agencies and 180,000 employees has occurred with some of the resistance we all expected but without the widespread turf battles many predicted. The level of cooperation and coordination within this new department, though not perfect, is a vast improvement over the previous, ad hoc structure. The initial focus upon airport security has been expanded to include other vulnerabilities, such as seaport and border security. The department has distributed billions of dollars to our first responders—the local and State emergency personnel on the front lines—for the equipment, training and guidance to carry out their vital missions. And we will continue to work with Secretary Ridge to ensure that a steady stream of funding is available for those efforts.

Of course, challenges lie ahead for this new agency, for the President and for this Congress. As we change, so does our enemy. As we address vulnerabilities, he seeks out new ones to exploit. As we move to protect our most high-profile targets in our major cities, we must always be aware that our small cities, towns and countryside are at risk as well. As we improve security at our borders, we must strive to keep them open to friendship and to commerce. As we defend our Nation against future attacks, we must never sacrifice the liberty that makes our Nation so worthy of being defended.

In an address given February 23 before the Homeland Security Institute, Secretary Ridge offered a first anniversary assessment of his department's accomplishments. He charted an ambitious but necessary course for its second year, and he described his vision for the years ahead.

Secretary Ridge pledge that the department will pursue the development of new technologies to combat terrorism. Analysis tools and detection equipment are keys to thwarting nuclear, chemical and biological attacks before they occur. We must, as he said, button up our lab coats and push the scientific envelope by forging new partnerships among government, the private sector, national laboratories and university research centers.

The Secretary pledged to strengthen information sharing among the public and private sectors and to create standards for communications and equipment. ''Interoperability'' is a cumbersome word, but it is one we all should add to our vocabularies. Only by improving communications and ensuring that equipment works across jurisdictions will our front-line defenders and our first responders be able to better detect attacks and to coordinate their efforts during an emergency.

Secretary Ridge pledged to integrate our port and border security systems in a way that does not impede the flow of trade and travel across our borders, a critical goal for border States like Maine. The department's first year produced much progress: screeners, air marshals and state-of-the-art technology have made air travel safer. Traffic through our ports and our borders, which nearly ground to a halt after the attacks, is moving with speed, efficiency and greater security: more than 500 million people, 130 million motor vehicles, and millions more railcars and containers are processed at our borders every year. At the same time, container inspection has been expanded from our own shores to 16 key overseas ports.

Borders will always be a point of vulnerability for any free society. In partnership with the private sector and our international allies, we can reduce that vulnerability without unduly impeding the flow of legitimate commerce.

The Committee on Governmental Affairs stands ready to assist the Department as it begins its second year. We will continue to provide the department with the authority it needs to protect our Nation, and we will continue our aggressive oversight of its programs and activities. At times, we may disagree with the department, but our goal is always to improve the department and to recognize the extraordinary progress made by Secretary Ridge and Deputy Security Loy, their talented leadership team, and the dedicated men and women in the department who work each and every day to strengthen our security.

PRYOR RECESS APPOINTMENT

Mr. LEAHY. Mr. President, during the Presidents Day break in the Senate session, President Bush chose to act unilaterally to appoint William Pryor to the Eleventh Circuit Court of Appeals. Over the past few weeks, I have shared with the Senate three other divisive developments regarding judicial nominations: The Pickering recess appointment, the renomination of Claude Allen, and the theft of Democratic computer files by Republican staff. In spite of all those affronts, Senate Democrats cooperated in confirming two additional judicial nominees this year and continue to participate in hearings for judicial nominees. We have done so without the kinds of delays and obstruction that Republicans relied upon to stall more than 60 of President Clinton's judicial nominees.

Today, I report upon the President's appointment of William Pryor in what the Democratic leader has properly termed an abuse of power. It was an abuse of the limited constitutional authority of the executive to make necessary recess appointments only when the Senate is unavailable. This is unprecedented.

Actions like this show the American people that this White House will stop at nothing to try to turn the independent Federal judiciary into an arm of the Republican Party. Doing this further erodes the White House's credibility and the respect that the American people have for the courts.

This is an administration that promised to unite the American people but that has chosen time and again to act in ways that divides us, to disrespect the Senate and our representative democracy. This is an administration that squandered the goodwill and good faith that Democrats showed in the aftermath of September 11, 2001.

This is an administration that refused to acknowledge the strides we made in filling 100 judicial vacancies under Democratic Senate leadership during 17 difficult months in 2001 and 2002, while overcoming the September 11 attacks, the subsequent anthrax attacks and in spite of Republican mistreatment of scores of qualified, moderate judicial nominees of President Clinton.

This is an administration that has once again demonstrated its

unilateralism, arrogance and intention to divide the American people and the Senate with its controversial judicial nominations. With this appointment, the President is acting—as he has in so many areas over the past 3 years—unilaterally, overextending and expanding his power, with disregard for past practice and the rule of law.

The recess appointment of Mr. Pryor threatens both the independence of the judiciary and the constitutional balance of power between the legislative and executive branches. We entrust to the stewardship of lifetime judges in our independent Federal judiciary the rights that all of us are guaranteed by our Constitution and laws. That is an awesome responsibility. Accordingly, the Constitution was designed so that it would only be extended after the President and the Senate agreed on the suitability of the nomination.

The President has chosen for the second time in as many months to circumvent this constitutional design.

I have sought in good faith to work with this administration for the last 3 years in filling judicial vacancies, including so many left open by Republican obstruction of President Clinton's qualified nominees. When chairman, I made sure that President Bush's nominees were not treated the way his predecessor's had been. They were treated much better, as I had promised.

Republicans had averaged only 37 confirmations a year while vacancies rose from 65 to 110 and circuit vacancies more than doubled from 16 to 33. Under Democratic leadership, we reversed those trends and opened the system to public accountability and debate by making home-State Senators' objections to proceeding public for the first time and debating and voting on nominations. We were able to confirm 100 judges in just 17 months and virtually doubled the Republican annual average with 72 confirmations in 2002, alone.

I have urged that we work together, that we cooperate, and that the President be what he promised the American people he would be during the last campaign—a uniter and not a divider. I have offered to consult and made sure we explained privately and in the public record why this President's most extreme and controversial nominations were unacceptable. Our efforts at reconciliation continue to be rebuffed.

Both these recess appointments are troubling. The President says that he wants judges who will ''follow the law'' and complains about what he calls ''judicial activism.'' Yet, he has acted—with disregard for the constitutional balance of powers and the Senate's advice and consent authority—unilaterally to install on the Federal bench two nominees from whom the Senate withheld its consent precisely because they are seen by so many as likely to be judicial activists, who will insert their personal views in decisions and will not follow the law.

In the case of Mr. Pryor, he is among the most extreme and ideologically committed and opinionated nominees ever sent to the Senate. Mr. Pryor's nomination to a lifetime appointment on the Federal bench was opposed by every Democrat on the Senate Judiciary Committee after hearings and debate.

It was opposed on the Senate floor because he appears to have extreme—some might say, ''radical''—ideas about what the Constitution should provide with regard to federalism, criminal justice and the death penalty, violence against women, the Americans with Disabilities Act, and the Government's ability to protect the environment on behalf of the American people. He has been a crusader for the federalist revolution. He has urged that Federal laws on behalf of the disabled, the aged, women, minorities, and the environment all be limited.

His comments have revealed insensitivity to the barriers that disadvantaged persons and members of minority groups and women continue to face in the criminal justice system. He has testified before Congress in support of dropping a crucial part of the Voting Rights Act and has repeatedly described the Supreme Court and certain justices in overtly political terms. He received the lowest possible qualified rating from the American Bar Association—a partial rating of ''Not Qualified''—underscoring his unfitness for the bench.

In sum, Mr. Pryor has demonstrated that he is committed to an ideological agenda that puts corporate interests over the public's interests and that he would roll back the hard-won rights of consumers, minorities, women, and others.

Mr. Pryor's nomination was considered in committee and on the Senate floor. The Senate debated his nomination, and had enough concerns about his fitness for a lifetime appointment that two motions to end debate on his nomination failed. That is the constitutional right of the Senate.

But President Bush has decided to use the recess appointment clause of the Constitution to end-run the Senate. As far as I know, this power has never been used this way before this President. Of course, this is the first President in our Nation's history to renominate someone rejected after hearings, debate and a fair vote by the Senate Judiciary Committee. He did that twice. He has now twice overridden the Senate's withholding of its consent after hearings and debate on judicial nominees. This demonstrates contempt for the Constitution and the Senate.

The New York Times opined over the weekend about ''President Bush . . . stacking the courts with right-wing judges of dubious judicial qualifications'' and even the Washington Post editorialized that recess appointments of judges ''should never be used to mint judges who cannot be confirmed on their merits.''

The recess appointments clause of the Constitution was not intended to change the balance of power between the Senate and the President that is established as part of the fundamental set of checks and balances in our government. Indeed, the appointments clause in the Constitution requires the consent of the Senate as just such a fundamental check on the executive. This was meant to protect against the ''aggrandizement of one branch at the expense of the other.''

The clause was debated at the Constitutional Convention, and the final language—with shared power—is intended to be a check upon favoritism of the President and prevent the appointment of unfit characters.

The President's claimed power to make a unilateral appointment of a nominee, Mr. Pryor, who the Senate considered and effectively rejected, slights the Framers' deliberate and considered decision to share the appointing power equally between the President and the Senate.

This President's appointment of Mr. Pryor to the Eleventh Circuit—after he was considered by the full Senate—seems irreconcilable with the original purpose of the appointments and recess appointment clauses in the Constitution. Perhaps that explains why the Pryor and Pickering recess appointments by this President are the first times in our centuries-long history that the recess appointment power has been so abused. No other President so acted. No other President sought such unilateral authority without balance from the Senate.

The President chose to sully the Martin Luther King Jr. weekend with his unilateral appointment of Judge Pickering. Sadly, he chose the Presidents Day congressional break unilaterally to appoint Mr. Pryor. We resumed our proceedings in the Senate this week with the traditional reading of President George Washington's farewell address. The Senate proceeds in this way every year. I urge this President and those in his administration to recall the wisdom of our first President. George Washington instructs us on the importance of not abusing the power each branch is given by the Constitution. He urges the three branches of our government to ''confine themselves within their respective constitutional spheres.''

He said more than 200 years ago words that ring true to this day:

> The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. . . . The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositaries, and constituting each the guardian of the public weal against invasions by the others, has been evinced by experiments ancient and modern. . . . To preserve them must be as necessary as to institute them.

The current occupant of the White House might do well to take this wisdom to heart and respect the constitutional allocations of shared authority that have protected our nation and our

rights for more than 200 years so brilliantly and effectively.

The recess appointments power was intended as a means to fill vacancies when the Senate was not available to give its consent; it was intended to ensure effective functioning of the government when the Senate adjourned for months at a time. It was never intended as an alternative means of appointment by the executive when the President chose to serve some partisan short-term goal by simply overriding the will of the Senate especially with respect to our third branch of government, the Federal judiciary.

This administration and its partisan enablers in the Senate have again demonstrated their disdain for the constitutional system of checks and balances and for shared power among the three branches of our Federal Government. By such actions, this administration shows that it seeks all power consolidated in the executive and that it wants a Judiciary that will serve its narrow ideological purposes.

Such overreaching by this administration hurts the courts and the country. President Bush and his partisans have disrespected the Senate, its constitutional role of advice and consent on lifetime appointments to the Federal courts, the Federal courts, and the representative democracy that is so important to the American people. It is indicative of the confrontational and ''by any means necessary'' attitude that underlies so many actions by this administration and that created the atmosphere on this Committee in which Republican staff felt justified in spying upon their counterparts and stealing computer files.

After 8 years in office in which more than 60 judicial nominees had been stalled from consideration by Republican partisans, President Clinton made his one and only recess appointment of a judge. Contrast that appointment with the actions of the current President.

President Clinton acted to bring diversity to the Fourth Circuit, the last Federal circuit court not to have had an African-American member. Judge Roger Gregory was subsequently approved by the Senate for a lifetime appointment under Democratic Senate leadership in the summer of 2001. This was made possible by the steadfast support of Senator John Warner, the senior Senator from Virginia, and I have commended my friend for his actions in this regard. When Judge Gregory's nomination was finally considered by the Senate it passed by consensus and with only one negative vote. Senator LOTT explained his vote as a protest vote against President Clinton's use of the recess appointment power. How ironic then that Judge Pickering now serves based on President Bush's abuse of that power.

Judge Gregory was one of scores of highly qualified judicial nominations stalled under Republican Senate leadership. Indeed, Judge Gregory and so many others were prevented from having a hearing, from ever being considered by the Judiciary Committee and from ever being considered by the Senate. Sadly, others, such as the nominations of Bonnie Campbell, Christine Arguello, Allen Snyder, Kent Markus, Kathleen McCree Lewis, Jorge Rangel, Carlos Moreno, and so many more, have not been reinstated and considered. But President Clinton did not abuse his recess appointment power. Instead, his appointment of Judge Gregory was in keeping with traditional practices and his use of that power with respect to judicial appointments was limited to that one occasion.

By contrast, the current President has made two circuit recess appointments in 2 months and his White House threatens that more are on the way. These appointments are from among the most controversial and contentious nominations this administration has sent the Senate. After reviewing their records and debating at length, the Senate withheld its consent. The reasons for opposing these nominations were discussed in hearings and open debate during which the case was made that these nominees were among the handful that a significant number of Senators determined had not demonstrated their fairness and impartiality to serve as judges.

Contrast Roger Gregory's recess appointment, which fit squarely in the tradition of President's exercising such authority in order to expand civil rights and to bring diversity to the courts, with that of Mr. PRYOR. Four of the five first African American appellate judges were recess-appointed to their first Article III position, including Judge William Hastie in 1949, Judge Thurgood Marshall in 1961, Judge Spottswood Robinson in 1961, and Judge Leon Higginbotham in 1964.

The recent appointments of Judge Pickering and Mr. Pryor stand in sharp contrast to these outstanding nominees and the public purposes served by their appointments.

The nominations of Judge Pickering and Mr. Pryor were opposed by individuals, organizations and editorial pages across the nation. Organizations and individuals concerned about justice before the Federal courts, such as Log Cabin Republicans, the Leadership Conference on Civil Rights, and many others opposed the Pryor nomination. The opposition extended to include organizations that rarely take positions on nominations but felt so strongly about Mr. Pryor that they were compelled to write, such as the National Senior Citizens Law Center, Anti-Defamation League, and Sierra Club. Rather than bring people together and move the country forward, this President's recess appointment is another example of unnecessarily divisive action.

Further, the legality of this use of the recess appointments power, without precedent and during such a short Senate break, is itself now a source of division and dispute. Recent Attorneys General have all opined that a recess of 10 days or less does not justify the President's use of the recess appointments power and would be considered unconstitutional. Starting in 1921, Attorney General Daugherty advised the President that he could make recess appointments during a mid-session adjournment of approximately four weeks but that 2 days was not sufficient ''nor do I think an adjournment for 5 or even 10 days can be said to constitute the recess intended by the Constitution.'' More recently, a memo from the Reagan administration Justice Department concluded: ''Under no circumstances should the President attempt to make recess appointment during intrasession recess of less than 10 days.'' This year, a Federalist Society paper noted the dubious constitutionality of appointments during short intrasession breaks.

We will not resolve the question of legality of these recess appointments here today, but we can all anticipate challenges to rulings in which Mr. Pryor participates. Thus, we can expect this audacious action by the administration will serve to spawn litigation and uncertainty for months and years to come.

I thank the Democratic leader for the statements he made this week in connection with the abuse of the recess appointment power by this President. I remind the Senate that a few years ago when President Clinton used his recess appointment power with regard to a short-term executive appointment of James Hormel to serve as ambassador to Luxembourg, Senator INHOFE responded by saying that President Clinton had ''shown contempt for Congress and the Constitution'' and declared that he would place ''holds on every single Presidential nomination.'' Republicans continued to block nominations until President Clinton agreed to make recess appointments only after Congress was notified in advance. On November 10, 1999, 17 Republican Senators sent a letter to President Clinton telling him that if he violated the agreement, they would ''put holds for the remaining of the term of your Presidency on all of the judicial nominees.''

In November 1999, President Clinton sent a list of 13 positions to the Senate that he planned to fill through recess appointments. In response, Senator INHOFE denounced 5 of the 13 civilian nominees with a threat that if they went forward, he would personally place a hold on every one of President Clinton's judicial nominees for the remainder of his term. That led to more delays and to the need for a floor vote on a motion to proceed to consider the next judicial nomination, in order to override Republican objections.

When President Clinton appointed Judge Gregory at the end of 2000, Senator INHOFE called it ''outrageously inappropriate for any President to fill a federal judgeship through a recess appointment in a deliberate way to bypass the Senate.'' When the Gregory

nomination was confirmed with near unanimity under Senate Democratic leadership in 2001, Senator LOTT's spokesperson indicated that Senator LOTT's solitary opposition was to underscore his position that ''any appointment of federal judges during a recess should be opposed.''

PROGRESS OF FILLING JUDICIAL VACANCIES

The American people understand that Democrats in the Senate have shown great restraint and extensive cooperation in the confirmation of 171 of this President's judicial nominations. Republicans are loath to acknowledge that cooperation but with it this President has been achieving record numbers of judicial confirmations and we have reduced judicial vacancies to the lowest level in decades. Despite the unprecedented political upheavals and the aftermath of September 11, as of today, the Senate has already confirmed more judges than were confirmed during President Reagan's entire first 4-year term. Indeed, at this point in President Clinton's last term, only 140 judges had been confirmed, as compared to the 171 confirmed and two recess appointed by this President.

The President's recent actions are unnecessarily divisive and harmful. We have already achieved much. If the President would work with the Senate, we could achieve so much more.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

One such crime occurred in Tillamook, a small town on the Oregon coast. On February 11, 1999, James Ash, 48, and Kevin Hawthorn, 25, were charged with intimidation and assault for allegedly beating a man because of his sexual orientation.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

IN MEMORY OF MARY FRANCES DIAZ

● Mr. CARPER. Mr. President, I would like to set aside a moment to reflect on the life of Ms. Mary Frances Diaz upon her passing in February. Mary was a woman who made a remarkable contribution toward improving the lives of refugee women, children, and adolescents around the world. She was a truly selfless woman who dedicated her life to others.

Mary was born in Newport News, VA. She spent her childhood in Pottstown, PA, before going to Brown University, where she graduated with a major in international relations in 1982. After working for several years at WPVI television news station in Philadelphia, she returned to school and received a master's degree in international education from Harvard University in 1988.

But Mary's passion and life mission was refugees. While she was still at Harvard she began working for Catholic Charities in Boston, and upon graduation became director of refugee and immigration services there.

In 1994, at the age of 33, Mary became executive director of the Women's Commission for Refugee Women and Children, an organization that helps some of the most vulnerable people on Earth. For 10 years, Mary traveled to the world's trouble spots, dodging minefields, tsetse flies, and wars on her mission to help refugee women and children reclaim their lives. She went on fact-finding missions to places such as Serbia, Angola, Rwanda, Nepal, Pakistan, Haiti, and Colombia to talk to uprooted women and children firsthand.

Back in the United States and in Geneva, she would plead their cases before the United Nations and lobby lawmakers and relief agencies to improve their conditions. She also fought for the rights of people claiming asylum in the United States.

Her advocacy led to concrete results. After she reported on the situation in Bosnia, the Clinton administration provided a fund to help refugee women rebuild their lives. During a visit to Tanzania, she got the rules changed to allow Burundian women as well as men to distribute food to fellow refugees. As a result, many more women and their children got their food rations. After a visit to Afghanistan in 2002, Mary initiated a fund for programs for Afghan women.

Under Mary's leadership, the Women's Commission grew from a small organization with a staff of 4 and a budget of $425,000 to one with more than 20 staff and a budget of $4 million. She believed the international community had a responsibility to help women and children who had been uprooted by war and persecution, and in her quiet, elegant way, used her eloquence and strong persuasive powers to persuade policy makers to change policies and programs.

Mary, who was 43 years old, died of pancreatic cancer. She leaves behind her longtime partner, Tom Ferguson of New York City; her mother, Bertha Diaz of Pottstown, PA; two brothers, Dr. Philip Diaz of Columbus, OH, and Dr. Joseph Diaz of Barrington, RI; and two sisters, Theresa Diaz of Reading, PA, and Bernadette Diaz of Oak Park, IL. She also leaves behind innumerable friends and colleagues.

Mary's legacy will live on in the lives of the refugees around the world whose lives she helped improve and in the work of the Women's Commission for Refugee Women and Children. I rise today to commemorate Mary Diaz, to celebrate her too-short life and to offer her family, friends, and colleagues our support. She will be sorely missed.●

IN HONOR OF RITA DOLAN SELLAR

● Mr. REED. Mr. President, on Tuesday, February 24, 2004, an extraordinary resident of Newport, RI celebrated a monumental achievement, her 100th birthday.

Rita Dolan Sellar has led a full and exceptional life. She was born February 24, 1904, to Clarence Dolan and Rosalie Brown Dolan. She had two sisters, Rose and Alexandra.

As a young lady, Rita attended Foxcroft School in Virginia, where she is now the oldest living alumna. Later she married Norrie Sellar, and they traveled extensively throughout the world.

Rita and Norrie had five children: Daphne, Norrie, Rosalie, Owen, and Alexandra.

Rita was an accomplished and bold horsewoman, who in the 1930s founded and played on the first women's polo team, in Aiken, SC, and rode in fox hunts, steeplechase races, and jumping contests.

She was also an active sailor, who kept sailboats in Newport Harbor, and often sailed with her sister—one of America's first and most capable women sailors.

Her home in Newport, ''Seaweed,'' has hosted five generations of the family, innumerable cheerful parties and dinners, and an extensive array of friends, cousins, in-laws, and visitors. She is the oldest member of Newport's Spouting Rock Beach Association.

In addition to her 5 children, she has 15 grandchildren and 13 great-grandchildren, as well as 3 step-grandchildren and 6 step-great-grandchildren, of which she is the beloved, affectionate, and patient matriarch.

Rita Dolan Sellar has led a successful and remarkable life as evident by her many achievements and, more importantly, her large, loving and successful family which includes former Rhode Island Attorney General Sheldon Whitehouse.

I would like to congratulate Rita on her 100th birthday. This extraordinary moment is not about the number of years she has lived but the accomplishments she has made during those years and the excitement, pride, love, and joy she has brought to her many family and friends through her life. I wish Rita a happy birthday and many more.●

MEASURES REFERRED

The Committee on Energy and Natural Resources was discharged from

further consideration of the following measure which was referred to the Committee on Commerce, Science, and Transportation:

H.R. 2584. A bill to provide for the conveyance to the Utrok Atoll local government of a decommissioned national Oceanic and Atmospheric Administration ship.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2137. A bill to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 2142. A bill to authorize appropriations for the New Jersey Coastal Heritage Trail Route, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURBIN:

S. 2143. A bill to extend trade adjustment assistance to service workers; to the Committee on Finance.

By Mr. LUGAR:

S. 2144. A bill to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2005, for the Peace Corps for fiscal year 2005 through 2007, for foreign assistance programs for fiscal year 2005, and for other purposes; to the Committee on Foreign Relations.

By Mr. BURNS (for himself, Mr. WYDEN, and Mrs. BOXER):

S. 2145. A bill to regulate the unauthorized installation of computer software, to require clear disclosure to computer users of certain computer software features that may pose a threat to user privacy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. LANDRIEU (for herself, Mr. BAYH, Mr. BREAUX, Mr. BURNS, Mr. CHAFEE, Mr. CHAMBLISS, Mr. COCHRAN, Mr. DURBIN, Mr. FEINGOLD, Mr. JOHNSON, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MILLER, Mrs. MURRAY, Mr. NELSON of Florida, Mr. PRYOR, Mr. REID, Mr. SANTORUM, Ms. STABENOW, Mr. STEVENS, Mr. VOINOVICH, and Mr. WARNER):

S. 2146. A bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. COLLINS (for herself and Mr. REED):

S. Res. 306. A resolution designating March 2, 2004, as ''Read Across America Day''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 68

At the request of Mr. INOUYE, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 604

At the request of Mr. BAYH, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 604, a bill to amend part D of title IV of the Social Security Act to provide grants to promote responsible fatherhood, and for other purposes.

S. 683

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 683, a bill to amend the Family and Medical Leave Act of 1993 to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces serving on active duty in support of a contingency operation or notified of an impending call or order to active duty in support of a contingency operation.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1129

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1129, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1292

At the request of Ms. LANDRIEU, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1292, a bill to establish a servitude and emancipation archival research clearinghouse in the National Archives.

S. 1485

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1485, a bill to amend the Fair Labor Standards Act of 1938 to protect the rights of employees to receive overtime compensation.

S. 1510

At the request of Mr. LEAHY, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1510, a bill to amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States, and for other purposes.

S. 1516

At the request of Mr. DOMENICI, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 1516, a bill to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the commissioner of Reclamation, to carry out an assessment and demonstration program to assess potential increases in water availability for Bureau of Reclamation projects and other uses through control of salt cedar and Russian olive.

S. 1687

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1687, a bill to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System.

S. 1709

At the request of Mr. CRAIG, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1709, a bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

S. 1843

At the request of Ms. SNOWE, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1843, a bill to amend titles XIX and XXI of the Social Security Act to provide for FamilyCare coverage for parents of enrolled children, and for other purposes.

S.J. RES. 28

At the request of Mr. CAMPBELL, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S.J. Res. 28, a joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as ''National Visiting Nurse Association Week''.

S. RES. 269

At the request of Mr. LEVIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. Res. 269, a resolution urging the Government of Canada to end the commercial seal hunt that opened on November 15, 2003.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2631. Mr. LEVIN proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

SA 2632. Mr. LAUTENBERG proposed an amendment to the bill S. 1805, supra.

SA 2633. Mr. LAUTENBERG proposed an amendment to the bill S. 1805, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 2142. A bill to authorize appropriations for the New Jersey Coastal Heritage Trail Route, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. LAUTENBERG. Mr. President, I rise to introduce legislation to reauthorize the New Jersey Coastal Heritage Trail Route on behalf of myself and Senator CORZINE. This bill makes a number of important changes to legislation that was enacted in 1988 and reauthorized in 1994 and 1999.

The original legislation, which I cosponsored, called for a route that links nationally significant natural and cultural sites associated with the coastal area of New Jersey. The New Jersey Coastal Heritage Trail runs south for nearly 300 miles from Perth Amboy along the Atlantic Ocean to Cape May, then west along the Delaware Bay to the Delaware Memorial Bridge. Along the way are sites like the Barnegat Bay Decoy and Baymen's Museum, the Cape May Migratory Bird Refuge, and the Sandy Hook Unit of the Gateway National Recreation Area.

Five theme trails, of which three are open, are planned to showcase different aspects of New Jersey coastal life: maritime history, coastal habitats, wildlife migration, historic settlements, and relaxation/inspiration. The Trail is operated by a partnership that includes the National Park Service, the State of New Jersey, local communities, and private non-profit organizations. Fifty percent of the funding for the Trail is provided from non-federal funds.

My legislation raises the funding authorization for the New Jersey Coastal Heritage Trail to $8 million, doubling the current authorization of $4 million. The legislation also: extends the deadline for project completion by 5 years to May 4, 2009; allows funds to be used for grants in addition to technical assistance; and requires the National Park Service to prepare a strategic plan for the long-term maintenance of this coastal route. A companion bill, H.R. 3070, has been introduced in the House by Congressman LOBIONDO, with cosponsorship by the entire New Jersey delegation.

New Jersey has a long shoreline of which we are extremely proud. This bill will provide the necessary resources and strategic planning to ensure that the New Jersey Coastal Heritage Trail fulfills its promise to the people of my home State and to visitors from around the world. The additional funding authorized in this bill will support: 1. Creation of a long-term strategic plan on the roles of the National Park Service and other Trail partners; 2. Development of two remaining theme trails (historic settlements and relaxation/inspiration); 3. Development of interpretive media such as videos, brochures and exhibits; 4. Technical assistance for the State park system, wildlife management, and historic and cultural sites; 5. Construction of a New Jersey State Park Service facility on the trail at Double Trouble State Park in the Barnegat Bay Region; 6. Continuing work on a welcome center at Sandy Hook; and 7. Construction of a welcome center in the Absecon region.

I urge my colleagues to support this legislation, which is needed to assure that funding for this valuable undertaking will continue to be authorized after May 2004.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NEW JERSEY COASTAL HERITAGE TRAIL ROUTE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 6 of Public Law 100–515 (16 U.S.C. 1244 note) is amended—

(1) in subsection (b)(1), by striking ''$4,000,000'' and inserting ''$8,000,000''; and

(2) in subsection (c), by striking ''10'' and inserting ''15''.

(b) GRANTS.—Public Law 100–515 (16 U.S.C. 1244 note) is amended—

(1) in section 4, by inserting ''and, subject to the availability of appropriations, grants for,'' after ''technical assistance in''; and

(2) in section 6(b)(2) by inserting ''and grants'' after ''technical assistance''.

(c) STRATEGIC PLAN.—Public Law 100–515 (16 U.S.C. 1244 note) is amended by adding at the end the following:

''SEC. 8. STRATEGIC PLAN.

''(a) IN GENERAL—Not later than 4 years after the date of the enactment of this section, the Secretary shall prepare a strategic plan for the route.

''(b) CONTENTS.—The strategic plan prepared under subsection (a) shall describe—

''(1) opportunities to increase participation by national and local private and public interests in the planning, development, and administration of the route; and

''(2) organizational options for sustaining the route.''.

By Mr. DURBIN:

S. 2143. A bill to extend trade adjustment assistance to service workers; to the Committee on Finance.

Mr. DURBIN. Mr. President, today, I am introducing the Service Workers Fairness Act to provide aid for American workers facing a disturbing new trend: the offshore outsourcing of service jobs.

Congress first established Trade Adjustment Assistance (TAA) in 1962, in recognition that international trade can harm our workers. The program was overhauled in 1974, and since then, it has offered extended unemployment compensation benefits and job training for workers who lose their manufacturing jobs due to import competition.

Over the past decade, Congress has shown its willingness to adapt to increasing globalization by modernizing TAA. For example, in 1993, with the adoption of the North American Free Trade Agreement, we added a provision to offer those same unemployment and job training benefits to workers whose manufacturing jobs were relocated to Canada or Mexico. Most recently, when the program was reauthorized in 2002, we expanded eligibility once again. The program now includes workers whose manufacturing jobs have been relocated to certain countries other than Canada or Mexico. It also now provides assistance to certain secondary workers who have lost their manufacturing jobs as suppliers or downstream producers to firms that have been affected by trade or plant relocation.

Despite these changes, one factor has remained constant: Trade Adjustment Assistance is only available to workers in the manufacturing sector. If a service sector employee's job has been outsourced to a foreign country, he or she is not eligible for TAA because the performance of services is not considered production of an ''article,'' as required by the law.

I can understand why the law was written that way—until recently, we believed that our service jobs were not put at risk by international trade. But now, unfortunately, we know this is no longer the case. Hundreds of thousands of service sector jobs already have been outsourced to other countries, including China and India. A report by Forrester Research predicts that 3.3 million service jobs will be outsourced by the year 2015—and some economists believe that forecast is conservative. Last fall, the Fisher Center for Real Estate and Urban Economics at the University of California, Berkeley, estimated that more than 14 million service jobs are ''at risk to outsourcing''—that is 11 percent of all jobs.

That is the outer limit of service jobs at risk, but it demonstrates that this issue will reach far beyond the software programmers and call centers that are receiving attention today. The Fisher Center report notes that the jobs being created in India and elsewhere also include the following service sectors: geographic information systems services for insurance companies; stock market research for financial firms; medical transcription services; legal online database research; data analysis for consulting firms; and payroll and other back-office related activities.

In fact, the offshore outsourcing of service jobs likely will grow at a much

faster rate than the manufacturing outsourcing we have witnessed over the past two decades because there is an enormous cost differential in the wages of well-educated workers here and abroad. For example, the hourly wage for telephone operators in the United States is $12.57, while it is less than $1.00 in India. The hourly wage for legal assistants and paralegals in the United States is $17.86, compared to $6.00 to $8.00 in India. Accountants in the United States earn $23.35 per hour, while those in India earn $6.00 to $15.00 per hour. Finally, financial researchers and analysts in the United States earn $33.00 to $35.00 per hour, while those in India earn only $6.00 to $15.00 per hour.

The offshore outsourcing of service jobs already is having an impact on our economy. For example, it may be one reason that the recent increase in the unemployment rate is larger for highly-educated workers. From 2000 to 2003, total unemployment for workers with at least a bachelor's degree increased by 95 percent, compared to a 40 percent increase for workers with a high school diploma or less. Statistics for long-term unemployment—representing workers who have been unemployed for more than six months—are similar. From 2000 to 2003, long term unemployment for workers with at least a bachelor's degree increased by 299 percent, compared to an increase of 156 percent for workers with a high school diploma or less.

The offshore outsourcing of service jobs also may help explain why the few jobs that have been created since the recession officially ended in November 2001 have been primarily in low-paying sectors.

The question before us today is: How should Congress respond to this new facet of globalization and how can we aid these hundreds of thousands—and eventually millions—of service workers whose jobs have been outsourced?

Although there are broader trade issues that we should examine over time, there is one thing we can and should do now, and that is extend Trade Adjustment Assistance to these service employees. The service-providing sector provides more than 86 million jobs and accounts for more than half of our total GDP. We must extend the same helping hand to these men and women when their jobs are outsourced as we do to workers in the manufacturing sector.

Trade Adjustment Assistance not only provides additional unemployment compensation benefits. Just as importantly, it provides training to help workers find jobs at a similar or higher skill level, including classroom training, on-the-job training, and customized employer-based training. TAA also provides reemployment services, including employment counseling, case assessment, job development, and supportive services.

The bill I am introducing today, the Service Workers Fairness Act, would provide TAA eligibility to laid-off service workers whose firm shifts the work for the same or directly competitive services to a foreign country. It also would cover contract service workers whose contracts have been shifted overseas. Finally, my bill would extend the current provisions for adversely affected secondary workers to those who provide services.

Last week, Federal Reserve Chairman Alan Greenspan noted that ''rigorous education and ongoing training'' are critical in ensuring that as many Americans as possible can benefit from increased globalization.

My bill would provide this education and training to service workers whose jobs are outsourced abroad. I urge my colleagues to join me in support of this important legislation.

By Mr. BURNS (for himself, Mr. WYDEN, and Mrs. BOXER):

S. 2145. A bill to regulate the unauthorized installation of computer software, to require clear disclosure to computer users of certain computer software features that may pose a threat to user privacy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BURNS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Software Principles Yielding Better Levels of Consumer Knowledge Act'' or the ''SPY BLOCK Act''.

SEC. 2. UNAUTHORIZED INSTALLATION OF COMPUTER SOFTWARE.

(a) NOTICE, CHOICE, AND UNINSTALL PROCEDURES.—It is unlawful for any person who is not the user of a protected computer to install computer software on that computer, or to authorize, permit, or cause the installation of computer software on that computer, unless—

(1) the user of the computer has received notice that satisfies the requirements of section 3;

(2) the user of the computer has granted consent that satisfies the requirements of section 3; and

(3) the computer software's uninstall procedures satisfy the requirements of section 3.

(b) RED HERRING PROHIBITION.—It is unlawful for any person who is not the user of a protected computer to install computer software on that computer, or to authorize, permit, or cause the installation of computer software on that computer, if the design or operation of the computer software is intended, or may reasonably be expected, to confuse or mislead the user of the computer concerning the identity of the person or service responsible for the functions performed or content displayed by such computer software.

SEC. 3. NOTICE, CONSENT, AND UNINSTALL REQUIREMENTS.

(a) NOTICE.—For purposes of section 2(a)(1), notice to the user of a computer shall—

(1) include a clear notification, displayed on the screen until the user either grants or denies consent to installation, of the name and general nature of the computer software that will be installed if the user grants consent; and

(2) include a separate disclosure, with respect to each information collection, advertising, distributed computing, and settings modification feature contained in the computer software, that—

(A) remains displayed on the screen until the user either grants or denies consent to that feature;

(B) in the case of an information collection feature, provides a clear description of—

(i) the type of personal or network information to be collected and transmitted by the computer software; and

(ii) the purpose for which the personal or network information is to be collected, transmitted, and used;

(C) in the case of an advertising feature, provides—

(i) a representative example of the type of advertisement that may be delivered by the computer software;

(ii) a clear description of—

(I) the estimated frequency with which each type of advertisement may be delivered; or

(II) the factors on which the frequency will depend; and

(iii) a clear description of how the user can distinguish each type of advertisement that the computer software delivers from advertisements generated by other software, Internet website operators, or services;

(D) in the case of a distributed computing feature, provides a clear description of—

(i) the types of information or messages the computer software will cause the computer to transmit;

(ii)(I) the estimated frequency with which the computer software will cause the computer to transmit such messages or information; or

(II) the factors on which the frequency will depend;

(iii) the estimated volume of such information or messages, and the likely impact, if any, on the processing or communications capacity of the user's computer; and

(iv) the nature, volume, and likely impact on the computer's processing capacity of any computational or processing tasks the computer software will cause the computer to perform in order to generate the information or messages the computer software will cause the computer to transmit;

(E) in the case of a settings modification feature, provides a clear description of the nature of the modification, its function, and any collateral effects the modification may produce; and

(F) provides a clear description of procedures the user may follow to turn off such feature or uninstall the computer software.

(b) CONSENT.—For purposes of section 2(a)(2), consent requires—

(1) consent by the user of the computer to the installation of the computer software; and

(2) separate affirmative consent by the user of the computer to each information collection feature, advertising feature, distributed computing feature, and settings modification feature contained in the computer software.

(c) UNINSTALL PROCEDURES.—For purposes of section 2(a)(3), computer software shall—

(1) appear in the ''Add/Remove Programs'' menu or any similar feature, if any, provided by each operating system with which the computer software functions;

(2) be capable of being removed completely using the normal procedures provided by each operating system with which the computer software functions for removing computer software; and

(3) in the case of computer software with an advertising feature, include an easily identifiable link clearly associated with each advertisement that the software causes to be displayed, such that selection of the link by the user of the computer generates an on-screen window that informs the user about how to turn off the advertising feature or uninstall the computer software.

SEC. 4. UNAUTHORIZED USE OF CERTAIN COMPUTER SOFTWARE.

It is unlawful for any person who is not the user of a protected computer to use an information collection, advertising, distributed computing, or settings modification feature of computer software installed on that computer, if—

(1) the computer software was installed in violation of section 2;

(2) the use in question falls outside the scope of what was described to the user of the computer in the notice provided pursuant to section 3(a); or

(3) in the case of an information collection feature, the person using the feature fails to establish and maintain reasonable procedures to protect the security and integrity of personal information so collected.

SEC. 5. EXCEPTIONS.

(a) PREINSTALLED SOFTWARE.—A person who installs, or authorizes, permits, or causes the installation of, computer software on a protected computer before the first retail sale of the computer shall be deemed to be in compliance with this Act if the user of the computer receives notice that would satisfy section 3(a)(2) and grants consent that would satisfy section 3(b)(2) prior to—

(1) the initial collection of personal or network information, in the case of any information collection feature contained in the computer software;

(2) the initial generation of an advertisement on the computer, in the case of any advertising feature contained in the computer software;

(3) the initial transmission of information or messages, in the case of any distributed computing feature contained in the computer software; and

(4) the initial modification of user settings, in the case of any settings modification feature.

(b) OTHER EXCEPTIONS.—Sections 3(a)(2), 3(b)(2), and 4 do not apply to any feature of computer software that is reasonably needed to—

(1) provide capability for general purpose online browsing, electronic mail, or instant messaging, or for any optional function that is directly related to such capability and that the user knowingly chooses to use;

(2) determine whether or not the user of the computer is licensed or authorized to use the computer software; and

(3) provide technical support for the use of the computer software by the user of the computer.

(c) PASSIVE TRANSMISSION, HOSTING, OR LINK.—For purposes of this Act, a person shall not be deemed to have installed computer software, or authorized, permitted, or caused the installation of computer software, on a computer solely because that person provided—

(1) the Internet connection or other transmission capability through which the software was delivered to the computer for installation;

(2) the storage or hosting, at the direction of another person and without selecting the content to be stored or hosted, of the software or of an Internet website through which the software was made available for installation; or

(3) a link or reference to an Internet website the content of which was selected and controlled by another person, and through which the computer software was made available for installation.

(d) SOFTWARE RESIDENT IN TEMPORARY MEMORY.—In the case of an installation of computer software that falls within the meaning of section 7(10)(B) but not within the meaning of section 7(10)(A), the requirements set forth in subsections (a)(1), (b)(1), and (c) of section 3 shall not apply.

(e) FEATURES ACTIVATED BY USER OPTIONS.—In the case of an information collection, advertising, distributed computing, or settings modification feature that remains inactive or turned off unless the user of the computer subsequently selects certain optional settings or functions provided by the computer software, the requirements of subsections (a)(2) and (b)(2) of section 3 may be satisfied by providing the applicable disclosure and obtaining the applicable consent at the time the user selects the option that activates the feature, rather than at the time of initial installation.

SEC. 6. ADMINISTRATION AND ENFORCEMENT.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall be enforced by the Commission as if the violation of this Act were an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) ENFORCEMENT BY CERTAIN OTHER AGENCIES.—Compliance with this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 and 611), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of this Act is deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any entity that violates any provision of that section is subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of that section.

(e) PRESERVATION OF COMMISSION AUTHORITY.—Nothing contained in this section shall be construed to limit the authority of the Commission under any other provision of law.

SEC. 7. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that this Act prohibits, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction—

(A) to enjoin that practice;

(B) to enforce compliance with the rule;

(C) to obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) to obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this subtitle shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of section 2 of this Act, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that section.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 8. DEFINITIONS.

In this Act:

(1) ADVERTISEMENT.—The term ''advertisement'' means a commercial promotion for a product or service, but does not include promotions for products or services that appear on computer software help or support pages that are displayed in response to a request by the user.

(2) ADVERTISING FEATURE.—The term ''advertising feature'' means a function of computer software that, when installed on a computer, delivers advertisements to the user of that computer.

(3) AFFIRMATIVE CONSENT.—The term ''affirmative consent'' means consent expressed through action by the user of a computer other than default action specified by the installation sequence and independent from any other consent solicited from the user during the installation process.

(4) CLEAR DESCRIPTION.—The term ''clear description'' means a description that is clear, conspicuous, concise, and in a font size that is at least as large as the largest default font displayed to the user by the software.

(5) COMPUTER SOFTWARE.—The term ''computer software''—

(A) means any program designed to cause a computer to perform a desired function or functions; and

(B) does not include any cookie.

(6) COOKIE.—The term ''cookie'' means a text file—

(A) that is placed on a computer by an Internet service provider, interactive computer service, or Internet website; and

(B) the sole function of which is to record information that can be read or recognized by an Internet service provider, interactive computer service, or Internet website when the user of the computer uses or accesses such provider, service, or website.

(7) DISTRIBUTED COMPUTING FEATURE.—The term ''distributed computing feature'' means a function of computer software that, when installed on a computer, transmits information or messages, other than personal or network information about the user of the computer, to any other computer without the knowledge or direction of the user and for purposes unrelated to the tasks or functions the user intentionally performs using the computer.

(8) FIRST RETAIL SALE.—The term ''first retail sale'' means the first sale of a computer, for a purpose other than resale, after the manufacture, production, or importation of the computer. For purposes of this paragraph, the lease of a computer shall be considered a sale of the computer at retail.

(9) INFORMATION COLLECTION FEATURE.—The term ''information collection feature'' means a function of computer software that, when installed on a computer, collects personal or network information about the user of the computer and transmits such information to any other party on an automatic basis or at the direction of a party other than the user of the computer.

(10) INSTALL.—The term ''install'' means—

(A) to write computer software to a computer's persistent storage medium, such as the computer's hard disk, in such a way that the computer software is retained on the computer after the computer is turned off and subsequently restarted; or

(B) to write computer software to a computer's temporary memory, such as random access memory, in such a way that the software is retained and continues to operate after the user of the computer turns off or exits the Internet service, interactive computer service, or Internet website from which the computer software was obtained.

(11) NETWORK INFORMATION.—The term ''network information'' means—

(A) an Internet protocol address or domain name of a user's computer; or

(B) a Uniform Resource Locator or other information that identifies Internet web sites or other online resources accessed by a user of a computer.

(12) PERSONAL INFORMATION.—The term ''personal information'' means—

(A) a first and last name, whether given at birth or adoption, assumed, or legally changed;

(B) a home or other physical address including street name, name of a city or town, and zip code;

(C) an electronic mail address or online username;

(D) a telephone number;

(E) a social security number;

(F) any personal identification number;

(G) a credit card number, any access code associated with the credit card, or both;

(H) a birth date, birth certificate number, or place of birth; or

(I) any password or access code.

(13) PERSON.—The term ''person'' has the meaning given that term in section 3(32) of the Communications Act of 1934 (47 U.S.C. 153(32)).

(14) PROTECTED COMPUTER.—The term ''protected computer'' has the meaning given that term in section 1030(e)(2)(B) of title 18, United States Code.

(15) SETTINGS MODIFICATION FEATURE.—The term ''settings modification feature'' means a function of computer software that, when installed on a computer—

(A) modifies an existing user setting, without direction from the user of the computer, with respect to another computer software application previously installed on that computer; or

(B) enables a user setting with respect to another computer software application previously installed on that computer to be modified in the future without advance notification to and consent from the user of the computer.

(16) USER OF A COMPUTER.—The term ''user of a computer'' means a computer's lawful owner or an individual who operates a computer with the authorization of the computer's lawful owner.

SEC. 9. EFFECTIVE DATE.

This Act shall take effect 180 days after the date of enactment of this Act.

By Ms. LANDRIEU (for herself, Mr. BAYH, Mr. BREAUX, Mr. BURNS, Mr. CHAFEE, Mr. CHAMBLISS, Mr. COCHRAN, Mr. DURBIN, Mr. FEINGOLD, Mr. JOHNSON, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MILLER, Mrs. MURRAY, Mr. NELSON of Florida, Mr. PRYOR, Mr. REID, Mr. SANTORUM, Ms. STABENOW, Mr. STEVENS, Mr. VOINOVICH, and Mr. WARNER):

S. 2146. A bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States; to the Committee on Banking, Housing, and Urban Affairs.

Ms. LANDRIEU. Mr. President, every year, Americans commemorate the birthday of America's greatest civil rights leader, Dr. Martin Luther King, Jr. Last year I was pleased to introduce legislation to authorize the Secretary of the Treasury to mint coins to recognize Dr. King's contribution to the people of the United States. Revenues from the surcharge on the coin would go to the Library of Congress to purchase and maintain historical documents and other materials associated with the life and legacy of Martin Luther King, Jr.

I had hoped that this bill could have been enacted last year on the 40th anniversary of Dr. King's ''I Have a Dream'' speech, but we were unable to do so. Today, I would like to reintroduce the Dr. Martin Luther King Jr. Commemorative Coin Act of 2004, to have the coin minted in 2009 in commemoration of the 80th anniversary of Dr. King's birth. Dr. King's significant contributions and his message should live on for future generations. America should remember him as a national hero and a pioneer.

In recognizing Dr. Martin Luther King's legacy, it is important that we continue to learn from his actions and words. When I was a young girl in Louisiana, I learned from Dr. King that the struggle for civil rights and racial equality was more than simply changing the law, it required changing our hearts as well. Dr. King recognized that the civil rights movement presented Americans with a choice. We could choose hate and fear, or we could choose love and understanding. Dr. King believed that when Americans choose love in their hearts, peace and equality would follow. Dr. King offered us a peaceful way to reach equality through non-violent protest and action. I believe that this should continue to be a fundamental moral challenge for our country. In his famous ''I Have a Dream'' speech, Dr. King said, ''I have a dream that one day, the sons of former slaves and the sons of former slave owners will be able to sit down together at the table of brotherhood.''

I would also like to take the time to thank my good friends on both sides of the aisle for supporting this important legislation. I urge others to join us in remembering the selfless deeds of Dr. Martin Luther King, Jr., by cosponsoring this bill.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 306—DESIGNATING MARCH 2, 2004, AS ''READ ACROSS AMERICA DAY''

Ms. COLLINS (for herself and Mr. REED) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 306

Whereas reading is a basic requirement for quality education and professional success, and source of pleasure throughout life;

Whereas the people of the United States must be able to read if the United States is to remain competitive in the global economy;

Whereas Congress, through the No Child Left Behind Act of 2001 (Public Law 107–110) and the new Reading First, Early Reading First, and Improving Literacy Through School Libraries programs, has placed great emphasis on reading intervention and additional resources for reading assistance; and

Whereas more than 40 national associations concerned about reading and education have joined with the National Education Association to use March 2, the anniversary of the birth of Theodor Geisel, also known as Dr. Seuss, to celebrate reading: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 2, 2004, as ''Read Across America Day'';

(2) honors Theodor Geisel, also known as Dr. Seuss, for his success in encouraging children to discover the joy of reading;

(3) encourages parents to read with their children for at least 30 minutes on Read Across America Day in honor of Dr. Seuss and in celebration of reading; and

(4) requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

TEXT OF AMENDMENTS

SA 2631. Mr. LEVIN proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 11, after line 19, add the following:

SEC. 5. GROSS NEGLIGENCE OR RECKLESS CONDUCT.

(a) IN GENERAL.—None of the provisions in the Act shall be construed to prohibit a civil liability action from being brought or continued against a person if that person's own gross negligence or reckless conduct was a proximate cause of death or injury.

(b) DEFINITIONS.—As used in this section—

(1) the term ''gross negligence'' has the meaning given the term in subsection (b)(7) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(7)); and

(2) the term ''reckless'' has the meaning given the term in the application notes under section 2A1.4 of the Federal Sentencing Guidelines Manual.

SA 2632. Mr. LAUTENBERG proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

At the appropriate place, insert the following:

SEC. . AMENDMENTS TO BRADY HANDGUN VIOLENCE PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the ''Terrorist Apprehension Act''.

(b) AMENDMENTS.—Section 103 of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) is amended—

(1) in subsection (i), by striking ''No department'' and inserting ''Except as provided in subsection (j), no department'';

(2) by redesignating subsections (j) and (k) as subsections (k) and (*l*), respectively; and

(3) by inserting after subsection (i) the following:

''(j) TERRORIST APPREHENSION.—

''(1) INITIAL NOTIFICATION.—If the system established under this section determines that a prospective transferee is listed in the Violent Gang and Terrorist Organization file or a similar terrorist watch list, regardless of the eligibility of such person to purchase a firearm, the system shall provide this information to the employee at the Criminal Justice Information Services Division of the Federal Bureau of Investigation that is accessing the national instant criminal background check system (referred to in this subsection as the 'NICS operator').

''(2) NOTIFICATION OF LAW ENFORCEMENT.—Upon receiving information under paragraph (1), the NICS operator shall immediately provide the Federal Bureau of Investigation, the Department of Homeland Security, the terrorist task force, and State and local law enforcement in the jurisdiction in which the firearm purchase is being attempted with—

''(A) the name, date of birth, and any other identifying information reported by the prospective transferee;

''(B) the time and place of the attempted firearm purchase; and

''(C) the type of weapon, if known, that the prospective transferee attempted to purchase.

''(3) NOTIFICATION OF ORIGINATING AGENCY.—In addition to the notifications under paragraph (2), the NICS operator shall immediately provide the agency that placed the name of the suspected terrorist on the terrorist watch list with the information described in subparagraphs (A) through (C) of paragraph (2).''.

SA 2633. Mr. LAUTENBERG proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 9, between lines 2 and 3, insert the following:

''(vi) any action involving injury to children.''.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar No. 555, and all nominations on the Secretary's desk.

I further ask unanimous consent that the above listed nominations be confirmed, the motions to reconsider be laid upon the table, the President be notified of the Senate's action, and the Senate return to legislative session.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

IN THE MARINE CORPS

The following named officer for appointment in the United States Marine Corps Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen Douglas V. O'Dell, Jr.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN1046 Air Force nominations (21) beginning MICHEL L. BUNNING, and ending DEBRA M. NIEMEYER, which nominations were received by the Senate and appeared in the Congressional Record of October 16, 2003.

PN1052 Air Force nominations (1277) beginning RAAN R. AALGAARD, and ending STEVEN R. ZWICKER, which nominations were received by the Senate and appeared in the Congressional Record of October 16, 2003.

PN1276 Air Force nominations of Lindsey O. Graham, which was received by the Senate and appeared in the Congressional Record of January 28, 2004.

PN1277 Air Force nominations (7) beginning DONALD L. BUEGE, and ending SAMUEL R. WEINSTEIN, which nominations were received by the Senate and appeared in the Congressional Record of January 28, 2004.

PN1278 Air Force nominations (7) beginning ALAN C. DICKERSON, and ending CAMILLE PHILLIPS, which nominations were received by the Senate and appeared in the Congressional Record of January 28, 2004.

PN1279 Air Force nominations (12) beginning WALTER F. BURGHARDT, JR., and ending PHILLIP Y. YOSHIMURA, which nominations were received by the Senate and appeared in the Congressional Record of January 28, 2004.

PN1280 Air Force nominations (22) beginning MONICA M. ALLISONCERUTI, and ending MARK J. YOST, which nominations were received by the Senate and appeared in the Congressional Record of January 28, 2004.

PN1281 Air Force nominations (25) beginning PATRICIA S. ANGELILAMB, and ending KATHLEEN L. ZYGOWICZ, which nominations were received by the Senate and appeared in the Congressional Record of January 28, 2004.

PN1284 Air Force nominations (21) beginning MICHAEL A. ALDAY, and ending DAVID J. SNELL, which nominations were received by the Senate and appeared in the Congressional Record of January 28, 2004.

PN1344 Air Force nominations of Virginia A. Schneider, which was received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1345 Air Force nominations (2) beginning PERRY L. AMERINE, and ending JAMES R. PATTERSON, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1346 Air Force nominations (5) beginning STEWART J. HAZEL, and ending WILLIAM W. POND, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1347 Air Force nominations (5) beginning WILLIAM E. ENRIGHT, JR., and ending MICHAEL F. VANHOOMISSEN, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1348 Air Force nomination of Collen B. Hough, which was received by the Senate

and appeared in the Congressional Record of February 11, 2004.

PN1349 Air Force nominations (37) beginning NORMA L. ALLGOOD, and ending MATTHEW P. *WICKLUND, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1350 Air Force nominations (33) beginning RICHARD C. BATZER, and ending RICHARD I. VANCE, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1351 Air Force nominations (56) beginning JOHN A. ALEXANDER, and ending JOHN A. WISNIEWSKI, JR., which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1352 Air Force nomination (119) beginning TODD B. * ABEL, and ending GIANNA R. ZEH, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1353 Air Force nominations (17) beginning DOUGLAS P. * BETHONEY, and ending DOUGLAS E. *THOMAS, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1354 Air Force nominations (370) beginning ADAM M. ANDERSON, and ending DAVID J. ZOLLINGER, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1355 Air Force nominations (43) beginning MARY J. BARNES, and ending KARYN E. YOUNGCARIGNAN, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

IN THE ARMY

PN1282 Army nomination of Edward M. Willis, which was received by the Senate and appeared in the Congressional Record of January 28, 2004.

PN1299 Army nominations (34) beginning JAMES R. AGAR, II, and ending NOEL L. WOODWARD, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1322 Army nominations (56) beginning JEREMY A. BALL, and ending MICHAEL C. * WONG, which nominations were received by the Senate and appeared in the Congressional Record of February 5, 2004.

PN1356 Army nominations (2) beginning DAVID H. FORDEN, and ending GERALD E. STONE, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

IN THE MARINE CORPS

PN1300 Marine Corps nominations (6) beginning RANDY M. ADAIR, and ending ANDREW N. SULLIVAN, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1301 Marine Corps nominations (4) beginning JOSE GONZALEZ, and ending JEFFREY G. YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1302 Marine Corps nominations (4) beginning EDWIN N. LLANTOS, and ending MATTHEW E. SUTTON, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1303 Marine Corps nominations (3) beginning THOMAS E. BLAKE, and ending JAMES A. GRIFFITHS, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1304 Marine Corps nominations (3) beginning GERALD A. CUMMINGS, and ending JOHN M. MCKEON, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1305 Marine Corps nomination of Paul J. Smith, which was received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1306 Marine Corps nominations (2) beginning RICHARD D. BEDFORD, and ending JAMES D. MCCOY, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1307 Marine Corps nominations (4) beginning SAMUEL E. DAVIS, and ending DAVID H. STEPHENS, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1308 Marine Corps nomination of Donald L. Bohannon, which was received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1309 Marine Corps nominations (7) beginning PETER D. CHARBONEAU, and ending JOHN A. TANINECZ, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1310 Marine Corps nominations (11) beginning JOHN M. BISHOP, and ending JEFFREY W. SMITH, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1323 Marine Corps nominations (2) beginning BALWINDAR K. RAWALAYVANDEVOORT, and ending TROY A. TYRE, which nominations were received by the Senate and appeared in the Congressional Record of February 5, 2004.

PN1357 Marine Corps nomination of Steve E. Howell, which was received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1358 Marine Corps nomination Richard K. Rohr, which was received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1360 Marine Corps nomination of William E. Hidle, which was received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1362 Marine Corps nominations (4) beginning RONALD W. COCHRAN, and ending PAUL J. MINER, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1363 Marine Corps nomination of Todd P. Ohman, which was received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1364 Marine Corps nominations (3) beginning MICHAEL E. BEAN, and ending WALTON S. PITCHFORD, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

LEGISLATIVE SESSION

The PRESIDENT pro tempore.

Under the previous order, the Senate will return to legislative session.

MEASURE PLACED ON THE CALENDAR—S. 2137

Mr. FRIST. Mr. President, I understand that S. 2137 is at the desk and is due for a second reading.

The PRESIDENT pro tempore. The clerk will read the title of the bill for a second time.

The assistant legislative clerk read as follows:

A bill (S. 2137) to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes.

Mr. FRIST. Mr. President, I object to further proceedings on the measure at this time.

The PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

DISCHARGE AND REFERRAL OF H.R. 2584

Mr. FRIST. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 2584, and that the bill then be referred to the Commerce Committee.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

THE SENATE THIS WEEK

Mr. FRIST. Mr. President, we will be wrapping up very shortly for the week. Because it has been a very busy week, I would like to run through the progress that has been made. We have proceeded in step-wise fashion and advanced the business of this body in a very thoughtful way. We started the week hoping to consider the OB/GYN medical liability bill, aptly entitled ''Healthy Mothers and Healthy Babies Access Care Act.'' We debated the issue on Monday and Tuesday but, unfortunately, were prevented from formally going to the bill. A cloture motion was filed on the motion to proceed.

I also want to thank our colleagues, Senator ENSIGN and Senator GREGG, for their real leadership on this particular issue. As we closed that debate, it was clear—as both sides stated—that we were going to have to come back and address the liability issues, and we will bring it back before the Senate again.

S. 1805, the gun manufacturers' liability bill, which is more formally called the Protection of Lawful Commerce in Arms Act, was then addressed, continues to be addressed through today. I commend our leader, Senator CRAIG, for his leadership.

We do plan on proceeding and having a final vote on this bill Tuesday. There was an objection to proceeding from the Democratic side of the aisle initially on that bill and thus we had to file, once again, a cloture motion. We prevailed on that cloture motion to proceed by a vote of 75 to 22, and thus we were able to get on the bill and debate the bill.

We were able to lock in the agreement limiting amendments to the gun liability bill, and during Thursday and Friday's session we have considered 16 amendments. We disposed of eight of those amendments, conducted six rollcall votes on Thursday. Under the agreement, we will pass the legislation on Tuesday. The House passed their version of this bill April 19th of last year. I hope we will be able to proceed on a conference on this bipartisan legislation so we can reconcile the differences. Again, I understand there is an objection to proceeding to a conference from the other side of the aisle,

but we will continue to discuss with the Democratic leadership how we can best proceed to conference.

Finally, just a few moments ago, we passed H.R. 3850, a 2-month extension of the highway bill. As we witnessed over the course of the day, it has required a lot in terms of discussions among colleagues in this body with Members of the House of Representatives, but I am pleased to announce we have reached a satisfactory conclusion for all parties involved. I thank all the Senators who were just appropriately thanked for their participation.

Again, the 5,000 Transportation employees who were at risk of not being able to go to work and being paid for work on Monday can rest now and, indeed, will receive both those checks and show up for work on Monday.

ORDERS FOR MONDAY, MARCH 1, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 12 noon Monday, March 1. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1805, the gun liability bill; provided that there be 4 hours of debate with the following Senators to control the time: Senator MCCAIN or his designee, 1 hour; Senator FEINSTEIN or her designee, 1 hour; Senator CRAIG or his designee, 2 hours; provided further that at 4 p.m. Senator BINGAMAN be recognized to offer his definition amendment, and the time until 5 p.m. be equally divided between Senators CRAIG and BINGAMAN; provided further that at 5 p.m. the Senate will proceed to a vote in relation to the Bingaman amendment without any intervening action or debate, and following the disposition of the amendment, the Senate resume consideration of the Levin amendment numbered 2631.

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

PROGRAM

Mr. FRIST. On Monday, the Senate will resume consideration of S. 1805, the gun liability bill. There are a number of Senators who will be here to debate the remaining amendments and there will be adequate time for debate on Monday.

I sincerely thank the bill managers for their hard work on this legislation. They have been on the floor constantly for the past 3 days, working through amendments and moving this bill forward. Through their efforts and a lot of hard work, we are poised to finish the bill Tuesday of next week. Again, they should be complimented.

I inform all my colleagues we will have a vote on an amendment to the bill Monday afternoon. Senators should expect that vote in relation to the Bingaman definition amendment to occur promptly at 5 p.m.

Mr. REID. I wonder, with the easy week the majority leader has had this week, could you tell us what we will do after we finish the gun liability legislation?

Mr. FRIST. Through the Chair, Mr. President, we have the agreement to complete the gun liability legislation Tuesday. It is our plan, although I want to discuss it further with the Democratic leadership and also my colleagues, but the plans are at this juncture to continue with the manufacturing bill called FSC/ETI. There is a deadline we are all familiar with of March 1. This bill has been taken through committee and we will be addressing it on the floor. The House has not yet addressed it.

It is my intention, at this point in time—again, it could be subject to change—to proceed with FSC/ETI.

ADJOURNMENT UNTIL MONDAY, MARCH 1, 2004

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 4:41 p.m., adjourned until Monday, March 1, 2004, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 27, 2004:

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. DOUGLAS V. O'DELL, JR.

AIR FORCE NOMINATIONS BEGINNING MICHEL L. BUNNING AND ENDING DEBRA M. NIEMEYER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 16, 2003.

AIR FORCE NOMINATIONS BEGINNING RAAN R. AALGAARD AND ENDING STEVEN R. ZWICKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 16, 2003.

AIR FORCE NOMINATION OF LINDSEY O. GRAHAM.

AIR FORCE NOMINATIONS BEGINNING DONALD L. BUEGE AND ENDING SAMUEL R. WEINSTEIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2004.

AIR FORCE NOMINATIONS BEGINNING ALAN C. DICKERSON AND ENDING CAMILLE PHILLIPS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2004.

AIR FORCE NOMINATIONS BEGINNING WALTER F. BURGHARDT, JR. AND ENDING PHILLIP Y. YOSHIMURA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2004.

AIR FORCE NOMINATIONS BEGINNING MONICA M. ALLISONCERUTI AND ENDING MARK J. YOST, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2004.

AIR FORCE NOMINATIONS BEGINNING PATRICIA S. ANGELILAMB AND ENDING KATHLEEN L. ZYGOWICZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2004.

AIR FORCE NOMINATIONS BEGINNING MICHAEL A. ALDAY AND ENDING DAVID J. SNELL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2004.

AIR FORCE NOMINATION OF VIRGINIA A. SCHNEIDER.

AIR FORCE NOMINATIONS BEGINNING PERRY L. AMERINE AND ENDING JAMES R. PATTERSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATIONS BEGINNING STEWART J. HAZEL AND ENDING WILLIAM W. POND, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATIONS BEGINNING WILLIAM E. ENRIGHT, JR. AND ENDING MICHAEL F. VANHOOMISSEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATION OF COLLEN B. HOUGH.

AIR FORCE NOMINATIONS BEGINNING NORMA L. ALLGOOD AND ENDING MATTHEW P. * WICKLUND, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATIONS BEGINNING RICHARD C. BATZER AND ENDING RICHARD I. VANCE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATIONS BEGINNING JOHN A. ALEXANDER AND ENDING JOHN A. WISNIEWSKI, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATIONS BEGINNING TODD B. * ABEL AND ENDING GIANNA R. ZEH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATIONS BEGINNING DOUGLAS P. * BETHONEY AND ENDING DOUGLAS E. * THOMAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATIONS BEGINNING ADAM M. ANDERSON AND ENDING DAVID J. ZOLLINGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATIONS BEGINNING MARYA J. BARNES AND ENDING KARYN E. YOUNGCARIGNAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

ARMY NOMINATION OF EDWARD M. WILLIS.

ARMY NOMINATIONS BEGINNING JAMES R. AGAR II AND ENDING NOEL L. WOODWARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

ARMY NOMINATIONS BEGINNING JEREMY A. BALL AND ENDING MICHAEL C. * WONG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 5, 2004.

ARMY NOMINATIONS BEGINNING DAVID H. FORDEN AND ENDING GERALD E. STONE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

MARINE CORPS NOMINATIONS BEGINNING RANDY M. ADAIR AND ENDING ANDREW N. SULLIVAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATIONS BEGINNING JOSE GONZALEZ AND ENDING JEFFREY G. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATIONS BEGINNING EDWIN N. LLANTOS AND ENDING MATTHEW E. SUTTON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATIONS BEGINNING THOMAS E. BLAKE AND ENDING JAMES A. GRIFFITHS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATIONS BEGINNING GERLAD A. CUMMINGS AND ENDING JOHN M. MCKEON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATION OF PAUL J. SMITH.

MARINE CORPS NOMINATIONS BEGINNING RICHARD D. BEDFORD AND ENDING JAMES D. MCCOY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATIONS BEGINNING SAMUEL E. DAVIS AND ENDING DAVID H. STEPHENS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATION OF DONALD L.BOHANNON.

MARINE CORPS NOMINATIONS BEGINNING PETER D. CHARBONEAU AND ENDING JOHN A. TANINECZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATIONS BEGINNING JOHN M. BISHOP AND ENDING JEFFREY W. SMITH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004,

MARINE CORPS NOMINATIONS BEGINNING BALWINDAR K. RAWALAYVANDEVOORT AND ENDING TROY A. TYRE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 5, 2004.

MARINE CORPS NOMINATION OF STEVE E. HOWELL.

MARINE CORPS NOMINATION OF RICHARD K. ROHR.

MARINE CORPS NOMINATION OF WILLIAM E. HIDLE.

MARINE CORPS NOMINATIONS BEGINNING RONALD W. COCHRAN AND ENDING PAUL J. MINER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

MARINE CORPS NOMINATION OF TODD P. OHMAN.

MARINE CORPS NOMINATIONS BEGINNING MICHAEL E. BEAN AND ENDING WALTON S. PITCHFORD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.